

# Culture and Communities Committee

10.00am, Tuesday, 12 September 2017

## Encouraging Live Music in Edinburgh: Music Is Audible Working Group Extension

Item number	9.1
Report number	
Executive	
Wards	All

### Executive summary

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This report provides an overview on work undertaken to support live music provision in the city since November 2014. This covers the work of the Music Is Audible (MIA) Working Group, the Music Venues Trust, the University of Edinburgh Music Department and Licensing. It refers to detailed work undertaken to amend the Council's licensing policy, steps taken to implement the recommendations made in the Music Venues Trust independent report, and actions carried out by the MIA working group to communicate and share the work of the group to date.

## Encouraging Live Music in Edinburgh: Music Is Audible Working Group Extension

### 1. Recommendations

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- 1.1 It is recommended that the Culture and Communities Committee:
  - 1.1.1 notes the range of work undertaken by the Music Is Audible (MIA) working group to provide better conditions for the support of live music in the city, with a view to fostering an environment in which live music can flourish;
  - 1.1.2 notes that as a result of this the Council has amended its licensing policy in regard to audibility of amplified music;
  - 1.1.3 notes that further work is needed to address the recommendations made in an independent report by the Music Venue Trust, commissioned by the MIA Working Group, such as establishing a role for a live music champion;
  - 1.1.4 notes the work that members of the MIA group have undertaken in presenting and sharing information and findings relating to the provision on live music in the city, with a view to fostering an environment in which live music can flourish; and
  - 1.1.5 extends the lifespan of the MIA working group for a further year.

### 2. Background

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- 2.1 A Live Music Matters forum was held at the Usher Hall in November 2014, in response to a request for a report from the Culture and Sport Committee to see what could be done to offer more support to Edinburgh's live music scene. The report was requested due to two main factors: Creative Scotland had published a national report into music provision in which venue availability was identified as an issue, and the closure of The Picturehouse on Lothian Road had left the city without a mid-scale touring venue for rock and pop music.
- 2.2 The Live Music Matters forum was an open event aimed at representatives of Edinburgh's live music sector. A number of issues were raised by the music sector such as provision for under 18's, rehearsal spaces, education and noise complaints. The latter was the over-riding concern for the sector with what was felt to be prohibitive licensing conditions applied to licensed premises wishing to present live music resulting in numerous venue closures or venues ceasing to prevent live music.

- 2.3 At its meeting of 16 December 2014, the Culture and Sport Committee considered the report into issues facing live music provision in the city and approved the formation of a short-life working group – Music Is Audible – chaired by the Vice Convenor of Culture and Sport. The group had councillor, officer and sector representatives, and a remit to examine the most effective ways of balancing live music with the interests of local residents, within the limit of relevant legislation.
- 2.4 The work of the MIA group has continued to play a role in maintaining links to other areas of music provision in the city as well as establishing contacts with those further afield, and building on previous work such as the University of Edinburgh Live Music Census. This has helped to provide a valuable context for live music in cities across both an economic and social perspective.
- 2.5 In addition there have been other open forum meetings under the title Live Music Matters to discuss the work of MIA and involve the wider sector. The most recent of these was held in April 2017 at the Usher Hall and invited speakers from the Music Venues trust and Berlin’s Club Commission to consider the question of whether Edinburgh would benefit from a live music champion.

### 3. Main report

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#### Licensing and Agent of Change

- 3.1 One of the key issues that emerged from the November 2014 Live Music Matters forum was Edinburgh’s licensing policy which stipulated that *‘where the operating plan indicates that music is to be played in premise the Board will always consider the imposition of a condition requiring amplified music from those premises to be inaudible in residential property’*. A large part of the MIA working group focus was spent an addressing this and where the different constituents could try and achieve legislative change.
- 3.2 The MIA Working Group undertook a range of work to confirm whether this inaudibility approach was unique and assess its impact and suitability, as the sector reported that current rules were not conducive to a flourishing live music and cultural scene. The Group also scoped the wider context and enhanced initial findings through commissioning the Music Venue Trust to conduct further research, and engaged with the University of Edinburgh in setting a benchmark through a census of current live music activity in the city.
- 3.3 The MIA group tested its initial findings and recommendations for changes to legislation through consultation with the Licensing Forum and Community Councils; at its meeting on the 14 March 2016 the Licensing Board agreed to consult on the terms of its current policy on amplified music in licensed premises.

