

<b>Title: Impact Assessment for the proposal to exempt live music from the provisions of the Licensing Act 2003</b>  <b>Lead department or agency: Department for Culture, Media and Sport</b>  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No: DCMS014</b>
	<b>Date: 25/05/2011</b>
	<b>Stage: Final</b>
	<b>Source of intervention: Domestic</b>
	<b>Type of measure: Primary legislation</b>
	<b>Contact for enquiries:</b>

## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

The burdens imposed by the Licensing Act 2003 were 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 believe the requirements of the Act are unduly restrictive and burdensome in respect of live music and there is some evidence of negative impact in deterring the staging of small live music events.

### What are the policy objectives and the intended effects?

We wish to remove certain unnecessary regulatory burdens relating to live music and reduce the costs that deter small venues from staging live music.

We are also looking to ensure that musicians and the audiences that wish to hear live music do not have their opportunities unnecessarily limited.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do nothing
2. Exempt live music events performed for 100 people or fewer
3. Support the Live Music Bill proposals to exempt amplified music performed for 200 people or fewer and all unamplified music
4. Preferred option: Support the Live Music Bill (as set out in option 3) on the condition of an 11pm cut-off time taking into account concerns raised by resident groups. Noise nuisance policy has tended to view 11pm as the time at which the public should expect additional protection from noise disturbance. The Government believes that any proposals for a later cut off for licensing exemption would have to be tested through a formal public consultation. The previous consultation on audience size of 100 or less, received a range of responses, many of which believed a limit of 200 would benefit a greater number of venues, without causing adverse public nuisance. Unamplified music is suited to small audiences and unlikely to cause noise nuisance, therefore a complete exemption is sought.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 01/2014

**What is the basis for this review?** PIR. **If applicable, set sunset clause date:** N/A

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible SELECT SIGNATORY:



Date: 3 June 2011

# Summary: Analysis and Evidence

# Policy Option 4

Description: Exempt amplified music performed for 200 people or fewer and all unamplified music (with exceptions)

Price Base Year 2009	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £6.1m	High: £13.0m	Best Estimate: £9.5m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	£234k	£1.9m
High	0	£465k	£3.9m
Best Estimate	0	£349k	£2.9m

### Description and scale of key monetised costs by 'main affected groups'

Some local authorities have suggested that the proposal could potentially lead to an increase in noise related complaints received by local authorities. For indicative purposes, using figures from the Chartered Institute of Environmental Health and DEFRA, we have produced an estimate of the potential burden on Environmental Health Officers. An increase in noise complaints due to live music could also lead to an increase in alcohol licence reviews, the cost of these to licensing authorities has also been estimated.

### Other key non-monetised costs by 'main affected groups'

It is likely that the majority of any additional noise related complaints will be dealt with informally by the licensing authorities, and the threat of either a licence review or revocation will act as a sufficient deterrent to a majority of licence holders. These instances have not been costed.

There is also a potential cost to the general public through wellbeing lost due to noise nuisance, although we expect the number of incidents to be small.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£1.2m	£10.0m
High	0	£1.8m	£14.9m
Best Estimate	0	£1.5m	£12.4m

### Description and scale of key monetised benefits by 'main affected groups'

The proposal will deliver direct benefits to pubs and the live music industry by removing administrative burdens of applications for licences or variations to stage smaller live music events. In addition, there will be benefits for schools and third sector organisations and other secondary venues that will no longer have to apply for TENs to stage live music. There are likely to be further benefits to local authorities, such as the removal of burdens for events held in public buildings / spaces, where the local authority is both applicant to the process and the relevant licensing body.

### Other key non-monetised benefits by 'main affected groups'

We expect some cost savings for licensing authorities in processing fewer applications. Further, we expect venues that have stated the current licensing regime to have dissuaded them from staging live music to benefit from diversifying their business and attracting new customers. We also expect the costs to businesses such as mandatory noise proofing requirements to be lessened. There are also anticipated wellbeing benefits for the general public from an increase in live music consumption, particularly at a local level, and increased opportunities for musicians to perform.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Given the lack of licensing data that relates solely to licences granted to live music, we have made a number of assumptions to derive the savings to businesses. Given the size of the events covered by the proposal and the safeguards already in place, we have also assumed a comparatively small increase in noise related incidents, although even this may not lead to any noticeable additional costs. We have, for illustrative purposes, estimated that incidents to be investigated by Environmental Health Officers will increase by 5%-10%. Further detail pertaining to these assumptions and calculations is set out in the evidence base.

<b>Direct impact on business (Equivalent Annual) £m):</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: £0m	Benefits: £0.4m	Net: £0.4m	Yes	OUT

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			Autumn 2011		
Which organisation(s) will enforce the policy?			Licensing Authorities		
What is the annual change in enforcement cost (£m)?			£0.3m		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	
Does the proposal have an impact on competition?			Yes		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			<b>Costs:</b> N/A	<b>Benefits:</b> N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	<b>Micro</b> N/A	<b>&lt; 20</b> N/A	<b>Small</b> N/A	<b>Medium</b> N/A	<b>Large</b> N/A
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	Yes	19
Small firms <a href="#">Small Firms Impact Test guidance</a>	Yes	19
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	Yes	19
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	
Justice system <a href="#">Justice Impact Test guidance</a>	Yes	20
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	Yes	20
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Lord Clement Jones “Live Music” Private Members Bill <a href="http://www.publications.parliament.uk/pa/ld201011/ldbills/012/11012.1-i.html">http://www.publications.parliament.uk/pa/ld201011/ldbills/012/11012.1-i.html</a>
2	Licensing Act 2003 <a href="http://www.legislation.gov.uk/ukpga/2003/17/contents">http://www.legislation.gov.uk/ukpga/2003/17/contents</a>
3	Report of the Culture, Media and Sport Select Committee – The Licensing Act 2003 <a href="http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcmums/492/49202.htm">http://www.publications.parliament.uk/pa/cm200809/cmselect/cmcmums/492/49202.htm</a>
4	Impact Assessment of a proposal to exempt small live music events (<100) from the Licensing Act <a href="http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA_exemptsmall_livemusicerevents.pdf">http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA_exemptsmall_livemusicerevents.pdf</a>
5	Consultation on a proposal to exempt small live music events (<100) from the Licensing Act <a href="http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/condoc_exemptsmall_livemusicerevents.pdf">http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/condoc_exemptsmall_livemusicerevents.pdf</a>
6	Consultation on a proposal to introduce a simplified process for minor variations to premises licences and club premises certificates <a href="http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf">http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf</a>

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring cost</b>	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35
<b>Total annual costs</b>	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35	0.35
<b>Transition benefits</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring benefits</b>	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5
<b>Total annual benefits</b>	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

