Raves

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Section Home Affairs Section

Under the *Criminal Justice and Public Order Act 1994*, the police have the power to stop raves. Until January 2004, these were defined as unlicensed *open air* gatherings of 100 or more people at which loud music is played during the night. New provisions introduced into the *Anti-social Behaviour Act 2003*, which came into effect in January 2004, reduced the number of people who constitute a rave from 100 to 20, and removed the requirement for the gathering to be in the open air. It also introduced an offence of attending another trespassory rave within 24 hours of a police direction, to stop people simply moving the rave to another place. There have been press reports of police in some areas holding back from using their powers for health and safety reasons, either because of the dangers of dispersing large crowds in the dark or because of other dangerous local conditions. However, there have also been reports of successful police action to control raves in particular areas.

Gatherings for which an entertainment licence has been obtained are not counted as raves within the meaning of the legislation. However, there was some controversy about so-called licensed "raves" under provisions in the *Licensing Act 2003* which came into force in November 2005. These allow people to get temporary event notices for gatherings of up to 499 people for events lasting up to four days. The licensed events could involve the sale of alcohol, and while the police have to review the application and object if they consider that crime and disorder would result, there is no mechanism for the general public to object. The Government is keeping this area of law under review. These provisions would not apply to the kind of illegal raves covered by the 1994 Act, which by definition are unlicensed.

The Conservative MP Christopher Fraser has introduced a Ten Minute Rule bill in February 2008 designed to strengthen police powers, although it has yet to receive a second reading. In the debate, Mr Fraser argued that, although the police in his constituency of South West Norfolk were working hard to

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1 Background

Going onto another person's land to organise a rave or for any other purpose, without the owner's permission, amounts to a trespass. Trespass to land is a civil wrong, but trespass alone is not a criminal offence. Generally the police have no powers to intervene when a civil wrong is being or is about to be committed. If the landowner has advance warning of a threatened trespass, he or she can apply to the civil court for an injunction to restrain those threatening to commit the wrong from doing so. Also, when people are trespassing, the landowner can apply for an injunction ordering them to cease doing so. Breach of the terms of an injunction would be a contempt of court, which may be punished by imprisonment.

Although, in an emergency, an injunction can be obtained very quickly, there are practical difficulties when the problem is a rave. The landowner is unlikely to have much, if any, notice of the organisers' intentions, he will not be able to identify them, and the duration of the rave is likely to be hours or perhaps days, rather than a long term occupation. It would therefore be, at best, difficult, and often impossible to prevent a threatened rave, or remove raving trespassers, by action through the civil courts. Past governments were unwilling to criminalise trespass itself, but did bring in legislation aimed at dealing with mischiefs seen to be associated with particular kinds of trespass.

2 Powers in the *Criminal Justice and Public Order Act 1994*

It was in recognition of those difficulties that new powers were introduced in the 1990s to deal with the developing problems of squatting and unlicensed *open air* gatherings at which loud music was played in the night.

Sections 63-66 of *the Criminal Justice and Public Order Act 1994* created new police powers to stop or prevent raves, i.e. unlicensed gatherings at which loud music is played during the night. Originally, the provisions applied only to open air gatherings of 100 or more people. However, the *Anti-social Behaviour Act 2003* extended them to gatherings of 20 or more and to raves held in buildings as well. It also made it an offence to attend another trespassory rave within 24 hours of the police giving a direction to leave land, in order to deal with the problem of rave organisers just moving to another area.[1]

Section 63(1) of the Act (as amended) defines the gatherings which are caught by the provisions as follows:

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[1] Section 58 *Anti-social Behaviour Act 2003*

(1) This section applies to a gathering on land in the open air of 20 or more persons (whether or not trespassers) at which amplified music is played during the night (with or without intermissions) and is such as, by reason of its loudness and duration and the time at which it is played, is likely to cause serious distress to the inhabitants of the locality; and for this purpose

(a) such a gathering continues during intermissions in the music and, where the gathering extends over several days, throughout the period during which amplified music is played at night (with or without intermissions); and

(b) "music" includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats.

[(1A) This section also applies to a gathering if—

(a) it is a gathering on land of 20 or more persons who are trespassing on the land; and

(b) it would be a gathering of a kind mentioned in subsection (1) above if it took place on land in the open air.]

