

Licensing Board consultation - policy on amplified music in licensed premises

Recommendation from Edinburgh Licensing Forum (see bold print below)

Encouraging Live Music in Edinburgh –

Recommendation to the Licensing Board following upon a presentation to the Licensing Forum on Tuesday 1st December 2015 and open discussions and debate on the matter thereafter.

Noted that Edinburgh's current licensing policy in effect requires amplified music to be wholly inaudible from neighbouring properties.

The music sector in Edinburgh has reported that these rules are not conducive to a flourishing live music and cultural scene.

The Music is Audible working group explained they would like to have enhancing Edinburgh's current licensing policy enhanced as follows:

Existing: 'The Board will always consider the imposition of a condition requiring amplified music from those premises to be inaudible in residential property' In practice the LSO normally suggests to the Board that this condition be applied. The Board then put it to the applicant who in almost all cases routinely accepts the condition. No legal arguments are made against the imposition of the condition.

Proposed that the policy should be slightly more flexible: **"Amplified music...shall not be an audible nuisance in neighbouring residential premises"**.

It was suggested that this proposed wording would create a better environment for musicians, promoters and residents in the city and that an updated policy would provide clearer guidance for Licensing Standards Officers when they assess whether noise created by music is indeed a nuisance.

The suggested guidance for this approach has been taken from the Scottish Government's guidance which was issued to accompany the statutory nuisance provisions of the Public Health (Scotland) Act 2008. Section 3 provides 'There are 8 key issues to consider when evaluating whether a nuisance exists' and goes on to provide definitions of these issues, which are listed as: impact, locality, time, frequency, duration, convention, importance and avoidability.

Noted that although the following items have already been agreed it was stressed that there should be:-

Changing terminology so that both venues and residents are seen as clients in a mediation process;

Raise awareness (for councillors and officers) on the impact noise complaints have on the city's cultural and economic environment;

The Council encourages residents to talk to the venue about their concern as a first step and provide guidance to all music venues on their option in the event of a noise complaint;

The Council considers the Agent of Change principle for local conditions.

The meeting appeared very supportive of the "Agent of Change principle*)" and the decision was to recommend to the Licensing Board that they carefully consider, in a positive way, the recommendations of the Music is Audible group and consult widely on the proposals particularly with Community Councils before reaching any conclusions.

Supplementary

The Forum were also made aware of the low number of noise complaints and that the LSO's would provide further data to them about this and further that no premises has had their premises licence reviewed for breach of the noise condition since 2012.

*The Agent of Change Principle is not complicated or controversial, it's simple common sense: Agent of Change says that the person or business responsible for the change is responsible for managing the impact of the change.

This means that an apartment block to be built near an established live music venue would have to pay for soundproofing, while a live music venue opening in a residential area would be responsible for the costs. A resident who moves next door to a music venue would, in law, be assessed as having made that decision understanding that there's going to be some music noise, and a music venue that buys a new PA would be expected to carry out tests to make sure its noise emissions don't increase.