



HILLINGDON
LONDON



Licensing Committee

Date: THURSDAY, 27
SEPTEMBER 2012

Time: 10.00 AM

Venue: COMMITTEE ROOM 3A
CIVIC CENTRE
HIGH STREET
UXBRIDGE
UB8 1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

Councillors on the Committee:

Andrew Retter (Chairman)
Josephine Barrett (Vice-Chairman)
Lynne Allen
Mike Bull
Judy Kelly
Peter Kemp
Janet Gardner
Carol Melvin
Brian Stead
David Payne

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<http://modgov.hillingdon.gov.uk/ieListMeetings.aspx?CId=257&Year=2012>

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INVESTOR IN PEOPLE

Useful information

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Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To confirm that all items on the agenda are Part 1 and will be considered in public.
- 4 To agree the minutes of the meeting held on 6 June 2012 Pages 1 - 4

Part 1 (Public)

- 5 Tamara Lounge Pages 5 - 6
- 6 Trading Standards Update Pages 7 - 10
- 7 Licensing Annual Fees Pages 11 - 12
- 8 Live Music Act Pages 13 - 26
- 9 Total Number of Premises Pages 27 - 34

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Minutes

LICENSING COMMITTEE

6 June 2012

**Meeting held at Committee Room 6 - Civic Centre,
High Street, Uxbridge UB8 1UW**



	<p>Committee Members Present: Councillors Andrew Retter (Chairman) Josephine Barrett (Vice-Chairman) Lynne Allen Mike Bull Judy Kelly Peter Kemp Janet Gardner Carol Melvin Brian Stead</p> <p>LBH Officers Present: Stephanie Waterford – Licensing Service Manager Natasha Dogra – Democratic Services Officer</p>	
<p>3.</p>	<p>TO AGREE THE MINUTES OF THE MEETING HELD ON 19 APRIL 2012 (<i>Agenda Item 4</i>)</p> <p>The minutes of the meeting held on 19 April 2012 were agreed as an accurate record.</p>	<p>Action by</p>
<p>4.</p>	<p>UPDATE ON REVIEW AND APPEALS (<i>Agenda Item 5</i>)</p> <p>Officers said that Members were aware of the recent reviews and subsequent appeals that had taken place over the last 12 months. Updates on the status of each premises were detailed as below;</p> <p>Botwellears ,25 Botwell Lane, Hayes.</p> <ul style="list-style-type: none"> • The premises Licence was revoked by the Licensing Sub-Committee on 23rd August 2011 following a review application from the Metropolitan Police Service. • The Licence Holder appealed the decision to Magistrates Court and a Hearing was scheduled for 2nd March 2012. However, this matter has been adjourned until the end of May in order for the matter to be remitted back to the Licensing Committee for a rehearing on 25th May 2012. • The premises continues to trade pending the outcome of the re-hearing. • A verbal update will be given to the Committee on 6th June 2012. <p>Hayes News & Booze, 772/774 Uxbridge Road, Hayes.</p> <ul style="list-style-type: none"> • The premises Licence was revoked by the Licensing Sub-Committee on 23rd August 2011 following a review application from the Police 	<p>Action by</p>

Service.

- The Licence Holder appealed the decision to Magistrates Court and a Hearing was listed for 24th February 2012 and was subsequently dealt with on 9th May 2012.
- A new application was submitted for the premises under a new name. This was subject to a Police representation and was refused at a Sub-Committee hearing on 5th December 2011.
- On 9th May 2012, the appeal against the revocation of the original premises licence was refused with costs of £1000 pounds awarded to the Council.
- The second appeal relating to the application for a premises licence from Mr Singh, which was refused by the Committee on 5th December 2011 was allowed and the licence, together with a number of conditions, will commence on 20th June 2012.

Venus Convenience Store, 18 Station Road, West Drayton.

- The premises Licence was revoked by the Licensing Sub-Committee on 1st September 2011 following a review application from the Police Service.
- The Licence Holder appealed the decision to the Magistrates Court and a Hearing was listed for 28th February 2012. This has subsequently been adjourned until 28th May 2012.
- A new application was submitted for the premises under the name of Mandeep Gill. This was subject to a Police representation and was rejected at a Sub-Committee Hearing on 3rd February 2012.
- This decision is also being appealed against by Mrs Gill and will be dealt with jointly on 28th May 2012.
- The premises continues to trade pending the outcome of both appeals.

Costcutter, 268 Yeading Lane, Hayes,

Aujla Food & Wine, 710 Field End Road, South Ruislip

Aujla Cash & Carry, 266 Yeading Lane, Hayes

- All three premises Licences were revoked by the Licensing Sub-Committee on 11th January 2012 following a review application for each premises from Trading Standards. The premises licence holder for all three premises is Mr & Mrs Aujla.
- The premises licence holder appealed the decision to the Magistrates Court and a date for the appeals is awaited.
- The Licensing Service received new applications for premises licences for 710 Field End Road, Eastcote and 268 Yeading Lane, Hayes from unrelated persons.
- Both licences were granted as no objections or representations were received from either Responsible Authorities or other persons.
- It is believed that 266 Yeading Lane, Hayes will also be sold soon and that the appeals will be withdrawn.