Section 63(2) gives a police officer of at least the rank of superintendent the power to direct people to leave land and remove vehicles if he reasonably believes that:

- two or more persons are making preparations for the holding there of a gathering to which this section applies,
- ten or more persons are waiting for such a gathering to begin there, or
- ten or more persons are attending such a gathering which is in progress.

The direction may be communicated to the people concerned by any constable at the scene and people are to be treated as having had a direction communicated to them if reasonable steps have been taken to bring it to their attention. The direction does not apply to "exempted persons", who are the occupier of the land, any member of his family and any employee or agent of his and any person whose home is situated on the land.

A person who knows that a direction has been given which applies to him and fails to leave the land as soon as reasonably practicable, or having left re-enters the land within a period of 24 hours of the direction being given, commits an offence punishable by up to 3 months' imprisonment (which would increase to 51 weeks when provisions in the *Criminal Justice Act 2003* come into force) and a £2,500 fine. He or she may be arrested by a constable in uniform without a warrant. It is a defence for a person to show that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or for re-entering the land.

Section 63 does not apply to gatherings licensed by an entertainment licence in England and Wales.

Section 64 of the 1994 Act gives the police powers to enter land in relation to which a direction may be given under section 63, in order to exercise powers under that section or to seize and remove any vehicle or sound equipment where a direction under section 63 has not been complied with. Police constables exercising powers under this section may enter land without a warrant. Section 67 of the 1994 Act enables the Home Secretary to make regulations providing for the retention and safe-keeping of vehicles or their disposal and destruction in prescribed circumstances. Section 67 also gives the police powers to retain sound equipment seized under section 64, which may be kept until the conclusion of proceedings against the person from whom it was seized. Section 66 gives the courts

powers to order the forfeiture of sound equipment seized under section 64(4) from a person convicted of an offence under section 63 of the 1994 Act.

Section 65 of the 1994 Act gives police constables powers to stop people proceeding to raves. It provides that if a constable in uniform reasonably believes that a person is on his way to a gathering in respect of which a direction given under section 63 is in force, he may stop that person and direct him not to proceed in the direction of the gathering. The power may only be exercised within 5 miles of the boundary of the site of the gathering. It does not apply to "exempted persons", i.e. the occupier of the land in respect of which the gathering has been given, any member of his family and any employee or agent of his and any person whose home is situated on the land.

3 The exercise of police powers in practice

In May 2008 there was some controversy over press reports that Kent police were refusing to break up illegal raves until daylight for health and safety reasons.[2] There have been other examples where, because of the location of the rave or other circumstances, the police have reportedly taken the decision that it would be unsafe to use their powers to disperse the crowd.[3] However, there were also a considerable number of stories in local and regional papers throughout the summer of 2008 reporting successful police operations to stop raves.[4]

4 The *Licensing Act 2003*

Section 100 of the *Licensing Act 2003* provides for a Temporary Event Notice (TEN) to be issued for events involving "licensable activities" to be held in premises for up to 96 hours and for up to 499 people. The provision came into force on 24 November 2005. Licensable activities include selling alcohol, providing "regulated entertainment" (including live music) and providing late night refreshment.[5] As well as notifying the local authority, the premises user has to give a copy of any notice to the chief constable of the local police force. If the chief constable is satisfied that the event would result in crime or disorder, he or she must, within 48 hours of receiving the TEN, give an objection notice stating reasons. The local authority must hold a hearing to consider this, and make a decision at least 24 hours before the beginning of the event. However, there is no provision to allow others to object – a situation which contrasts with applications for premises licences, for example, where "interested parties" (including people living nearby) can make representations to object to the licence being granted.

Of course, technically speaking, such events, being licensed, would not count as "raves" under the terms of the *Criminal Justice and Public Order Act 1994*. In addition, under common law, the event organisers would need to obtain the consent of the owner of the land to avoid being sued for trespass. In addition, health and safety legislation and environmental protection legislation would apply in the normal way.