- 3.4 A special hearing formed part of the subsequent Licensing Board meeting on 26 September 2016, where the Board heard from representatives of Community Councils, residents' associations, the MIA Group, Council Officers, trade associations and the Police, at which it was agreed to change the wording of the licensing policy as follows: *Amplified music... '... shall not be an audible nuisance in neighbouring residential premises'*.
- 3.5 Organisations wishing to adopt the revised condition are now required to submit a request to have their licenses amended following the existing channels and a report will be submitted to a future Board detailing the number of amendments sought and agreed. To date the Licensing Board has approved applications for 94 premises, with a further 4 applications being considered at the Licensing Board meeting on 28 August 2017.
- 3.6 The MIA group continues to examine the best way to adopt Agent of Change as a planning principle to support cultural activity in the city. Agent of Change says that the person or business responsible for a change is responsible for managing the impact of that 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.
- 3.7 A case recently taken to the Scottish Public Services Ombudsman regarding a nightclub venue in South Ayrshire is relevant. The venue complained that it has been forced to spend a large amount of money on soundproofing and noise reduction measures because South Ayrshire Council approved planning permission for flats to be built adjacent to the nightclub.
- 3.8 The Ombudsman found in favour of the venue, stating that South Ayrshire Council had imposed a potentially unenforceable planning condition on the planning application, and awarded the venue the value of the cost of the works and an official apology. The case report is available to download from the Ombudsman's website [here](#). It is felt that the MIA working group can contribute further to this issue.

#### **The Music Venue Trust (MVT)**

- 3.9 The Music Venue Trust is a charity which seeks to safeguard the future of the UK's network of grassroots music venues. It provides specialist consultancy with experience of working in other cities where tensions around live music exist, including chairing the Mayor of London's Music Venues Taskforce.

3.10 MIA commissioned the MVT to research and present complementary approaches to the noise challenge, including alternatives to measuring sound, timings, training opportunities and a new approach to responsibilities. The MIA group has adopted these recommendations and updates against them to date are provided in the table below.

<b><i>MVT recommendation</i></b>	<b><i>MIA work so far</i></b>
That the Council considers the balance between the contribution of music venues to the cultural and economic life of Edinburgh and the needs of residents and includes this in its cultural policy review and development.	The work of the MIA group resulted in an amendment as noted to the City's licensing policy, the biggest single concern raised by the sector. It also coincided with the development of the city's Culture Plan, and through engaging with Desire Lines the music sector was involved in shaping the plan to include contemporary live music.
That the Council changes the terminology used in documentation to create a more balanced approach in working with residents and venues. For example, the Council could use new terms to indicate that a resident and a venue are both 'clients' in a mediation process required to settle a complaint, rather than a 'complainee' or subject of a complaint and a 'complainant'.	The consultation period for the terms of the policy on amplified music offered residents a voice, as well as opening up dialogue between the sector and the public through presentations at public meetings. Existing Council documentation needs be updated following additional dialogue with Licensing colleagues and subject to any effects from the changes to licensing policy.
That the MIA working group considers implementing an awareness raising campaign within the Council (for members and officers) of the impact of complaints on the city's wider cultural and economic environment.	Ongoing. This can be addressed through the Culture Plan and internal meetings. Music sector representatives are able to attend Licensing Board and Licensing Forum meetings as members of the public and this will be encouraged.
That the Council encourages residents to talk to the venue about their concerns as a first step.	The consultation period for the review of licensing policy on amplified music offered residents a voice, as well as opening up dialogue between the sector and the public. Ongoing.

<b><i>MVT recommendation</i></b>	<b><i>MIA work so far</i></b>
That the MIA working group creates a resource which would provide all music venues with guidance on their options in the event of a noise complaint.	There is an existing resource providing advice for venues and the public and the important roles that LSOs play in mediating complaints has been noted. Ongoing.
That the Council considers the local conditions in detail that could be linked to the Agent of Change principle, (see definition below), and considers consulting the Scottish Government on the legal process required for legislative change, to enable Edinburgh to be the first city in Scotland to adopt this approach.	Initial discussions have taken place. Clarity is required on whether a council can adopt this unilaterally without a Scottish Government process or consent. Research gathered to date suggests that the principle has been challenged and upheld in favour of the venue, indicating that the Scottish Public Services Ombudsman has applied the Agent of Change principle.
That the Council considers enhancing practice around licensing, for example by creating a checklist for residents making complaints to assist in mediation and resolution of problems.	The consultation period for the terms of the policy on amplified music offered residents a voice, as well as opening up dialogue between the sector and the public. Revised documentation to be developed. Ongoing.
That the Council identifies a key person to act as a music champion to liaise between Council officers and the music community going forward.	To be taken forward by MIA group, in partnership with the sector directly.