H & P Foodstore, 115-117 Falling Lane, Yiewsley

News Booze, 123 Falling Lane, Yiewsley

- Both premises Licences were revoked by the Licensing Sub-Committee on 25th April 2012 following a review application for each premises from Trading Standards. The premises licence holder for H&P Foodstore is Mr Mohammed Sarwar and the premises licence holder for News Booze is Mr Ansar Mohammed Sarwar, both men

	<p>being related.</p> <ul style="list-style-type: none"> • The premises licence holders appealed the decision to the Magistrates Court and a date for the appeals is awaited. • Both premises continue to trade pending the outcome of the appeals. • The Licensing Service have received new applications for both premises from a Mr Inderjit Singh, with the last date for representations to be received being 19th June 2012. <p>Yiewsley Superstores, 125 Falling Lane, Yiewsley</p> <ul style="list-style-type: none"> • The premises licence was revoked by the Licensing Sub-Committee on 25th April 2012 following a review application from Trading Standards. • The premises licence holder has appealed the decision to the Magistrates Court and a date for the appeal is awaited. • The premises continues to trade pending the outcome of the appeal. • The Licensing Service has received a new application for this premises from a Mr Jagath Ram, with the last date for representations to be received being 14th June 2012. <p>Resolved: The Committee noted the update.</p>	
5.	<p>UPDATE ON REVIEW OF GAMBLING POLICY (<i>Agenda Item 6</i>)</p> <p>Officers informed Members that in May 2012, a working party was convened to carry out the first review of the Council's Statement of Gambling Licensing Policy. The working party was made up of the following officers:</p> <ul style="list-style-type: none"> • Stephanie Waterford, Licensing Services Manager • Sharon Garner, Licensing Officer • Sarah White, Licensing Lawyer • Natasha Dogra, Democratic Services • Sgt Ian Meens, Police Licensing Sergeant • Paul Hewitt, Local Safeguarding Children Board <p>The working party agreed that the current gambling licensing policy has worked well since its implementation in 2007 and has not been subject to any challenge. It was therefore agreed by the working party not to change to content or format to any great degree, however some minor changes to the law have been noted and amendments made. The consultation period will be between 18^h June 2012 and 30th July 2012.</p> <p>Consultees will include:</p> <ul style="list-style-type: none"> • Elected Members • Gambling trade representatives • Responsible Authorities • Neighbouring local authorities • Local residents associations and local community groups • Licensing Solicitors • Licensed premises <p>Once the consultation period has ended the working party will re-</p>	Action by

	<p>convene to discuss the responses and the policy will be amended accordingly:</p> <ul style="list-style-type: none"> • Consultation period 18th June – 30th July 2012 • Draft policy to be approved by the full licensing committee (27th September 2012) • Draft policy to RESPOC for scrutiny (15th November 2012) • Draft policy to Cabinet for approval (20th December 2012) • Draft policy to full Council (10th January 2013) • Policy comes into force until 2016 <p>Resolved: The Committee noted the update.</p>	
6.	<p>AMENDMENTS TO THE LICENSING COMMITTEE DELEGATIONS REPORT (<i>Agenda Item 7</i>)</p> <p>Officers informed Members that following the implementation of the Police Reform and Social Responsibility Act 2011, there were a number of new powers available to Licensing Authorities. Consequently, the scheme of delegations must be amended to reflect those changes.</p> <p>The Council's constitution was amended on 12th May 2012 to delegate the Licensing functions under the Police Reform & Social Responsibility Act 2011 to the Licensing Committee as follows:</p> <ul style="list-style-type: none"> ▪ Raise representations against applications under the Licensing Act 2003 to the Corporate Director of Planning, Environment, Education & Community Services ▪ Apply for reviews on behalf of the Licensing Authority under the Licensing Act 2003 to the Corporate Director of Planning, Environment, Education & Community Services ▪ Suspension of Licences for failure to pay Annual Fees under the Licensing Act 2003 to the Licensing Sub-Committee <p>Resolved: The Committee approved the new delegations.</p>	Action by
	The meeting, which commenced at 10.00 am, closed at 11.20 am.	

These are the minutes of the above meeting. For more information on any of the resolutions please contact Natasha Dogra on 01895 277 488. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

TITLE: UPDATE ON TAMARA LOUNGE REVIEW CASE

Committee	Licensing Committee
Officer Contact	Stephanie Waterford x 7232
Papers with report	None
Ward(s) affected	Hillingdon East

SUMMARY

To update the Committee on recent high profile review case concerning the Tamara Lounge

RECOMMENDATION

That the committee note the information

INFORMATION

The licence review hearing took place on 14th September 2012.

Due to reporting deadlines, further information will be made available at the meeting of the full committee on 27th September 2012.

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TITLE: TRADING STANDARDS ENFORCEMENT UPDATE

Committee	Licensing Committee
Officer Contact	Sue Pollitt
Papers with report	Appendix 1: Schedule of prosecutions
Ward(s) affected	All

SUMMARY

In April and June 2011, Trading Standards Officers, working in Partnership with the Police and Officers of HMRC, visited a total of 29 off licences/ general grocers in the London Borough of Hillingdon. The purpose of the visits was to detect any illegal alcohol on sale. This report provides details of prosecutions brought by the Council as a result of discovering counterfeit alcohol during those visits.

RECOMMENDATION

The Committee notes the information contained in the Report.