# Evidence Base (for summary sheets)

## Background

1. The Licensing Act 2003 came into force in November 2005 in England and Wales. It replaced eight separate licensing regimes in order to streamline the process to regulate the sale and supply of alcohol, the sale of late night refreshments, and the provision of **regulated entertainment**.
2. The Act devolves responsibility for the administration of the Act to local councils at District or Unitary level, referred to as Licensing Authorities. They must carry out their functions with a view to promoting the following licensing objectives, each of which are of equal importance:
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm
3. Subject to some exemptions (such as incidental music), the provision of the following constitutes regulated entertainment if it is put on for the public or for profit:
  - a performance of a play;
  - an exhibition of a film;
  - an indoor sporting event;
  - a boxing or wrestling entertainment;
  - a performance of live music (or of facilities for making music or dancing);
  - any playing of recorded music;
  - a performance of dance
4. Section 2 of the Act requires anyone who wishes to carry on a licensable activity to obtain an appropriate authorisation in the form of one licence covering all permissions i.e. a premises licence, a club premises certificate, or a temporary event notice (TEN). Venues are limited to 12 TENs per year (of which a maximum of five can be granted to and individual applicant). Any changes to a licence or club premises certificate, such as the addition of live music provision, must be authorised through the full or minor variation process.
5. Regulations made under section 17(5) of the Act stipulate 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.
6. The administrative cost of making these applications is between £385 and £950 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.
7. In the case of live music, licence conditions typically 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 an estimated administrative cost to applicants of £35 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 and an admin burden estimated at £16.

8. There is no annual fee or premises licence fee payable for an application or variation for regulated entertainment in educational institutions where the entertainment is for and on behalf of the educational institute, or to authorise regulated entertainment in church halls, village halls, parish halls, community halls or similar buildings.

### Alcohol and Entertainment Licence Statutory Fees

Rateable value band	Band	Application fee	Full Variation fee	Annual fee
None to £4,300	A	£100	£100	£70
£4,301- £33,000	B	£190	£190	£180
£33,001 - £87,000	C	£315	£315	£295
£87,001 - £125,000	D	£450	£450	£320
Premises primarily used for alcohol	D	£900	£900	£640
£125,001 +	E	£635	£635	£350
Premises primarily used for alcohol	E	£1905	£1905	£1050

### Other Fees

Description	Fee
Temporary Event Notice	£21
Minor Variation	£89
Personal Licence	£37
Transfer of premises licence	£23
Copy of notice / licence / certificate of summary	£10.50
Notification of change of details	£10.50
Application for Provisional Statement	£315
Interim Authority Notice	£23
Notification of interest in a premises	£23

### Problem under consideration

9. The burdens imposed by the Licensing Act 2003 were 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 from the music industry and from various charitable / third sector environments believe the requirements of the Act are unduly restrictive and burdensome in respect of performance of live music and there is some evidence of negative impact in deterring the putting on of small live music events.
10. The Government considers that unamplified music events, and live amplified music events for audiences of 200 people or fewer are unlikely to have an adverse impact on the promotion of the licensing objectives, as there are already other robust laws in place to

safeguard the public and to provide remedy in the event of any disturbance. The new arrangements would retain key protections from the Licensing Act 2003 (such as the retention of the licence review principle, allowing local residents and businesses a say in local licensing matters) in relation to alcohol licensed premises and would dovetail neatly with other protections, rather than “double-regulation” of these low risk events that are at the heart of many local communities.

### **Rationale for intervention**

11. The Licensing Act 2003 aimed to simplify processes and reduce red tape and bureaucracy. But the regime, including the removal of the “two-in-a-bar exemption<sup>1</sup>”, led to small live music events facing disproportionate and unnecessary regulation, even though such events are unlikely to be detrimental to the licensing objectives.
12. The 2009 report of the Culture, Media and Sport Select Committee into the Licensing Act expressed concern about the connection the Licensing Act made between live music and public order issues, as well as the impact on premises run by volunteers. The Committee recommended an exemption for music venues with a capacity of under 200 and an exemption for venues of any size to put on a performance of unamplified music. The Government agrees that regulation should be properly targeted at problematic activities.
13. We consider that if small events are removed from the requirements of the Licensing Act, the necessary protection to address noise, crime, disorder, and public safety will continue because there is a range of robust legislation already in place, including Health and Safety at Work, Fire Order, Noise Nuisance, and Environmental Protection. Additionally, a licence will still be required for events at which alcohol is sold, where the risks to the public are higher.
14. The relaxation of the licensing requirements for live music is consistent with the aims of Lord Young’s health and safety review, as well as Lord Hodgson’s review into red tape affecting the third sector. In addition it will complement the Big Society proposals as it will lift burdens on community live music events such as small charitable concerts, organised fundraising – with a particularly helpful effect on fundraising events at schools, carol singing and local band nights in community and village halls (in so far as these activities fall within the definitions of the exemptions).

### **Policy objective**

15. The Government supports the “Live Music” Private Members Bill which aims to amend the Licensing Act 2003 to introduce a licence exemption for amplified music performances between 8am and midnight for audiences of up to 200 persons, the proposed exemption to apply to every place that qualifies as a work place including schools, hospitals, restaurants and cafes, and a licence exemption for all unamplified music (except where alcohol licensed premises incur a specific condition following a review).
16. The objective is to remove unnecessary regulation and reduce the requirements and costs that deter small venues, and users of Temporary Event Notices from putting on live music. Ultimately the aim is to ensure that musicians and the audiences that wish to hear live music do not have their opportunities limited unnecessarily by licensing restrictions.

### **Lord Clement-Jones “Live Music” Private Members Bill**

17. The Private Members Bill is a helpful vehicle to take forward deregulatory measures. The Bill proposes the following:

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<sup>1</sup> Under the “two in a bar rule” musical performance by up to 2 musicians was exempt from a licence at premises that sold alcohol unless there was also public dancing. However, it became a licensable activity under the Licensing Act 2003.

## 18. Live *unamplified* music

Public performance of live *unamplified* music, between 08:00-24:00, would no longer require a licence. The exception to this is where the music takes place in premises which are licensed to sell alcohol (such as pubs and clubs) and a specific condition about music is included following a review of the licence or club premises certificate. The distinction is made between unamplified and amplified music, because unamplified music is of limited volume, and performances are suited to smaller audiences.

## 19. Live *amplified* music

Public performance of live *amplified* music, between 08:00-24:00, would no longer require a licence in premises such as pubs or clubs provided that, at the time that the music is being performed, alcohol is being supplied for consumption on the premises and the performance takes place before an audience of no more than 200 people. The exception to this is where a specific condition about music is included following a review of the licence or club premises certificate.

## 20. Workplaces

The Private Members Bill provides that live music in any place that qualifies as a workplace (including schools, hospitals, restaurants and cafes) not otherwise licensed under the Licensing Act does not require a licence provided it takes place between 08:00-24:00 before an audience of no more than 200 people.