In 2005 the Department for Culture, Media and Sport (DCMS) conducted a consultation exercise on draft regulations on temporary event notices under the Act. This set out why the Government felt that a "light touch" regime is appropriate:

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2 See for example "Police can't break up 'too dark' raves", *Daily Telegraph*, 9 May 2008 (site accessed 14 October 2008) and "Why the party police are afraid of the dark", *Daily Mail*, 9 May 2008

3 See for example "200 revellers at illegal town rave", Leighton Buzzard Observer, 30 June 2008, (site accessed 14 October 2008)

4 See for example "Police crackdown on illegal raves", BBC News, 8 March 2008 (relating to Norfolk police) and "Extra police thwart illegal raves", *Western Morning News*, 26 August 2008 (sites accessed 14 October 2008)

5 section 1

> The most important aspect of the system of permitted temporary activities is that no authorisation as such is required for these events from the licensing authority. The system involves notification of an event to the licensing authority and the police, subject to fulfilling certain conditions.
>
> 2.2 In general, only the police may intervene on crime prevention grounds to prevent such an event taking place or to agree a modification of the arrangements for such an event; and it is characterised by an exceptionally light touch bureaucracy. The licensing authority may only ever intervene of its own volition if the limits set out in the Act on the number of temporary event notices that may be given in various circumstances would be exceeded. Otherwise, the licensing authority is only required to issue a timely acknowledgement.
>
> 2.3 Such a light touch is possible because of the limitations directly imposed on the use of the system by the Act itself. The limitations apply to:
> • the number of times a person (the "premises user") may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
> • the number of times a temporary event notice may be given in respect of any particular premises (12 times in a calendar year);
> • the length of time a temporary event may last for these purposes (96 hours);
> • the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (15 days); and
> • the scale of the event in terms of the maximum number of people attending at any one time (less than 500).
>
> 2.4 In any other circumstances, a premises licence or club premises certificate would be required for the period of the event involved (…).[6]

However, an article in the *Daily Telegraph* in October 2005 described the provisions as "a licence for raves with no chance to object":

> Rave parties or festivals lasting up to four days and involving as many as 500 people able to drink round the clock will be allowed without the public having any right to object under the new Licensing Act, it emerged yesterday.
>
> Council leaders called on ministers to rethink proposals that would allow temporary licences to be issued without taking into account the concerns of residents about noise or nuisance.
>
> Only the police would be able to lodge formal objections - and then only on crime and disorder grounds.
>
> At the same time, ministers are still resisting pressure from village halls and other small venues to remove restrictions on running occasional events without having to apply for full alcohol licences.[7]

The regulations were approved and came into force on 10 November 2005.[8]

Further information on Temporary Event Notices is available from Frequently Asked Questions on the DCMS website.[9] These make it clear that only the police can object:

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6 DCMS, *Consultation on draft regulations made under the licensing Act 2003 Permitted Temporary Activities and Temporary Event Notices*, August 2005, site accessed 14 October 2008

7 "A licence for raves with no chance to object", *Telegraph*, 5 October 2005, site accessed 14 October 2008

8 *The Licensing Act 2003 (Permitted Temporary Activities) (Notices) Regulations 2005*, SI 2005/2918,

9 Available at: http://www.culture.gov.uk/what_we_do/alcohol_and_entertainment/4056.aspx#11 , accessed 14 October 2008

Can I object to a TEN if I believe it could lead to public nuisance or crime?

> No. Only the police can intervene to prevent an event covered by a TEN taking place or agree a modification of the arrangements for such an event and then only on crime prevention grounds. However only a limited number of TENs can be given in respect of any particular premises each year, and the powers given in the Act to the police to close premises in certain cases of disorder or noise nuisance extend to premises in respect of which a TEN has effect.

In November 2005, DCMS launched the "Scrutiny Council Initiative", inviting a small, representative group of 10 licensing authorities to help monitor and evaluate the new licensing regime. A final report was published on 24 July 2006.[10] Two of the suggestions on TENS could have a bearing on raves:

1) Some Scrutiny Councils thought that the 48 hour period during which the policy may make objections was not long enough, particularly if notices were served on unmanned police stations on a Friday.

2) The Scrutiny Councils raised the issue of whether all "responsible authorities" should be able to object as well as the police and whether these authorities should be able to make objections around other licensing objectives, such as public safety.