INFORMATION

1. On the 7th April and the 16th, 17th and 21st June 2011, Trading Standards Officers accompanied by HMRC and Police Officers visited 29 off licences/general grocers in the Borough.
2. The purpose of the visits was to detect any illegal alcohol which may have been on sale or in possession for sale by the traders. This may have been non-duty paid alcohol, to be dealt with by HMRC, or counterfeit alcohol, to be dealt with by Trading Standards.
3. The following table shows the number of premises by findings:

	Number of premises
Non-duty paid alcohol	10
Counterfeit alcohol	7
Both	7
Neither	5

4. In accordance with the Trading Standards Enforcement Policy, taking into account various factors such as the quantity of counterfeit alcohol found, the previous history of the trader, the totality of infringing alcohol (ie was there also duty free alcohol found), 9 Premise licences were called in by Trading Standards for review by the Licensing Committee. Each of these licences was revoked by the Committee. (A number of other licences were called in by the Police.)

5. In addition, in accordance with the Enforcement Policy, further investigations were carried out and 6 infringement reports covering 9 premises were drawn up. In all cases, it was

recommended that criminal proceedings were instigated, alleging offences against the Trade Marks Act 1994.

6. Details of these proceedings and the outcome, where available, are contained in Appendix 1 to this report.

BACKGROUND PAPERS

None

PREMISES	PERSONS PROSECUTED	OUTCOME
Best Food & Wine 61 Station Road West Drayton	1. Aay Kay Ltd 2. Pal Singh Kapoor (Director, Premise Licence holder and DPS)	1. Charges dropped as company was being wound up 2. Fined: 4 x £180, Costs: £500; Victim surcharge: £15
West Drayton Food & Wine 19 Station Road West Drayton	1. Mangalam Ltd 2. Pal Singh Kapoor (Director, Premise Licence holder and DPS)	1. Charges dropped as company was being wound up 2. Fined: 5 x £180; Costs: £500; Victim surcharge: £50
Kwality Foods 670-674 Uxbridge Road Hayes	1. 674 Foods Ltd 2. Satpal Singh Arora (director and DPS)	1. Fined: 6 x £150; Costs: £1463.50; Victim surcharge: £15 2. Fined: 6 x £150; Costs: £1463.50; Victim surcharge: £15
A) Aujla Cash and Carry 266 Yeading Lane Hayes B) Costcutter 268 Yeading Lane Hayes C) Aujla Food & Wine 710 Field End Road Eastcote	1. Karamjit Singh Aujla Partner (Premise Licence holder for A and B) 2. Barinderjit Aujla Partner (Premise licence holder and DPS for A and B)	1. Has pleaded Not Guilty to the alleged offences – case management hearing to be held on the 25 th September 2012 2. Has pleaded Not Guilty to the alleged offences – case management hearing to be held on the 25 th September 2012
A) H&P Food Stores 115-117 Falling Lane West Drayton	Mohammed Sarwar (Sole Trader, Premise Licence holder and DPS)	First hearing to be held on 2 nd October 2012

B) Food Booze 123 Falling Lane West Drayton		

TITLE: LICENSING ACT 2003 – ANNUAL FEES

Committee	Licensing Committee
Officer Contact	Stephanie Waterford x 7232
Papers with report	None
Ward(s) affected	All

SUMMARY

To update the Committee on the recent changes to the Licensing Act 2003 in respect of Annual Licence fees and the progress made in recovering outstanding fees.

RECOMMENDATION

That the committee note the information

INFORMATION

The Police Reform & Social Responsibility Act 2011 introduced powers to suspend premises licence under the Licensing Act 2003 for failure to pay annual fees.

Previously, the Licensing Service had little power to enforce against premises licence holders who failed to pay their annual fees resulting in lost revenue for the Authority.

The new power of suspension is working well and the Licensing Service have recovered a number of fees which, previously would have been extremely difficult to recover.

The power of suspension is currently delegated to the Licensing Committee and where fees cannot be recovered, a report will be produced by the Licensing Service and presented to the Committee in the usual way.

Once a licence is suspended, it cannot be reinstated until the outstanding fees are settled.

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TITLE: THE LIVE MUSIC ACT – CHANGES TO THE LICENSING ACT 2003

Committee	Licensing Committee
Officer Contact	Sharon Garner X7230
Papers with report	None
Ward(s) affected	All

SUMMARY

To update the Committee on the forthcoming changes to Licensing Legislation.

RECOMMENDATION

That the committee note the information

INFORMATION

On 8th March 2012 the Live Music Bill received Royal Assent and became the Live Music Act 2012. The legislation will come into force on 1st October 2012, and guidance under section 15 of the section 182 Guidance under the Licensing Act 2003 stating the proposed changes to the Act is being laid before Parliament on 31st October 2012.

A copy of section 15 Guidance is annexed to this report.

The effects of the new legislation will remove the licensing requirements for:

- **Amplified live music** between 08.00 hours and 23.00 hours before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises (e.g. pubs, clubs, hotels and restaurants)
- **Amplified live music** between 08.00 hours and 23.00 hours before audiences of no more than 200 people in workplaces not licensed under the Licensing Act 2003 (e.g. shops, community centres, religious establishments) or premises licensed only for late night refreshment (e.g. takeaways)
- **Unamplified live music** between 08.00 hours and 23.00 hours in all venues.

Where licensable activities (such as the sale of alcohol) continue to take place on premises, any licence conditions related to live music will be suspended.

However, Licensing Authorities will be able to impose new or re-instate existing live music conditions following a Review of the premises licence or club premises certificate relating to a premises authorised to supply alcohol for consumption on the premises.