## 21. Entertainment facilities

The Bill also removes the provision of “entertainment facilities” from the Licensing Act. This is a concept that has caused confusion for Licensing Authorities because under the Act, the provision of entertainment facilities is separately licensable, irrespective of any actual performance of live music. Entertainment facilities cover, for example, the provision of musical instruments, amplification, or even a stage. The proposed exemption removes the requirement to licence the provision of entertainment facilities.

## **Options considered**

### Option 1: Do nothing i.e. keep existing licensing restrictions in place

22. The first option would leave the existing arrangements in place. The intention behind the Licensing Act was to encourage a wider range of live music in pubs, bars and other venues by simplifying entertainment licensing requirements. However, there is some evidence that there has been a decrease in the performance of live music: a survey for DCMS in 2007<sup>2</sup> found a 5% decrease in the provision of live music in secondary venues due, in large part, to a decrease in provision in church halls and community centres. The existing burden of disproportionate and unnecessary red tape on small music venues can do nothing to improve the situation. The do nothing option would not remedy these unintended consequences of the Act.

### Option 2: Exempt live music events performed for 100 people or fewer from the Licensing Act 2003

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<sup>2</sup> <http://webarc>

[hive.nationalarchives.gov.uk/%2Bhttp://www.culture.gov.uk/reference\\_library/research\\_and\\_statistics/4854.aspx](http://www.nationalarchives.gov.uk/%2Bhttp://www.culture.gov.uk/reference_library/research_and_statistics/4854.aspx)

23. Between 31/12/09 – 26/04/10 DCMS held a consultation on a proposal to exempt live music events held indoors between 8am and 11pm for audiences of under 100. We received 917 responses from musicians, live music organisations and campaigners, local authorities, and members of the public. Musicians, musicians' organisations and the licensed trade were generally in favour of an exemption, and many expressed preference for a wider exemption for up to 200 people, while some respondents were opposed to any exemption or preferred a lower limit.

Option 3: Exempt live music events performed for 200 people or fewer, and all unamplified music, between the hours of 8am and midnight, from the Licensing Act 2003

24. This proposal is in line with the measures in the Live Music Private Members Bill put forward by Lord Clement Jones.

25. In 2009 Government consulted on plans to exempt Live Music performed in front of up-to 100 people. However, responses to the consultation favoured a wide range of venue sizes, with large numbers in favour of an exemption for venues of up-to 200, with a cut off time of 11pm.

26. Furthermore, In May 2009, the Culture, Media and Sport Committee considered the Licensing Act's impact on live music. It concluded that live music in smaller venues was decreasing and recommended that the Government exempt venues with a capacity of 200 persons or fewer, and venues of any size putting on unamplified music from the requirement to obtain a licence. After listening to views of key stakeholders including licensing authorities and the police the Committee felt this would encourage the performance of live music without impacting negatively on any of the four licensing objectives under the Act.

Option 4: Exempt live music events performed for 200 people or fewer, and all unamplified music, between the hours of 8am and 11pm, from the Licensing Act 2003 (Preferred Option)

27. Following publication of Lord Clement Jones's Bill, residents groups expressed their concern about a midnight cut off for live music exemptions. This point was also echoed by some local authorities. Noise nuisance policy has tended to view 11pm as the time at which the public should expect additional protection from noise disturbance. The previous consultation into a small venues exemptions proposed an 11pm cut off and did not ask about possible later times. The Government believes that any proposals for a later cut off for licensing exemption would have to be tested through a formal public consultation.

28. Taking into account the views of stakeholders and that of the Select Committee, Government is seeking to support Lord Clement-Jones' "Live Music" Private Members Bill in option 3, subject to amendment to an 11pm cut-off time, as a helpful vehicle to take forward these deregulatory measures. The full details of this Bill are included in paragraphs 16-20 above. It is likely that the costs and benefits of options 3 and 4 will be substantially the same, as much of the existing complimentary legislation (such as noise nuisance legislation) also has an 11pm cut off. As a result, even with a midnight cut off for the exemption venues would often have to end performances by 11pm to comply with other legislation.

## Costs and Benefits

29. This proposal, due to its deregulatory nature, does not directly impose any costs. However, should it lead to an increase in noise related complaints and disputes there may be some additional costs for:
- Licensing authorities dealing with additional reviews of alcohol licenses
  - Local authorities or police dealing with noise complaints
  - The general public in terms of wellbeing lost due to nuisance noise
30. However, it should be noted that the continued use of the Licence Review procedure under the Licensing Act 2003 for premises with an alcohol licence would continue to act as a powerful disincentive for premises to fail to comply with good practice, as conditions may be placed on their licence which could limit activities or result in the removal of the licence. Also, any additional costs will depend on factors such as the success of preventative action (such as best practice guidelines for premises and threat of action under noise legislation) and the extent to which there is already an out-of-hours noise service.
31. The proposal delivers direct benefits by removing the administrative burden of applying for a live music licence for a significant number of venues. In particular it will benefit:
- Venues applying for Temporary Event Notices to stage live music
  - Venues applying for variations to their premise licence or club certificate to add permission for live music or increase the provision where it is already permitted
  - Potential venues that have no licence but wish to provide live music
32. In addition there will be further benefits to other groups:
- Cost savings for charitable and other third sector groups wishing to host live music events
  - Wellbeing gains for the general public should the exemption lead to an increase in the provision of live music
  - Venues, such as pubs, clubs, restaurants and hotels may also be encouraged to provide live music to attract new customers and to diversify their business
  - Cost savings for licensing authorities that will have to process fewer licence applications and assess fewer activities on applications for multiple activities including live music
  - Increased opportunities for musicians to perform

## Costs and Benefits to Businesses

33. The administrative burden lifted will be that currently borne by those applying to put on live music under conditions which will become exempt. Without figures on the split of amplified vs. unamplified live music we will simplify the calculations by assuming that this is all venues under 200 capacity. Although venues over 200 capacity will also become exempt for unamplified music there are likely to only be a small number of these cases (for example, some unamplified jazz band or orchestral performances) as unamplified performances will be difficult to hear for larger audiences. In addition, although not all venues under 200 capacity will become exempt for amplified music (for example, a park where nobody is employed and is therefore not a workplace) the inclusion of pubs and clubs and the wide definition of workplaces means that the majority of relevant venues will be included. We will not attempt to estimate how many premises might decide to change their capacity or size as a result of the exemption, as we have no information about this. The following cost burdens at these venues will be affected:

- (a) Temporary Event Notices (TENs) made purely for live music.
- (b) Variations to premises licenses and club certificates, either to add permission for live music or increase the provision where it is already permitted. Some of these are likely to be minor variations, particularly for increasing the provision of live music where it is already permitted.
- (c) The savings related to the costs of additional conditions that can be imposed following representations received during a variation application, or volunteered alongside a minor variation. We will not attempt to quantify this cost, as there are too many unknown variables. For example, in a small number of cases, conditions have been imposed that limit the number of performances. This will be a substantial cost in some circumstances but in other cases will have no impact at all (because there is no intention to have more than this many events in any case). A more innocent seeming condition is that of having to close doors and windows. This will usually have very little cost. However, in a rare case it may effectively require a venue to fit air conditioning. This cost is also different from the total cost of conditions relating to live music which already apply to venues licensed for live music. For similar reasons, these too are difficult to estimate because the conditions and their costs will be specific to each venue.

