

**Fisher, Suzanne**

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**From:** Stephen Brown <stephen.brown@themu.org>  
**Sent:** 09 July 2020 14:10  
**To:** Fisher, Suzanne  
**Cc:** Licensing Team  
**Subject:** Licensing defat consultation - Musicians' Union (MU response)  
**Attachments:** Draft\_Policy\_Document.pdf

**Categories:** Suzanne

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Dear Suzanne,

Our MU office received an invite to consultation from yourself on your draft licensing policy as attached, so thank you for this.

As the Secretary to the Regional Committee of the MU and its Regional Organiser (manager) I have some comments as follows:

### **Section 3: Duplication**

In reference to other Acts that affect your policy there is an omission.

There is no reference to the Live Music Act 2012

### **Section 8.2: Regulated Entertainment**

There is no reference to the Live Music Act 2012 which would normally be a typical inclusion in such. For instance, a caveat remarking "*Regulated entertainment has been effected by the Live Music Act 2012 and deregulation orders as outlined in this policy*" would be a typical statement heading this section of a policy in my experience.

### **General comments:**

#### **1. Live Music Act:**

A typical council policy on Licensing Act would include the following section at a point near the start of the policy or at least before or after the regulated entertainment section (I have taken this from Dudley MBC for example but others exist similarly and are nearly always the same, although the MU has an issue with the interpretational aspects of live music as

specified at the asterisk indicated\* - we believe this should be subject to guidance notes for the benefit of an officer deciding as technology is moving on and in our view any element that is live determines the music as live eg live vocal with backing track; or live instrument with backing track including a vocal backing track):

### *“Live Music Act 2012*

*The Live Music Act 2012 came into force on 1<sup>st</sup> October 2012. The Act removed the licensing requirement for:*

*Amplified ‘live’ music between 8.00 am and 11.00pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises.*

*Amplified ‘live’ music between 8.00 am and 11.00 pm before audiences of no more than 500 people in workplaces otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)*

*Unamplified ‘live’ music between 8.00 am and 11.00 pm in all venues*

*The provision of entertainment facilities*

*The legislative Reform Entertainment Licensing Order of 2014 then added a further exemption:*

*Recorded music between 8.00 am and 11.00 pm if played in premises licensed to retail alcohol.*

*On premises where sale of alcohol continue to take place on a premises any licence conditions relating to live and recorded music will be suspended, Section 74. It will be possible to reinstate existing conditions following a review. Section 177A (3) of the 2003 Act.*

*Similarly, under section 177A(4) a Licensing Authority may add a condition to premises which are licensed to sell alcohol, relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances, the condition should include a statement that Section 177A does not apply to this condition.*

*Beer gardens and premises car parks are considered workplaces, and in most cases do not form part of the premises licensed to sell alcohol so cannot have conditions reinstated or placed on them in respect of the provision of music.*

*The policy should emphasise that, when considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. There will inevitably be a degree of judgement\*(see notes above) as to whether a performance is live music or not, so organisers of events should be encouraged to check with the Licensing Authority if in doubt.”*

## **2. Section 9.3 Prevention of Public Nuisance:**

Can you indicate whether the ‘agent of change’ principles apply to any new developments? So, for instance, that if say new residential dwellings are in the planning process adjacent to a venue, whether the onus is on the developer to adequately soundproof the new building rather than place this burden/responsibility on the existing business or businesses? I believe this may be something contained within NPPF 2019 and land use impact if a new use is proposed adjacent. If so, then I would suggest it is added to section 3 also or some inclusion as guidance is made in section 9.3.

I trust that this is helpful but if I have misunderstood anything and this review specifically relates to entertainment licensing between the hours of 11pm and 7am then do let me know.

Kind Regards,  
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