Under the 2003 Act, "responsible authorities" are (in addition to the police) any of the following:

- The fire authority for the area in which the premises are situated
- The health and safety authority for the area in which the premises are situated
- The local planning authority for the area in which the premises are situated
- The environmental health authority for the area in which the premises are situated
- The body recognised as being responsible for protection of children from harm for the area in which the premises are situated
- Inspectors of Weights and Measures (trading standards officers).[11]

In its progress report on the Scrutiny Council Initiative, published in 2007, the Government gave its response to these suggestions:

> All these issues were considered by DCMS as part of a review of the TENs regulations during 2006 and the Minister specifically asked SCs for their views on the issues relating to village halls and the TEN limitations. At the time, the Government did not consider that there were convincing arguments for making significant changes to the TENs process. However, DCMS will continue to monitor this area and will make any adjustments that prove necessary in the future. In addition, the commitment to look at possible improvements to the application process under the DCMS simplification plan includes the requirements for giving a temporary event notice process, such as the notice form and time limits.[12]

5 Recent debates

Christopher Fraser MP introduced the *Criminal Justice (Raves) Bill*[13] under the Ten Minute Rule on 20 February 2008, aiming to strengthen police powers. Currently, as set out above, police can direct people to leave a rave, stop people on their way to one, and seize vehicles

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10 http://www.culture.gov.uk/images/publications/ScrutinyCouncilFinalreport0706.pdf
11 *Licensing Act 2003* s13
12 http://www.culture.gov.uk/images/publications/AppendixBScrutinyCouncilInitiativeProgressReport2007.pdf
13 Biil 69, 2007-08

and sound equipment. The powers apply to gatherings of 20 or more where amplified music is played at night which "by reason of its loudness and duration and the time at which it is played is likely to cause serious distress to the inhabitants of the locality." The Bill would:

- apply the powers to music likely to cause distress by its loudness *or* duration *or* the time it was played (rather than all three)
- create new offences of organising a rave and transporting equipment for one
- widen police powers to seize sound equipment and court powers to forfeit it

The Bill has yet to have a second reading and is most unlikely to pass into law this session. Further information on the progress of this bill can be found on the Public Bill List on the Parliament website.[14]

Introducing the Bill, Mr Fraser explained why, in his view, the existing powers were insufficient:

> The Government have talked tough on antisocial behaviour, and we have seen the introduction of numerous initiatives designed to tackle antisocial behaviour on our streets and in our towns, but what about our rural communities? Farmers in the country have to endure hundreds of trespassers entering their land in convoys of 50 or more vehicles, rubbish strewn over their fields and drug use on their land. There is huge damage to the environment and property. The clean-up and repair costs reach into the thousands. That cannot be a fair way to treat people who are trying to make an honest living. The countryside is not a theme park, and its residents have every right to protection under the law.
>
> I want to make it clear that I and other Members have not been raising this issue in such a persistent way in order to be killjoys, or to deny others pleasure and fun just for the sake of it. I am sure that those who attend these unlicensed events enjoy themselves enormously, but that enjoyment comes at a very high cost to those living in the area. This is not a victimless crime.
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> There are excellent venues for licensed live music events—High Lodge in Thetford forest, for example—where people can enjoy concerts that are properly and safely organised. Unlicensed music events have nothing to do with the altruistic values of young people. They are hugely profitable to the organisers, who employ a get-rich-quick formula that tramples on the rural economy. Costs are minimised, no tax is paid and there is no regard for anyone, or for anything but profit. Even if no charge is made for people attending a rave, money changes hands for drugs and alcohol. Rural communities must deal with the terrible repercussions, week in, week out. Last week, it was the village of Weeting in my constituency that suffered. This is simply not fair.
>
> The problem lies in the inadequacy of current police powers. The police in Norfolk are working extremely hard to tackle raves. They are gathering intelligence on organisers, and collaborating with neighbouring forces in order to pool resources. However, the police are looking to the Government to allow them to be more proactive. The Criminal Justice and Public Order Act 1994 gives the police powers to direct those preparing for a rave away from a site, and to remove any vehicles or property that they may have with them. These powers are not enough.
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> Despite the distress that an unlicensed music event might cause to local residents, or the damage that it might do in rural areas, the existing definition of a "gathering" stands

[14] Bills before Parliament 2007-08, *Criminal Justice (Raves) Bill 2007-08*, accessed 14 October 2008

> in the way of appropriate policing in rural areas. The law seems to suggest that because loud, continuous music is disturbing only a relatively small number of people in a rural community, it is acceptable. If successful, my Bill would expand the definition of a rave to address that issue. It would create two new offences: of organising a rave, and of transporting sound equipment for use at a rave. People convicted of organising such events would face a tough penalty, providing a strong deterrent. In short, my Bill would make it much easier to prevent raves from happening in the first place.
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> The police have told me that they have the necessary intelligence on regular organisers, but that can be frustrating because it is not an offence to organise a rave. I shall illustrate that point. Last week, riot police were called out to disperse more than 1,000 revellers as they congregated in my constituency. More than 100 police officers, with dogs and a police helicopter, were used. The operation was, to Norfolk constabulary's credit, successful. However, I dread to think how much it cost. Norfolk police are already struggling with a tight financial settlement, without needing to spend an exorbitant percentage of police funds on stopping raves. Under the Bill, the police could have used the intelligence that they clearly have in order to arrest organisers and seize equipment before the event happened.[15]