#### Voluntary Sector and Schools

- 34. The Culture, Media and Sport Select Committee were particularly concerned about the impact of the Licensing Act on the voluntary sector. The process of applying for live music licences is burdensome to many third sector organisations who are staffed by volunteers – besides the upfront £21 cost of the TEN, and related administrative time cost, the process is generally off-putting with the result that many events across the country have not taken place.
- 35. Although there is no licence fee charged, there will be an administrative saving for community buildings and schools that no longer have to go through the process of making new applications, variations, or TENs in respect of live music events. Where this saving is made against time spent by public servants such as teachers, there is an extra cost saving element.
- 36. Furthermore, there are 27,340 schools and colleges in England and Wales. A very small number of schools have a premises licence, but the majority use TENs to hold events involving regulated entertainment. Based on figures provided by educational organisations, it has been estimated in a previous IA that schools use around 35,000-50,000 TENs per year for this purpose. Of these a significant number will contribute to the overall number of TEN applications specifically for the public performance of live music for audiences with a capacity of fewer than 200 people (as estimated below). We assume that some schools do not use any TENs because, for example, they take events offsite, use an associated premises, or because they do not hold events. Schools are seen as a relatively low risk to noise nuisance, and freeing them from the burdens of the licensing regime on live music would give schools greater freedom to explore the arts and put on public performances for the benefit of the school, the parent teacher associations and pupils.

The number and cost of TENs made purely for live music at venues with a capacity of fewer than 200 people

#### **Number of TENs**

37. According to the latest Statistical Bulletin, there were 124,400 TENs in 2009-10<sup>3</sup>. TENs may authorise the full range of licensable activities and we do not collect statistics on how many of them were largely intended for live music alone<sup>4</sup>. The Live Music Survey of 2007<sup>5</sup> indicated that 68% of 'secondary live music venues' (venues whose core business is not the staging of live music but which have the potential to stage live music) had a capacity of 200 or fewer, with 38% having a capacity of 100 or fewer. We can assume that no venue relying on TENs to stage live music regards this as its core business so the population of secondary venues is the most appropriate for estimating the amount of TENs affected.
38. This survey estimated the total population of secondary venues as 149,427. 42% of these had put on live music in the last twelve months, one in ten of those doing so under TENs. The average number of live music events amongst all venues who had put on live music events was 22. However, the maximum number that can currently be authorised at a single venue under TENs is 12. Given that some of these may not have gone ahead without additional provision for alcohol or late night refreshment, and without statistics to provide a precise figure, we have assumed a range of 6 - 8 TENs issued purely for live music at these premises. This assumption was used in the previous consultation without any specific comments on its validity. Table 1 below shows how this calculation derives an estimate of 25,600 – 34,100 TENs for venues a capacity of fewer than 200 people and 14,300 – 19,100 for venues with a capacity of fewer than 100 people.

Table 1. Calculating the potential number of TENs made purely for live music at venues with capacities of fewer than 200 people and fewer than 100 people

Size of venue exempted	200	100
Number of Potential 'Secondary' Venues	149,427	149,427
Proportion with capacity below exemption	68%	38%
Number with capacity below exemption	101,610	56,782
Proportion putting on live music	42%	42%
Number putting on live music	42,676	23,849
Proportion using TENs	10%	10%
Number using TENs	4,268	2,385
Lower bound number of TENs used each	6	6
Upper bound number of TENs used each	8	8
Lower bound number of TENs total (rounded to nearest hundred)	25,600	14,300
Upper bound number of TENs total (rounded to nearest hundred)	34,100	19,100

## Burden of Applying for TENs

<sup>3</sup> [http://www.culture.gov.uk/images/research/Licensing\\_Statistics\\_Bulletin2010.pdf](http://www.culture.gov.uk/images/research/Licensing_Statistics_Bulletin2010.pdf)

<sup>4</sup> If, for example, the event is one at a venue without a premises licence that would not go ahead without authorisation for the sale of alcohol, then the organisers would not benefit from the proposed exemption, as they would have to issue a TEN to obtain authorisation for the sale of alcohol. (Furthermore, we know that some of the events recorded by the Live Music Survey were private events. In these cases, the live music would not typically be licensable in itself but the sale of alcohol would). However, we do not have enough information to estimate how many TENs fall into this category).

<sup>5</sup> "A survey of live music in England and Wales in 2007" (BMRB Social Research).

The fee for a TEN is £21. The administrative cost of applying for a TEN has been estimated previously as £16<sup>6</sup>. Table 2 below shows how these figures derive an **estimate of burden lifted of £947k – £1.3m for venues with a capacity of fewer than 200 people and £529k - £707k for venues with a capacity of fewer than 100 people.**

Table 2. Calculating the burden lifted on TENs made purely for live music at venues with capacities of fewer than 200 people and fewer than 100 people

Size of venue exempted	200	100
<b>Fee burden</b>	<b>£21</b>	<b>£21</b>
Lower bound total fee burden	£537,600	£300,300
Upper bound total fee burden	<b>£716,100</b>	<b>£401,100</b>
<b>Admin burden</b>	<b>£16</b>	<b>£16</b>
Lower bound total admin burden	£409,600	£228,800
Upper bound total admin burden	£545,600	£305,600
Lower bound total fee and admin burden	£947,200	£529,100
Upper bound total fee and admin burden	£1,261,700	£706,700

Variations to premises licenses and club certificates, either to add permission for live music or increase the provision where it is already permitted

### Number of Variations

39. According to Licensing Statistical Bulletins, the number of premises licences and certificates permitting live music has increased in recent years. There was an increase of 1,300 in 2009-2010, following an increase of 3,200 in 2008-2009. This slowing of the increase could reflect economic circumstances affecting the sector generally (which may improve in the future), or it could to some extent reflect the number of live music authorisations reaching saturation point. Rather than speculate which of these may be true we will use the average of 2,250 as a typical increase going forward.
40. Some of these authorisations will be the result of applications that include other licensable activities. Premises to which the exemption applies, but which still intend to provide alcohol, late night refreshment or other forms of regulated entertainment will still need to obtain a licence, so they will not benefit from a reduced cost burden to the same degree. We do not have statistics on the number of new licence applications or variation applications that are purely for live music, so instead we will make an assumption that all new licences applications do not benefit as they include other activities but that all variation applications do benefit as they are purely for live music. This is an oversimplification as there will be at least some new licenses purely for live music and at least some variations containing other activities. However, both are likely to be skewed in these directions and the two effects should counteract each other to produce a reasonable estimate.
41. Looking at all licenses and certificates, there were 7,185 applications to vary licences and certificates in 2009-10 compared with 10,012 new applications, i.e. 42% of applications were for variations. Although we cannot determine this data for live music authorisations specifically it is reasonable to assume they would be in the same proportion, We are therefore making three assumptions:

<sup>6</sup> This is the calculated monetised value compiled using the Better Regulation Executive Admin Burdens Calculator <https://www.abcalculator.bis.gov.uk/>

- (a) that the increase in live music authorisations is derived from variation and new applications in the same proportions as the overall proportion;
- (b) that the number of variations is a reasonable reflection of the number of additional authorisations that would not need to be applied for under the proposed exemption and;
- (c) that the estimates of proportions of premises with under 200 capacity and under 100 capacity from the 2007 Live Music Survey can be applied to these figures

**Table 3. Calculating the potential number of applications for variations for live music at venues with capacities of fewer than 200 people and fewer than 100 people**

Size of venue exempted	200	100
Estimated number of new live music authorisations	2,250	2,250
Estimated proportion of new live music authorisations that are variations (and therefore are just for live music)	42%	42%
Estimated number of new live music authorisations that are variations (and therefore are just for live music)	945	945
Proportion with capacity below exemption	68%	38%
Number with capacity below exemption	643	359

**Burden of Applying for Variations**

42. Venues with capacity under 200 that make variations are likely to be split evenly between Bands A and B due to the likely size of such venues, with an average variation fee of £145 (some may be exempt from Licensing Fees, and some will be in higher fee bands). The Minor Variations Impact Assessment<sup>7</sup> contained estimates that the administrative cost of a full variation is £385-£950. Some of the current applications made for the purpose of authorising live music will be minor variations applications. The fee is £89, and the estimated administrative cost is £35. The latest Licensing Statistical Bulletin included for the first time the number of minor variations to add or amend live music provisions. After scaling to account for response rate and period over which the data was collected this indicates that 265 minor variations were made for live music in 2009-2010. As these are minor variations and therefore cannot be major changes to a licence affecting multiple activities we will assume that they are all purely for live music and no other activity. Applying the proportions of 68% of venues under 200 and 38% of venues under 100 means that 101 of these minor variations would be venues under 100 capacity and 180 for venues under 200.

Table 4 below shows how these figures derive an **estimate of burden lifted of £251k – £529k for venues with** a capacity of fewer than 200 people **and £140k - £295k for venues with** a capacity of fewer than 100 people

**Table 4. Calculating the burden lifted of applications for variations for live music live music at venues with capacities of fewer than 200 people and fewer than 100 people**

<b>Size of venue exempted</b>	<b>200</b>	<b>100</b>
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<sup>7</sup> Consultation on proposals to introduce a new minor variations process, and remove certain requirements at community premises, February 2008  
<http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf>

<b>Number with capacity below exemption, of which:</b>	643	359
- Number of minor variations	180	101
- Number of full variations	463	258
Fee burden for minor variations (at £89 each)	£16,020	£8,989
Fee burden for full variations (at £145 each)	£67,077	£37,425
Admin burden for minor variations (at £35 each)	£6,300	£3,535
Lower bound admin burden for full variations (at £350 each)	£161,910	£90,335
Upper bound admin burden for full variations (at £950 each)	£439,470	£245,195
Lower bound total fee and admin burden	£251,300	£140,300
Upper bound total fee and admin burden	£528,900	£295,100

43. Adding together the burden lifted for both TENs and variations produces an estimate of **burden lifted of £1.2m - £1.8m for venues with a capacity of fewer than 200 people and £700k - £1m for venues with a capacity of fewer than 100 people.**

44. For the purposes of OIOO we have estimated the saving to business and civil society as £390k. This is just the saving from removing the burden to apply for variations and minor variations. We have not included the savings from applying for TENs as a significant number of these will be for schools and therefore out of scope. While we understand that many applications for TENS will be made by businesses and voluntary organisations, and indeed many of the instances of schools using TENS may be through voluntary organisations (such as Parent Teacher Associations), we cannot determine how much of the TENs savings would fall to each group and have therefore left all the savings out of scope. As such, the OUT claimed is a very conservative estimate.

45. Beneficiaries will also include those who do not currently provide live music and are therefore not subject to a formal “administrative burden” but are nevertheless restricted by current licensing requirements. This is a key group that the change in the legislation is designed to assist, and will include:

(a) **Premises licensed for alcohol or late night refreshment such as pubs, bars and restaurants that wish to provide live music but do not because of live music licensing requirements.** It is difficult to estimate the number of such premises. In particular, very few applications for new licences, or applications for variations of existing licences, are refused (about 3% in each case according to the latest licensing Statistical Bulletin<sup>8</sup>). This follows the evidence of a survey conducted by MORI for the Live Music Forum in 2006<sup>9</sup>, which found that almost all of those smaller establishments that had formerly provided live music under the “two in a bar” exemption, and applied for live music authorisation under the new regime, were granted it. This category is therefore presumed to include, in particular, some of the 29% of smaller venues that the survey found had formerly provided music through the “two in a bar” exemption but did not apply for authorisation under the new regime, but excepting any whose continuing provision is exempt or authorised under Temporary Event Notices (TENs).

<sup>8</sup> “DCMS Statistical Bulletin: Alcohol, Entertainment and Late Night Refreshment Licensing, England and Wales April 2009-March 2010”.

<sup>9</sup> “Licensing Act 2003: The experience of smaller establishments in applying for live music authorisation” (December 2006) Page 9: “..(less than half of one percent of all establishments) applied for a licence to stage live music but were denied.”

- (b) **Venues (or, rather, potential venues) that have no licence but wish to provide live music.** This could include scout huts, cafes, restaurants and record shops. We have no means of estimating how many venues in this category may take advantage of the proposed exemption.

Costs and Benefits to Public Bodies (e.g. Licensing Authorities, Local Authorities, Police)