### **Wider Communication and championing live music**

- 3.11 MIA group members have been involved in numerous debates and seminars aiming to raise awareness and support for live music, and where the Council and the sector can come together to support provision and conditions. For instance some members attended a ‘think tank’ meeting on the night time economy hosted by The Institute of Ideas which examined a range of social, legal and economic issues facing businesses that operate in these hours, with the opportunity to hear from a range of experts working in this field.

- 3.12 The MIA working group supported the work of the University of Edinburgh which carried out a 'live music census' on 6 June 2015, resulting in a published report in September 2015. Among many findings, it highlighted that approximately £40m is spent on live music per year contributing to its vibrant cultural status and economic impact.
- 3.13 Members of the MIA group also presented the findings and recommendations of the Music Venues Trust and University of Edinburgh Live Music Census to the wider music industry sector at an open forum held at the Usher Hall in early 2016.
- 3.14 The Culture service also presented the work that the Council had undertaken to the World Cities Culture Forum in November 2015. Engaging with international colleagues revealed a number of commonalities, especially on the issue of the gentrification of cities and its effect on the arts community, and will allow for further dialogue about how culture can flourish within the wider city agenda.
- 3.15 A presentation was also made at the Wide Days, Scotland's Music Convention, in April 2016 with the organiser of Music in the City and the Great Escape Festival, on the issues facing live music promotion in cities. This was well received and information was shared about good practice in other cities.
- 3.16 In April 2017 the Council organised and supported a seminar on whether Edinburgh needed a Live Music Champion. Presentations were given by Club Commission of Berlin as well as the Music Venues Trust, examining the issues faced by live music, the night time economy and ways of working with local authorities to create positive relationships and conditions for musicians, venues and the public.
- 3.17 Following the last seminar in April, the MIA group recommended that a Live Music Champion should be created for the city, with further dialogue required as to what this post would look like and the nature of the role. It noted the continued concerns felt by the sector as further venues were either closed or sold on to developers, part of a growing concern in many cities here and abroad. It also recommended that the MIA working group continue and seek support for its extension through the Culture and Communities Committee.

## **4. Measures of success**

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- 4.1 Constructive engagement with sector representatives.
- 4.2 Refreshed strategic priorities related to the music sector.
- 4.3 Effective co-production delivery between Council and third party cultural services.

## **5. Financial impact**

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- 5.1 The cost of the MIA Working Group recommendations proposed in this report can be contained within relevant divisional revenue budgets.

## **6. Risk, policy, compliance and governance impact**

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- 6.1 There are no risk, compliance or governance impacts arising from this report's recommendations.

## **7. Equalities impact**

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- 7.1 The MIA working group has examined ways to foster better relations between the live music sector and communities living near venues. The issues examined by this group (and by the Live Music Matters working group) relate to human rights articles on freedom of expression and private and family life.

## **8. Sustainability impact**

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- 8.1 If successful, this collaborative work with the music sector will help to sustain Edinburgh's cultural vibrancy.

## **9. Consultation and engagement**

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- 9.1 All of the work described in this report is about engagement with the live music sector, and with other communities of interest, exemplar cities, and stakeholders.

## **10. Background reading/external references**

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- 10.1 Culture and Sport Committee Tuesday, 17 December 2013 [Music Sector Review](#)
- 10.2 Culture and Sport Policy Development and Review Sub-Committee, Wednesday, 25 June 2014 [Encouraging Live Music in Edinburgh](#)
- 10.3 Culture and Sport Committee Tuesday, 16 December 2014 [Encouraging Live Music in Edinburgh: Update](#)
- 10.4 The Desire Lines document is available at <http://desirelines.scot/>

- 10.6 Edinburgh Licensing Board – [consultation on amplified music in licensed premises](#)
- 10.7 Scottish Public Services Ombudsman – [link to South Ayrshire venue case](#)
- 10.8 Live Music Exchange – [resource for live music research, including Edinburgh Census on Live Music](#)

## **Paul Lawrence**

Executive Director of Place

Contact: Karl Chapman, Culture Venues Manager

E-mail: [karl.chapman@edinburgh.gov.uk](mailto:karl.chapman@edinburgh.gov.uk) | Tel: 0131 228 8589

## **11. Appendices**

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