Mr Fraser had previously secured an adjournment debate on the subject on 19 July 2007, and raised with the minister the question of creating a new offence, and the logistical difficulties for the police:

> It often seems to the public that the police are not doing all they can to prevent a rave, but the site of the party is often revealed only a few hours or minutes beforehand, specifically so that the police have no time to act. That means that the law relating to the prohibition of "trespass assemblies", which requires an application to the district council for a prohibition order, cannot be applied. The police have the power to direct people away from a rave in a 5 mile radius of the site, but in the maze of country lanes that criss-cross Norfolk, that would demand huge numbers of police and is not workable.
>
> In practice, the principal offence is:
>
> "Failing to leave the site of a rave as soon as reasonable, once directed to do so."
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> Again, Norfolk constabulary simply does not have the resources to round up and arrest hundreds of young people who have no intention of leaving. Does the Minister agree that it would be helpful to make attendance at a rave an offence? What about an offence of organising, or being involved in organising, an event?
>
> I am also concerned that the law focuses on single events. It does not pave the way to prosecuting persistent organisers or serial rave-goers. Power to confiscate equipment relates only to the failure to leave today's event, and is not retrospective. Norfolk constabulary told me:
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> "Because the legislation is aimed at stopping an event, interrogating and possibly arresting people leaving a site at the end of a rave is not within the spirit of the law."
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> Does the Minister agree that the ability to gather vital intelligence about regular rave-goers, the identity of the organisers or plans for future raves would be hugely helpful to the policing process? Would not it give the police a fighting chance of making progress? [16]

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15 HC Deb 20 February 2008 c365-6

16 HC Deb 19 July 2007 cc536-542

The Home Office minister, Vernon Coaker, gave the following response:

> The use of legislation in an operational context is entirely a matter for the strategic direction that a chief officer provides for his or her force. Whether it be in an urban or rural area, this is an extremely important issue, which this debate helps to reinforce. Tactics on how individual raves should be policed are at the discretion of the officers deployed at the scene of an event and involve difficult judgments on minimising disturbance to local communities and residents, preventing any escalation in public disorder and ensuring the safety of police officers and rave-goers.
>
> Although the detail of operational decisions is not necessarily a matter for ministerial interference, Ministers are keen—and I am certainly keen—to see best practice in policing raves disseminated across the police service, including in Norfolk. In that regard, a workshop on policing raves was hosted in June by the recently established National Policing Improvement Agency, which was attended by 100-plus police officers from around the country, including officers from Norfolk. I understand that police tactics, the sharing of intelligence, partnership working, national guidance and current legislation—issues also raised by the hon. Gentleman this evening—were all discussed, and that the feedback from the workshop will be collated and used both to promote short-term steps that forces can take further to improve their response to raves, and to inform longer-term strategic work, including whether any changes to legislation are required.
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> That should be of help to the hon. Gentleman, because, clearly, such a workshop will consider issues such as the policing of raves in remote rural areas, and the sharing of good practice between police forces, especially when one force has found a particular way of operating to be effective. I take his point that there is a big difference between policing a rave in a remote part of Norfolk and policing a rave in a field on the edge of London, for example.
>
> The sub-group on raves, which was set up by the Association of Chief Police Officers working group on public order, provides an appropriate forum to take work forward, and further underlines police commitment to work nationally to improve policing of illegal raves. ACPO has recognised that the problem is growing, and the sub-group is building on work done in an earlier forum. I shall ask my officials to read the record of the debate, and to send the relevant points made by the hon. Gentleman to that working group for consideration. That might benefit him and perhaps other Members across the country who have had such problems. He asked, if I remember rightly, whether it would be possible for attendance at a rave, or organising a rave, to be made a criminal office. The group will be able to consider whether that is appropriate, whether other legislation covers that, or whether something could be done.[17]

[17] Ibid, c541-2. At the time of the debate Mr Coaker was Parliamentary Under Secretary of State for the Home Offfice.