**Estimated Burden of proposed exemption on Local Authorities and Licensing Authorities**

46. By increasing the number of potential live music venues and, arguably, removing a tool for preventative action via a licence the proposal may increase the prevalence of noise complaints which local authorities will have to deal with. Local authorities are obligated to deal with disturbance under other legislation i.e. under the Noise Act 1996 local authorities must take reasonable steps to investigate complaints of noise between 11pm and 7am at licensed premises, and the Anti-Social Behaviour Act 2003 requires local authorities to deal with noise complaints at licensed premises at any time of day. In addition, under Section 80 of the Environmental Protection Act 1990 (EPA), local authorities must take "all reasonable steps" to investigate and prevent public nuisance, including noise complaints, and the EPA applies to both licensed and unlicensed premises. Many local authorities have out of hour's noise nuisance teams to deal with complaints, while others rely on the police.
47. It should be noted that noise problems from music venues are fairly infrequent. According to the National Noise Survey 2008<sup>10</sup> only 3% of those interviewed specifically identified pubs, clubs - or other entertainment venues - as a source of noise that was bothering them. Only a proportion of these will be caused by live music and an even smaller proportion caused by unamplified music or amplified music to small audiences. Given the small scale of events to be covered by the exemption it is unlikely that these will give rise to greatly increased complaints or disturbance. Where there are complaints they will either be dealt with by investigation by environmental health officers or, where there is an associated alcohol licence, by investigation by licensing authorities.
48. The Chartered Institute of Environmental Health (CIEH) provide figures on noise complaints from "Commercial / Leisure" sources for 2008-09. These breakdown the number of incidents that are complained of, the number of those that are then confirmed as statutory nuisances<sup>11</sup>, the number that lead to abatement notices and the number that eventually lead to prosecutions. The raw figures they collect reflect around half of local authorities so these have been grossed up to reflect the total population<sup>12</sup>. The figures are not disaggregated beyond "Commercial / Leisure" which will include shops, restaurants, supermarkets, etc. that are not relevant to this calculation. Based on the National Noise Survey 2008 (3% specifically identified pubs, clubs or other entertainment venues as a source of noise that was bothering them, compared to a further 3% of those interviewed who are bothered by noise from commercial premises), we have, for the purposes of this impact assessment, assumed that 50% of the incidents reported by CIEH under the heading "Commercial / Leisure" can be attributed to pubs / clubs / entertainment venues.
49. Finally, to establish the number of these complaints that might be attributable to live music we have used the proportion of all premises licences and club premises certificates that include live music (35%). The table below shows how this produces

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<sup>10</sup> [http://www.environmental-protection.org.uk/assets/library/documents/National\\_Noise\\_Survey\\_2008.pdf](http://www.environmental-protection.org.uk/assets/library/documents/National_Noise_Survey_2008.pdf)

<sup>11</sup> A statutory nuisance means that the noise is causing an unreasonable interference with someone's use of their land or material discomfort to the population at large.

<sup>12</sup> The figures have been grossed up without weighting for the size of authorities included / excluded

estimates for the number of noise incidents complained about, statutory nuisances, abatement notices and prosecutions attributable to live music at pubs / clubs / entertainment venues in 2008-09. That is not to suggest that every noise complaint at a pub/club/entertainment venue which puts on live music is due to that live music. However, in order to assess the possible impacts of the proposed exemptions, and in the absence of any specific data, this is a reasonable proxy for a starting baseline.

Table 5. Estimating the number of noise incidents complained about, statutory nuisances, abatement notices and prosecutions attributable to live music at pubs / clubs / entertainment venues in 2008-09.

	Raw figures based on 46.3% of local authorities	Figures grossed up to population	Attributable to pubs / clubs / entertainment venues	Attributable to live music at pubs / clubs / entertainment venues
Incidents	17763	38391	19196	6745
Statutory Nuisances	3904	8438	4219	1482
Abatement Notice	670	1448	724	254
Prosecutions	51	110	55	19

50. It is very difficult to estimate how the number of noise incidents suggested above might be affected by the proposed exemption. We estimate that it will only be a small increase, if any, because:

- The exemption only covers unamplified live music and amplified live music to audiences of fewer than 200 people and before 11pm
- Most venues affected will also have an alcohol licence so may already be subject to general conditions relating to noise disturbance
- Some venues affected will have experience of putting on live music under the current licensing regime and will already have in place suitable controls for nuisance noise which they will wish to retain
- TENs are currently not subject to scrutiny in advance because of noise nuisance (they can only be dealt with retrospectively) so this exemption will not change how they are enforced

51. Of any increase in nuisance noise incidents we would expect that many would be related to venues with an alcohol licence. In which case it is likely that licensing authorities would deal with the complaint through informal procedures and, if necessary, the addition of conditions relating to noise on the alcohol licence through review. This is discussed further below. As such, we expect relatively few additional cases of noise nuisance relating to live music to be processed by environmental health officers. For the purposes of this impact assessment we will estimate that there will be an increase of between 5% and 10%.

52. The Department for Environment and Rural Affairs (DEFRA) have provided us with estimates of the costs of dealing with noise incidents as agreed with LG Regulation/LACORS. They estimate that investigation of a complaint would take 10 man hours at a total cost of £506.30, serving an abatement notice takes 20 man hours at a total cost of £1012.60, and that processing a prosecution would cost £10,000. In terms of dealing with the majority of live music related noise incidents we believe that 10 man hours is likely to be an overestimate as they can often be resolved informally and more quickly. However, for the purposes of this IA and in the absence of alternative

information we have used that estimate. Using the indicative estimates of a 5% to 10% increase in noise complaints dealt with by environmental health officers we estimate this would produce a **burden of £194k to £386k** per year, as outlined in Table 6 below.

Table 6. Estimating the burden on environmental health officers of increases in noise complaints

	Increase of 5%	Cost of Increase of 5%	Increase of 10%	Cost of Increase of 10%
Incidents	337	£171,000	674	£341,000
Statutory Nuisances	74		148	
Abatement Notice	13	£13,000	25	£25,000
Prosecutions	1	£10,000	2	£20,000
<b>Total</b>		<b>£194,000</b>		<b>£386,000</b>

53. As mentioned above, of any increase in nuisance noise incidents we would expect that many would be related to venues with an alcohol licence and would therefore be dealt with by licensing authorities. It is likely that this would be done through informal procedures and, if necessary, the addition of conditions relating to noise on the alcohol licence through review. It is likely that the threat of review will minimise the number of times that this is necessary and we would expect such a burden to be marginal. There were 2121 reviews of licenses in 2009/10, split into four categories as shown in Table 7 below.

Table 7. Review of Licence by Reason, 2009/10<sup>13</sup>

<b>Reason for review</b>	<b>Number of reviews</b>
Crime and Disorder	970
Protection of Children	485
Public Nuisance	
Public Safety	

54. Of these reasons for review it is likely that there will be no impact on protection of children or crime and disorder as a result of the proposed exemption (the implications for crime and disorder are discussed in more detail below under estimated burden on the police). However, there may be some impact on public nuisance or public safety due to noise or crowd issues. Again, we expect any impact to be small and most additional complaints to be dealt with informally but for the purposes of this impact assessment we have considered an increase in reviews due to public nuisance or public safety of between 5% and 10%. Often reviews are for more than one reason so there will be some overlap between categories. However, it is not possible to separate them in the statistics so we have added together the categories of public nuisance and public safety for the purposes of this calculation. This means the figures quoted are an overestimate of the cost of a 5% to 10% increase, meaning the burden is more likely to lie towards the lower end of this range. The cost to a licensing authority of carrying out a review has been

<sup>13</sup>Scaled up from those reported in the 2010 Licensing Statistics Bulletin based on 99% response rate ([http://www.culture.gov.uk/images/research/Licensing\\_Statistics\\_Bulletin2010.pdf](http://www.culture.gov.uk/images/research/Licensing_Statistics_Bulletin2010.pdf)). Note that reviews can be for more than one reason so there is some overlap between the categories listed in the table.

estimated for previous impact assessments as £1200<sup>14</sup>. Using the indicative estimates of a 5% to 10% increase in reviews we estimate this would produce a **burden of £40k to £79k** per year, as outlined in Table 8 below.