The Live Music Act will also remove all licensing requirements for the provision of entertainment facilities (e.g. providing facilities for making music and dancing).

Also, it will widen the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type and the exemption applies to both live and recorded music instead of just unamplified live music.

In Brief

The Key terms used in the Live Music Act 2012 are:

- 'Music' includes vocal or instrumental music or a combination of the two. Therefore, the performance of Karaoke is live music under this Act but the playing of music by a DJ is not a performance of live music.
- 'Live music' is a performance of live music in the presence of an audience which it is intended to entertain.
- A 'Workplace' is as defined in regulation 2 (1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces.
- 'Audience' – an activity is licensable as regulated entertainment if it falls within one or more of the descriptions of entertainment in paragraph 2 of Schedule 1 to the Licensing Act 2003 and takes place in the presence of an audience for whose entertainment it is provided, even if they do not wish to be entertained.
- 'Relevant licensed premises' refers to premises which are authorised to supply alcohol for consumption on the premises by a premises licence or a club premises certificate.

In Conclusion

Public performance of live unamplified music that takes place between 08.00 hours and 23.00 hours on any day no longer requires a licence in any location.

An exception to this is where a specific condition related to live music is imposed following a review of the premises licence or club premises certificate.



department for
**culture, media
and sport**

Regulated Entertainment

Technical consultation on the proposed new Chapter 15 of the
Section 182 Guidance issued under the Licensing Act 2003

August 2012

Preliminary draft guidance, which may be subject to change and to Ministerial clearance.

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Chapter 1: Introduction

- 1.1 The Live Music Act 2012 (“the 2012 Act”) received Royal Assent on 8 March 2012, and will come into force on 1st October 2012. As a result, we are proposing an amended version of Chapter 15 Regulated Entertainment) of the guidance issued under section 182 of the Licensing Act 2003 (“the 2003 Act”) to reflect the changes made by the 2012 Act to the regulation of live music. The revised version of the guidance – attached here in draft - is expected to be laid before Parliament on 31 October 2012 so that other changes that the Home Office is introducing relating to Early Morning Restriction Orders can be incorporated at the same time.
- 1.2 The purpose of this consultation is not to consider the policies delivered through the Live Music Act. Rather it is to ensure that, from a technical perspective, the guidance works, i.e. it is accurate, helpful and pragmatic. We would therefore welcome comments on this basis.
- 1.3 When the 2012 Act comes into force, it will remove the licensing requirements for amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises; amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment); and unamplified live music between 8am and 11pm in all venues.
- 1.4 Where licensable activities (such as the sale of alcohol) continue to take place on premises, any licence conditions related to live music will be suspended. However, it will be possible to impose new or reinstate existing live music conditions following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.
- 1.5 The Live Music Act will also remove licensing requirements for the provision of entertainment facilities. In addition, it will widen the current licensing exemption for music which is integral to a performance of morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music, instead of unamplified live music.
- 1.6 The preparation of this revised guidance has also been informed by consultation with a technical advisory group which included representatives of licensing officers, local authority enforcement officers, trade, police, residents, community groups, and the LGA.
- 1.7 We would welcome any technical comments on this guidance by 28 September 2012.

Chapter 2: The Proposed new Chapter 15

REGULATED ENTERTAINMENT¹

15.1 Subject to the conditions, definitions and the exemptions referred to in Schedule 1, the types of entertainment regulated by the 2003 Act are:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment (whether indoor and outdoor);
- a performance of live music (but note the changes brought in by the Live Music Act 2012, see para. 15.7 below);
- any playing of recorded music;
- a performance of dance;
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

However, these types of entertainment are only regulated where the entertainment takes place in the presence of an audience, and is provided, at least partly, to entertain that audience.

Activities that do not constitute “regulated entertainment”

15.2 Licensing authorities should consider whether an activity constitutes the provision of regulated entertainment, taking into account the conditions, definitions and exemptions set out in Schedule 1 to the 2003 Act. This Guidance cannot give examples of every eventuality or possible activity. The following activities, for example, are not regulated entertainment:

- education – teaching students to perform music or to dance;
- activities which involve participation as acts of worship in a religious context;
- activities that take place in places of public religious worship;
- the demonstration of a product – for example, a guitar – in a music shop; or
- the rehearsal of a play or performance of music to which the public are not admitted and no charge is made to make a profit.

Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable – must comply with any applicable duties that may be imposed by other legislation (e.g. crime and disorder, fire, health and safety, noise, nuisance and planning).

¹ This Chapter is the responsibility of the Department for Culture, Media and Sport

ENTERTAINMENT FACILITIES

As a result of changes to the 2003 Act by the 2012 Act, 'entertainment facilities' are no longer licensable. Conditions on a licence that relate solely to entertainment facilities will no longer apply, but note paragraphs 15.13 and 15.14 below.

PRIVATE EVENTS

15.3 Events that are held in private are not licensable unless those attending are charged for the entertainment with a view to making a profit (including raising money for charity). For example, a party held in a private dwelling for friends featuring live music, where a charge or contribution is made solely to cover the costs of the entertainment would not be regulated entertainment. Similarly, any charge made to the organiser of a private event by musicians, other performers, or their agents does not of itself make that entertainment licensable – it would only do so if the guests attending were themselves charged by the organiser for that entertainment with a view to achieving a profit. The fact that this might inadvertently result in the organiser making a profit would be irrelevant, as long as there had not been an intention to make a profit.

15.4 Schedule 1 to the 2003 Act also makes it clear that before entertainment is regarded as being provided for consideration, a charge has to be:

- made by or on behalf of a person concerned with the organisation or management of the entertainment; and
- paid by or on behalf of some or all of the persons for whom the entertainment is provided.

PUB GAMES

15.5 Games commonly played in pubs and social and youth clubs (such as pool, darts, table tennis and billiards) would only be licensable activities if hosted in the presence of a public audience, to entertain, at least in part, that audience. For example, a darts championship competition is often licensable and could be a licensable activity, but a game of darts played for the enjoyment of the participants is not usually licensable.

STAND UP COMEDY

15.6 Stand-up comedy is not regulated entertainment, and music that is incidental to the main performance would not make it a licensable activity. Licensing Authorities should encourage operators to seek their advice, particularly with regard to their policy on enforcement.

LIVE MUSIC

15.7 To encourage more performances of live music, the Live Music Act 2012 (the 2012 Act) has amended the 2003 Act by deregulating aspects of the performance of live music so that, in certain circumstances, it is not a licensable activity. However live music remains licensable:

- where a performance of live music – whether amplified or unamplified – takes place other than between 08:00 and 23:00 on any day;
- where a performance of amplified live music takes place other than on relevant licensed premises or at a workplace that is not licensed other than for the provision of late night refreshment;
- where a performance of amplified live music takes place at relevant licensed premises, at a time when those premises are not open for the purposes of being used for the supply of alcohol for consumption on the premises;
- where a performance of amplified live music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 200 people; and

- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended by the 2012 Act) when imposing a condition on a premises licence or certificate as a result of a licence review (see paragraph 15.12 below).

In any of the above circumstances, unless the performance of live music is appropriately authorised by a premises licence, club premises certificate or Temporary Event Notice, allowing it to continue could lead to enforcement action and a review of the alcohol licence or certificate.

KEY TERMS USED IN THE LIVE MUSIC ACT 2012

15.8 Under the ‘live music’ provisions, “‘music’ includes vocal or instrumental music or any combination of the two”. ‘Live music’ is a performance of live music in the presence of an audience which it is intended to entertain. While a performance of live music can include the playing of some recorded music, ‘live’ music requires that the performance does not consist entirely of the playing of recorded music without any additional (substantial and continual) creative contribution being made. So, for example, a drum machine or backing track being used to accompany a vocalist or a band would be part of the performance of amplified live music. A DJ who is merely playing tracks would not be a performance of live music, but might if he or she was performing a set which largely consisted of mixing recorded music to create new sounds. There will inevitably be a degree of judgement as to whether a performance is live music or not and organisers of events should be encouraged to check with their licensing authority if in doubt. In the event of a dispute about whether a performance is live music or not, it will ultimately be for the courts to decide in the individual circumstances of any case.

A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.

“Audience” – an activity is licensable as regulated entertainment if (a) it falls within one or more of the descriptions of entertainment in paragraph 2 of Schedule 1 to the 2003 Act and (b) takes place in the presence of an audience for whose entertainment (at least in part) it is provided. An audience member need not be, or want to be, entertained: what matters is that an audience is present and that the purpose of the licensable activity is (at least in part) intended to entertain any person present. The audience will not include performers, together with any person who contributes technical skills in substantial support of a performer (for example, a sound engineer or stage technician), during any activities associated with that performance. These activities include setting up before the performance, reasonable breaks (including intervals) between songs and packing up thereafter.

For the purposes of this Chapter, “relevant-licensed premises” refers to premises which are authorised to supply alcohol for consumption on the premises by a premises licence or club premises certificate;

15.9 Public performance of live unamplified music that takes place between 08:00 and 23:00 on any day no longer requires a licence in any location. An exception to this is where a specific condition related to live music is included following a review of the premises licence or certificate in respect of relevant licensed premises.

This amendment to the 2003 Act by the 2012 Act means that section 177 of the 2003 Act now only applies to performances of dance.

LIVE MUSIC - CONDITIONS AND REVIEWS

15. 10 Any existing licence conditions on on-licensed premises which relate to live music remain in place but are suspended between the hours of 23.00 and 08.00 on the same day.

In some instances it will be obvious that a condition relates to live music and will be suspended, for example “during live music all doors and windows must remain closed”. In other instances, it might not be so obvious, for example, a condition stating “during Regulated Entertainment all doors and windows must remain closed” would not apply if the only entertainment provided was live music between 08:00 and 23:00 on the same day to an audience of up to 200, but if there was a disco in an adjoining room then the condition would still apply to the room in which the disco was being held.

15.11 However, even where the 2003 Act (as amended by the 2012 Act) has deregulated aspects of the performance of live music, it remains possible to apply for a review of a premises licence or club premises certificate. On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to live music. Similarly, by section 177A(4), a licensing authority may add a condition relating to live music as if live music were regulated entertainment, and as if that licence or certificate licensed the live music.

15.12 An application for a review in relation to premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements: see Chapter 11 of this guidance for more details about reviews under the 2003 Act.

More general licensing conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly will remain in place).

APPLYING CONDITIONS TO NON-LICENSABLE ACTIVITIES

15.13 The removal of entertainment facilities from the definition of regulated entertainment raises the question of whether conditions can relate to non-licensable activities. If appropriate for the promotion of the licensing objectives, and there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that licence or certificate at review. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, create a genuine risk to the promotion of the licensing objectives. Similarly, it is not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as beer gardens, after a certain time.