Table 8. Estimating the burden on licensing authorities of increases in complaints

	Increase of 5%	Cost of Increase of 5%	Increase of 10%	Cost of Increase of 10%
Public Nuisance	22	£26,400	44	£52,800
Public Safety	11	£13,200	22	£26,400
<b>Total</b>		<b>£39,600</b>		<b>£79,200</b>

55. In total therefore the estimated burden on local authorities and licensing authorities should there be a 5-10% increase in noise complaints / reviews is **£234k to £465k**. This is the total potential change in enforcement costs. To offset this potential burden local authorities will no longer need to process applications, variations, or appeals for licences covering live music only, and will no longer have to process the live music element of an application that covers multiple activities.

#### **Estimated Burden of proposed exemption on the Police**

56. The police, some residents groups, and licensing authorities have previously raised concerns about proposals to exempt live music in small venues in terms of disorder, crime, crowd control and disturbance. However, police representatives have previously indicated that the vast majority of live music events have no implications for policing or public safety and that problems of criminality are the exception.<sup>15</sup>

57. We consider that concerns about crime and disorder relating to live music events are mostly connected to events where alcohol is present. These proposals will not impede events where alcohol is sold continuing to require a licence. So that in most cases, the licensing regime for alcohol will provide sufficient incentive for event organisers to apply best practice and to work with the police to mitigate potential problems. In the event of disturbance the premises licence or club premises certificate can be reviewed and a condition altered or added to the effect that section 177 does not apply to it so that any condition relating to the provision of music entertainment will have effect.

58. We have considered that the exemption from licensing requirements for small music events that do not sell alcohol may still give rise to issues that require police intervention. However, it is not possible to estimate with any degree of accuracy, how many instances might occur across the country. Given the assertion by ACPO that the majority of live music events do not impact on policing, and the absence of alcohol, we do not anticipate an undue impact on police resources.

59. Premises which do not sell alcohol, such as community halls, schools, hospitals, cafes, and some restaurants do not represent a significant risk, and in any case will still be

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[http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA\\_exemptsmall\\_livemusicevents.pdf](http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/IA_exemptsmall_livemusicevents.pdf)

<sup>15</sup> In correspondence to Phil Little of the Live Music Forum Commander Paul Minton, Chief of Staff, Association of Chief Police Officers stated "The vast majority of live music events serve to provide considerable pleasure and social benefit without implication for policing or public safety. In a very small number of cases there is clear evidence of association of criminality with events or acts and that obviously needs to be dealt with as the intelligence and circumstances indicate, however, this is clearly the exception and not the norm".

covered by noise nuisance legislation, fire regulations, and Health and Safety at Work legislation (which includes a duty to take reasonable steps to protect the public from risks to their health and safety). The combined legislation will ensure public protection and prevent potential problems through the risk assessments and duties imposed, rather than the layer of bureaucracy imposed by licensing.

60. It is also worth noting that there are already many types of entertainment activity where large numbers of people gather in one place without an entertainment licence, including fun fairs, country shows, religious events, stock car racing, outdoor sport, and political rallies.

#### Costs and Benefits to the Public

61. By removing the deterrent licensing requirements and costs, it will be easier for small venues to put on live music events, and will provide more opportunities for audiences to hear live music. In the Live Music Survey 2007<sup>16</sup> 3% of venues that had not put on live music in the last 12 months stated that a change in licensing arrangements would encourage them to put on live music while 4% of venues that had put on live music in the last 12 months stated that a change in licensing arrangements would encourage them to put on more live music.
62. Using the CASE model of engagement<sup>17</sup> we can estimate how many additional people would attend live music as a result of the exemption. The most relevant variable in the model is the percentage of people for whom supply issues are not a problem, which is set at 93% as default based on Taking Part Survey data. Based on the evidence above from the Live Music Survey around the amount of additional live music that might be staged we have modelled a 1 percentage point to 3 percentage point increase in this variable, which results in an increase in people attending live music at least once a year of 122,000 to 354,000. This does not take into account the number of people who already do attend once a year but will attend more frequently.

This increase in attendance at live music will provide significant enjoyment and social benefit for the general population. Evidence from the DCMS Culture and Sport Evidence (CASE)<sup>18</sup> programme has shown that attending a concert provides a positive boost to subjective wellbeing (i.e. an individual's perception of their own wellbeing) and that this generally increases the more often an individual engages. Using data from the British Household Panel Survey it is estimated that the gain in subjective wellbeing from attending a concert at least once a week is about a third of that associated with being employed (compared to being unemployed). Even attending a concert just once a year can lead to an increase in subjective wellbeing equivalent to around a sixth of that associated with being employed.

63. There is also a potential cost to the general population if the proposal leads to an increase in noise nuisance from live music. It is likely that the increase in noise nuisance will be small due to the other controls that are still in place and limiting of the size of additional venues that can play amplified music. However, even if it is small there is the potential for impacts through adverse health effects, loss of productivity and annoyance to the public.

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<sup>16</sup> <http://www.culture.gov.uk/images/research/surveyoflivemusicdec2007.pdf>

<sup>17</sup> [http://www.culture.gov.uk/what\\_we\\_do/research\\_and\\_statistics/7275.aspx#drivers](http://www.culture.gov.uk/what_we_do/research_and_statistics/7275.aspx#drivers)

<sup>18</sup> "Understanding the value of engagement in culture and sport" CASE (2010)  
<http://www.culture.gov.uk/images/research/CASE-value-summary-report-July10.pdf>

64. Paragraphs 45 to 54 above establish that live music is not a significant source of noise problems. Only 3% of individuals identify pubs, clubs and entertainment venues as a source of noise that bothers them<sup>19</sup>, and only a proportion of these will be caused by live music – with an even smaller proportion caused by unamplified music or amplified music to small audiences. Table 5 establishes an estimate of 6745 noise incidents attributable to live music at pubs / clubs / entertainment venues in 2008-09 and Table 6 provides indicative estimates of any potential increase as 337 to 674 (5% to 10%). This is a very small number of additional noise incidents and given the protections put in place such as the ability to add conditions to an alcohol licence, or for environmental health teams to issue noise abatement orders they are likely to be isolated incidents that are not repeated.
65. There is a substantial body of research into the health costs of noise. However, this work has focused on constant background noise, in particular from transport, as this is most likely to produce impacts on health and productivity. For example, the Interdepartmental Group on Costs and Benefits Noise subject group have produced guidance for estimating the health impacts and associated costs for increases in background noise for a full range of decibel levels<sup>20</sup>. The type of noise nuisance associated with live music, which is occasional and intermittent, has not been investigated and researched in the same level of detail and it is not possible to estimate costs in the same way. To some extent this reflects the fact that this kind of noise nuisance is seen as having far less risk to health and a less annoyance value. Having discussed this issue with the relevant team in DEFRA they have confirmed that there is no suitable evidence for valuing this type of noise impact.