15.14 So, in relation to the provision of entertainment facilities it might, for example, be possible in certain circumstances to limit the use or volume of a microphone made available for customers to sing, if customers who have purchased alcohol for consumption on the premises have caused a problem by become louder and less aware of potential noise nuisance later in the evening. Another example, where conditions could be considered, might be if public safety concerns arise around raised stages being accessed by customers who have been consuming alcohol and then present a greater risk of accident.

MORE THAN ONE EVENT IN THE SAME PREMISES

15.15 The amendments to the 2003 Act made by the 2012 Act do not prevent more than one performance of amplified live music being held concurrently at relevant licensed premises or a workplace, provided that the audience for each such performance is 200 or less. In some circumstances, there will be a clear distinction between performances, for example in separate rooms or on separate floors. However, any person involved in organising or holding these activities must ensure that audiences do not grow or migrate so that more than 200 people are in the audience for any one performance at any time. If uncertain, it might be easier and more flexible to secure an appropriate authorisation for a larger event.

BEER GARDENS

15.16 Beer gardens are often included on a premises licence. Where a beer garden is not included in plans that are attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace. Paragraph 12B of Schedule 1 to the 2003 Act, inserted by section 3(4) of the 2012 Act, says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08.00 and 23.00 in front of an audience of no more than 200 people.

15.17 However, a licensing authority may, in appropriate circumstances, impose a condition on a licence or certificate that relates to the performance of live music in an unlicensed beer garden using any associated licence or certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms. Note that the suspension of licence conditions relating to live music by the 2003 Act as amended by the 2012 Act is limited (among other things) to the performance of live music on relevant licensed premises, so a beer garden which is not within relevant licensed premises cannot benefit from that suspension.

15.18 Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided that the beer garden is included in the licence applying to the relevant licensed premises, and the performance takes place between 08.00 and 23.00 on the same day before an audience of 200 or fewer people. Unamplified music that takes place in a beer garden between 08:00 and 23:00 is exempt from licensing requirements, whether or not the beer garden is part of the premises licence.

MORRIS DANCING

15.19 The amendments to the 2003 Act by the 2012 Act extend the exemption relating to music accompanying Morris dancing in paragraph 11 of Schedule 1 to the 2003 Act, so that it applies to the playing of live or recorded music as an integral part of a performance of Morris dancing, or similar activity.

INCIDENTAL MUSIC

15.20 In addition to provision introduced into the 2003 Act by the 2012 Act, the performance of live music and playing of recorded music is not regulated entertainment under the 2003 Act to the extent that it is “incidental” to another activity which is not itself regulated entertainment. This would include live music that is not regarded as the provision of regulated entertainment by virtue of the 2012 Act.

15.21 Whether or not music is “incidental” to another activity will depend on the facts of each case. In considering whether or not music is incidental, one relevant factor will be whether or not, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of the four licensing objectives of the 2003 Act. Other factors might include some or all of the following:

- Is the music the main, or one of the main, reasons for people attending the premises?
- Is the music advertised as the main attraction?
- Does the volume of the music disrupt or predominate over other activities, or could it be described as ‘background’ music?

15.22 Conversely, factors which would not normally be relevant in themselves include:

- The number of musicians, e.g. an orchestra providing incidental music at a large exhibition.
- Whether musicians are paid.
- Whether the performance is pre-arranged.
- Whether a charge is made for admission to the premises.

SPONTANEOUS MUSIC, SINGING AND DANCING

15. 23 The spontaneous performance of music, singing or dancing does not amount to the provision of regulated entertainment and is not a licensable activity because the premises at which these spontaneous activities occur would not have been made available to those taking part for that purpose.

Appendix A: How to respond

You can respond to this technical consultation in the following ways:

Online

Responses should be sent to nigel.wakelin@culture.gsi.gov.uk

By post

You can respond by hand. Please send these to:

Nigel Wakelin
Gambling Sector
Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

Closing date

The closing date for responses is 28th September 2012

After the consultation

The final version of the revised guidance should be laid before Parliament on 31st October.

Freedom of Information

We are required to release information to comply with the Environmental Information Regulations 2004 and Freedom of Information Act 2000. We will not allow any unwarranted breach of confidentiality, nor will we contravene our obligations under the Data Protection Act 1998, but please note that we will not treat any confidentiality disclaimer generated by your IT system in e-mail responses as a request not to release information.

Compliance with the Code of Practice on Consultation

This consultation complies with the Code.

Complaints

If you have any comments or complaints about the consultation process (as opposed to comments on these issues that are part of the consultation) please contact the DCMS Correspondence Team at the above address or e-mail using the form at www.culture.gov.uk/contact_us, heading your communication " Technical consultation on the proposed new Chapter 15 of the Section 182 Guidance issued under the Licensing Act 2003".



department for
culture, media
and sport

2-4 Cockspur Street
London SW1Y 5DH
www.culture.gov.uk

Agenda Item 9

TOTAL NUMBER OF PREMISES AND PERSONAL LICENCES GRANTED UNDER OFFICER DELEGATED POWERS AND BY LICENSING SUB-COMMITTEES UP TO 14th SEPTEMBER 2012

Premises Licences

Type of Licence	No. issued
Clubs	85
Entertainment Premises	54
Hotels	35
Off Licences	277
Public Houses	128
Restaurants	155
Take Aways	78
Other	30
Total	842