### **Summary and preferred option**

66. The preferred option is 3, to introduce a licence exemption for amplified music performances between 8am and midnight for audiences of up to 200 persons, the proposed exemption to apply to every place that qualifies as a work place including schools, hospitals, restaurants and cafes, and a licence exemption for all unamplified music (except where alcohol licensed premises incur a specific condition following a review). This is because it is the only option which best meets the policy objectives.
- It achieves the greatest benefit by exempting performances for relatively small audiences and enables the majority of venues to benefit from the deregulation.
  - Of all the options, it achieves the largest cost saving.
  - It balances the needs of music venues and audiences with the interests of residents and licensing authorities, with assurance that deregulation does not affect the range of other safeguard legislation.
  - The proposal does not impose any unreasonable burden on licensing authorities

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<sup>19</sup> According to the National Noise Survey 2008 ([http://www.environmental-protection.org.uk/assets/library/documents/National\\_Noise\\_Survey\\_2008.pdf](http://www.environmental-protection.org.uk/assets/library/documents/National_Noise_Survey_2008.pdf))

<sup>20</sup> <http://www.defra.gov.uk/environment/quality/noise/igcb/publications/noisehealthreport.htm>

# Annexes

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p> <p>There is a political commitment to review the impact of deregulating live music.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The purpose of the PIR will be to assess the impact of the deregulation, particularly to assess if there has been any unexpected cost, or negative impact on the licensing objectives (public nuisance, crime and disorder, public safety, and protection of children from harm), and to assess whether it has increased the provision of live music.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>The review will monitor local authority data on licensing, police statistics, live music event statistics, and consult with stakeholders in order to adequately assess the validity of concerns about costs, resources and crime and disorder.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The baseline for licensing statistics will be the DCMS Licensing Statistical Bulletin 2009-2010. Although this is being transferred to the Home Office and it is expected to cover less entertainment related statistics in the future it will continue to provide headline data on licence numbers, number of TENs, etc. The baseline for looking at attendance at live music events will be taken from the annual DCMS Taking Part Survey.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>The overall objective is to increase the number of live music events, without impacting negatively on the licensing objectives.</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>The DCMS annual Taking Part Survey will be used to monitor the prevalence of attendance at live music events. Local authority data on reviews and licensing statistics collated in the future by the Home Office will be used to monitor data on licence numbers, number of TENs, etc.</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p>

## **Annex 1: Specific Impact Test**

### Competition

The Office of Fair Trading published revised guidelines for Departments on the consideration of competition assessments in 2007. The guidelines state that, in relation to competition assessments, the following four key questions should be considered:

- (i) Does it limit the number or range of suppliers
- (ii) Does it indirectly limit the number or range of suppliers
- (iii) Does it limit the ability of suppliers to compete
- (iv) Does it reduce suppliers' incentives to compete vigorously

The proposal promotes competition as it applies equally to all venues putting on unamplified music and venues putting on amplified music for an audience of fewer than 200 (except where alcohol licensed premises incur a specific condition following a review). It will apply equally to every place that qualifies as a work place including pubs, clubs, schools, hospitals, restaurants and cafes. Therefore, the proposal will not limit or indirectly limit the number or range of suppliers, nor will it limit the ability of suppliers to compete, or reduce suppliers' incentives to compete vigorously.

The current requirements are disproportionate and unnecessary for small live music events which are a low risk form of entertainment, and discourage the putting on of small live music events. The exemption will reduce cost and red tape and lead to more businesses diversifying their offer to include live music, more opportunities for musicians, and more choice for consumers of live music.

### Small firms

The main impact on small firms will be to reduce burden and allow greater flexibility in business operation. The stakeholder group set up to advise us on previous consultation proposals included a wide range of bodies which, to varying degrees, represent small businesses, including the Federation of Small Businesses, Association of Convenience Stores, Business in Sport and Leisure, Musicians Union and Bar Entertainment and Dance Association. None of these groups have advised us of any adverse impact of the deregulation proposals on small businesses.

The 2006 Ipsos-Mori survey results showed that 38% of venues had a capacity of <100, while 30% of venues had a capacity of 100 – 200. Therefore the <200 limit covers more than 2 thirds of venues. Venues with capacity above 200 will not benefit from the exemption, but are likely to be more able to absorb the costs of the licensing regime.

There are real savings to be made by small firms from these proposals. The estimated administrative cost (in addition to the fee) of a new application or a full variation application is £385-£950, for a minor variation the estimated administrative cost is £35 (in addition to a £89 fee), while the estimated average administrative cost of a TEN (in addition to the £21 fee) is £16. Figures from the 2010 statistical bulletin indicated that 463 businesses would benefit from an exemption from the full variation, 180 would benefit from an exemption from a minor variation and 25,600 – 34,100 TENs would now be covered by the exemption.

### Health and well-being

The proposal should encourage entertainment for the benefit of society with no detriment to the objectives of the Licensing Act (the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm). An increase in the provision of live music will provide significant enjoyment and social benefit for the general population. Evidence from the DCMS Culture and Sport Evidence (CASE)<sup>1</sup> programme has shown that attending a concert provides a positive boost to subjective wellbeing and that this generally increases the more often an individual engages. Using income compensation figures the impact on wellbeing of attending a concert at least once a week has been estimated at £9,000 a year. Although we cannot estimate the increase in frequency of people

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<sup>1</sup> "Understanding the value of engagement in culture and sport" CASE (2010) <http://www.culture.gov.uk/images/research/CASE-value-summary-report-July10.pdf>

attending live music events it is clear that even a small increase would deliver significant benefits for the general population.

Local events such as live music also provide a boost to the Big Society agenda, creating local focus for community engagement and the opportunity for “bridge and bond” activity.

Public health and well-being will continue to be safeguarded through the licensing of alcohol, and by applying existing legislation such as health and safety at work, noise nuisance and fire regulations. There is a potential increase in noise nuisance but we would expect this to be small due to the other controls that are still in place and limiting of the size of additional venues that can play amplified music. However, even if it is small there is the potential for impacts through adverse health effects, loss of productivity and annoyance to the public.

#### Justice system

The removal of the licensing requirement will result in the licensing authorities not being given prior notification about events, and there have been concerns raised about this leading to increased disorder, crime, crowd control and disturbance. However, the police will still be aware of many events through local intelligence and as most are advertised. Moreover, the greatest risks are at premises selling alcohol and such premises will still require a licence, which can address concerns including noise and disorder and lead to the application of conditions, or the removal of the entire licence,

#### Rural proofing

Village halls account for a significant proportion of premises that require an entertainment licence. The halls are often the hub of cultural life in rural communities, so that the proposal will make it easier and encourage activity in village halls for the benefit of the area. Action with Communities in Rural England (ACRE) is a member of the DCMS stakeholder group and considers that the impact of these proposals on rural communities will be beneficial.