Personal Licences

Personal Licences	2417
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Temporary Event Notices (TENS)

Issued from Sep 2011 to Aug 2012	513
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A list of all premises licences that have been determined using delegated licensing officer powers from Apr 2012 to Sep 2012

Date Determined	Premises	Applicant	Licensable Activities	Operating Hours
19/04/12	Breakspear Arms, Breakspear Road South, Ruislip, UB9 6LT	Greene King Retailing Ltd	Sale of alcohol	09:00 - 01:30 Sun to Thu
<i>Minor Variation</i>	<i>Minor Variation to internal layout - no changes to licensed hours</i>		Regulated Entertainment	09:00 - 02:30 Fri to Sat
			Late Night Refreshment	
03/05/12	Island Grill, 3 Halls Terrace, Uxbridge Road, UB10 0NS	Mr Jade Parris	Sale of alcohol	10:00 - 03:00 each day
<i>New</i>	<i>Take-away</i>		Late Night Refreshment	
09/05/12	London School of Theology, Green Lane, Northwood, HA6 2UW	London School of Theology	Sale of Alcohol	09:00 - 23:00 each day
<i>New</i>	<i>Function halls</i>		Regulated Entertainment	
09/05/12	Best Kebab, 176 Field End Road, Eastcote, HA5 1RF	Mr Nazim Kalkun	Late Night Refreshment	12:00 - 00:00 Sun to Thu
<i>New</i>	<i>Take-away</i>			12:00 - 02:00 Fri to Sat
05/05/12	Aujla Food & Wine, 710 Field End Road, Eastcote, HA5 1RF	Jaspal Singh	Sale of Alcohol	09:00 - 23:00 each day
<i>New</i>	<i>Off licence</i>			
19/05/12	Mobile Catering Van, Lorry Park, Shorham Road West, Heathrow	Mr Paul Weaver	Late Night Refreshment	00:00 - 24:00 each day
<i>New</i>	<i>Take-away</i>			
30/05/12	Hayes & Harlington Conservative Club, Church Road, Hayes	Hayes & Harlington Conservative Club	Sale of Alcohol	09:00 - 00:00 Sun to Thu
<i>New</i>	<i>Function Halls/Private Hire etc</i>		Regulated Entertainment	09:00 - 01:00 Fri to Sat
			Late Night Refreshment	
12/06/12	Shell Yiewsley, 209 High Street, Yiewsley, UB7 7QP	Shell Oil Products Ltd	Sale of Alcohol	00:00 - 24:00 each day
<i>New</i>	<i>Off licence</i>			
12/06/12	Family Bargains, 217 High Street, Yiewsley, UB7 7GN	99p Stores Ltd	Sale of Alcohol	08:00 - 23:00 each day
<i>New</i>	<i>Off licence</i>			
15/06/12	M&S Simply Food, Arrivals Lounge, Terminal 3, Heathrow	Marks and Spencer PLC	Sale of Alcohol	00:00 - 24:00 each day
<i>Minor Variation</i>	<i>Minor variation to internal layout - licensed hours not affected</i>			
15/06/12	Yiewsley Superstore, 125 Falling Lane, Yiewsley, UB7 8AG	Mr Jagath Ram	Sale of Alcohol	08:00 - 23:00 each day

A list of all premises licences that have been determined using delegated licensing officer powers from Apr 2012 to Sep 2012

New	Off licence						
19/06/12	Falling Lane Superstore, 123 Falling Lane, Yiewsley, UB7 8AG	Mr Inderjit Singh			Sale of Alcohol		05:00 - 23:00 each day
New	Off Licence						
19/06/12	Falling Lane Superstore, 115-117 Falling Lane, Yiewsley	Mr Inderjit Singh			Sale of Alcohol		08:00 - 23:00 each day
New	Off licence						
21/06/12	Harefield Grove Manor, Rickmansworth Road, Harefield	Harefield Grove Ltd			Sale of Alcohol		09:00 - 23:30 Sun to Thu
New	Function halls/Private Hire etc				Regulated Entertainment		09:00 - 00:30 Fri to Sat
					Late Night Refreshment		
22/06/12	Prezzo, 9 Belmont Road, Uxbridge, UB8 1QS	Prezzo Plc			Sale of Alcohol		09:00 - 01:00 Sun to Wed
Variation	Variation to internal layout and removal of conditions relating to The Ostler Ph				Regulated Entertainment		09:00 - 02:00 Thu
					Late Night Refreshment		09:00 - 03:00 Fri to Sat
28/06/12	Crown & Sceptre, 135 High Street, Uxbridge, UB8 1JX	Mr Harry Cooper			Sale of Alcohol		09:00 - 02:30 Mon to Thu
Variation	Variation to the licensed hours				Regulated Entertainment		09:00 - 04:30 Fri to Sat
					Late Night Refreshment		09:00 - 01:00 Fri to Sat
04/07/12	Radisson Edwardian Hotel, 140 Bath Road, Hayes, UB3	Edwardian International Hotels Ltd			Sale of Alcohol		00:00 - 24:00 each day
Variation	Variation to internal layout of the premises and change to licensed hours				Regulated Entertainment		
					Late Night Refreshment		
05/07/12	Co-operative Store, 222-224 High Street, Harlington, UB3 5DS	Co-operative Group Food Ltd			Sale of alcohol		06:00 - 23:00 each day
Variation	Variation to licensed hours						
16/07/12	Kwality Foods, 674 Uxbridge Road, Hayes, UB4 0RY	Mr Arwin Singh Khaneja			Sale of alcohol		08:00 - 24:00 each day
New	Off licence						
16/07/12	Odeon Cinema, The Chimes, High Street, Uxbridge, UB8 1GD	Odeon Cinemas Ltd			Sale of alcohol		00:00 - 24:00 each day
Minor Variation	Variation to the area licensed to sell alcohol				Regulated Entertainment		
					Late Night Refreshment		
19/07/12	Red Iron Burger, 280 High Street, Uxbridge, UB8 1LQ	FMR Trading Ltd			Sale of alcohol		10:00 - 02:00 each day

A list of all premises licences that have been determined using delegated licensing officer powers from Apr 2012 to Sep 2012

Minor Variation	Removal of conditions		Regulated Entertainment	
			Late Night Refreshment	
20/07/12	Lidl, Autoguild House, Cowley Road, Uxbridge, UB8 2AQ	Lidl UK GmbH	Sale of alcohol	07:00 - 23:00 each day
New	Off licence			
25/07/12	Sweeneys, 101-103 High Street, Ruislip, HA4 8JN	Mr David Sanders	Sale of alcohol	12:00 - 01:00 Sun
Minor Variation	Removal of condition relating to re-entry		Regulated Entertainment	10:00 - 01:00 Mon to Thu
			Late Night Refreshment	10:00 - 02:00 Fri to Sat
02/08/12	Lahori Masala & Grill, 906 Uxbridge Road, Hayes, UB4 0RW	Mr Shabbaz Hussain	Late Night Refreshment	12:00 - 04:00 each day
Variation	Variation to licensed hours			
03/08/12	KFC, 9 Bath Road, Hayes, TW6 9AA	Kentucky Fried Chicken (GB) Ltd	Late Night Refreshment	10:00 - 05:00 each day
New	Take-away			
09/08/12	Northwood Rec Ground, Carew Road, Northwood	Green Spaces Service LBH	Regulated Entertainment	10:00 - 20:00 each day
New	Regulated entertainment for community events etc			
09/08/12	Shenley Rec Ground, Shenley Avenue, Ruislip	Green Spaces Service LBH	Regulated Entertainment	10:00 - 20:00 each day
New	Regulated entertainment for community events etc			
09/08/12	Ahjee Bhajee, 6 Black Horse Parade, Eastcote, HA5 2EN	Uzaan Bati Ltd	Sale of alcohol	17:00 - 23:00 each day
New	Restaurant			
13/08/12	Arcade News, 277 High Street, Uxbridge, UB8 1LQ	Mr Jagdish Radia	Sale of alcohol	07:00 - 22:00 Mon to Sat
New	Off licence			10:00 - 22:00 Sun
16/08/12	Electric Lounge, 120 High Street, Uxbridge, UB8 1JT	Mr Paul Wilkins	Sale of alcohol	12:00 - 02:30 Sun to Thur
Variation	Variation to licensed hours		Regulated Entertainment	12:00 - 04:00 Fri to Sat
			Late Night Refreshment	
16/08/12	Virgin Active Riverside, Duckshill Road, Northwood, HA6 2DR	Virgin Active Ltd	Sale of alcohol	06:00 - 02:30 each day
New	Sports club bar/restaurant		Regulated Entertainment	
			Late Night Refreshment	

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03/09/12	Nepalese Centre, 73 Station Road, Hayes, UB3 4BG	Miiluli Limited	Sale of alcohol	08:00 - 21:00 Mon to Sat 10:00 - 21:00 Sun
New	Off licence			
11/09/12	W H Smith, Terminal 3, Heathrow	W H Smith Ltd	Sale of alcohol	06:30 - 21:00 each day
New	Off licence			
11/09/12	W H Smith, Terminal 4, Heathrow	W H Smith Ltd	Sale of alcohol	06:30 - 24:00 each day
New	Off licence			
12/09/12	Royal Feast, 33 Rockingham Road, Uxbridge, UB8 2TZ	Mr F Sekakmia	Sale of alcohol	12:00 - 24:00 each day
New	Restaurant		Regulated Entertainment Late Night Refreshment	
14/09/12	Sainsbury's, 216 Field End Road, Eastcote	Sainsburys	Sale of alcohol	06:00 - 24:00 each day
New	Off licence			
14/09/12	Groszek Polish Deli, 3 Tavistock Road, West Drayton	Mrs Jolanta Wrobel	Sale of alcohol	08:00 - 22:00 each day
New				

Date Determined	Premises	Reason for Hearing	Decision
24 May 2012	Ruislip Superstore, 69 Station Approach, Ruislip <i>Variation to extend trading hours</i>	Objections from Police against extended opening	Refused
13 August 2012	West Drayton Convenience Store, 18 Station Road, West Drayton <i>New off-licence application</i>	Objections from Police and Licensing Authority as a result of the review/appeal actions over the last year	Granted
13 August 2012	Buddha Lounge, Dawley Road, Hayes <i>New licence for pub/restaurant</i>	Opposition from the local residents and Ward Member on public nuisance and crime prevention grounds	Granted with amended times/conditions
05 September 2012	Martin Newsagents, Field Heath Road, Hillingdon <i>New off-licence application</i>	Petition received from local residents	Granted with amended conditions

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