

**id** Institute of  
Licensing

# LINK

LICENSING • INFORMATION • NEWS • KNOWLEDGE

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**The gains from true partnership  
could be the difference between  
success and failure**

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# IoL Regions

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# Foreword



Words by  
Daniel Davies

I wanted to take this opportunity to reiterate my recent message to IoL members. This message comes as households and businesses across the United Kingdom are in varying states of readiness for the long-awaited emergence from lockdown. I sincerely hope that this time there is no going back.

The last year has taken much out of us all – as individuals; businesses, and organisations. Councils and police have been asked to work in new ways (often at very short notice), take on more responsibility and remain outward focused at a time of significant internal pressure. While the hospitality industry has had to weather repeated national and local lockdowns and a tier system that has often made it impossible to trade at a profit. The outcome has been stark with the months of closure leading to more than **600,000 job losses, 12,000 business failures** and **sales halved** (meaning a reduction of **£86bn**).

Given this backdrop and the imminent reopening, it feels an appropriate time to draw on our Institute's broad church approach and take a holistic view of how licensing can work best for all: operator, resident, customer and regulator. Given the fragility of the hospitality sector, with so many businesses fighting to survive, and the wider stresses on the high street, the next few months are going to define whether we bounce back sharply from Covid or endure long term structural challenges. That picture will not be uniform across the country but rather will be heavily shaped by local intervention and partnership working on the ground.

Pre-Covid, our high streets were already in distress with a Portman Group/LGIU poll indicating that almost all councils (92%) believed that the night time economy would play an important role in preventing the decline of high street retail. That can still be the case and there remains a wealth of operator seeking to deliver hospitality-led regeneration. However, those operators are now facing significant internal challenges after a year with little to no trading but ongoing costs. Company debt, recruitment challenges and, probable, restrictions on trading all mean the margin for error is slimmer than ever. I would hope that our typically enlightened IoL members will see the huge upside to working with responsible operators to drive vibrancy in our public spaces, provide employment and career opportunities (often to young and marginal members of the labour force) and offer great spaces for much needed communal socialising (a safer alternative to unlicensed gatherings and providing a much-needed boost to our communal mental health.

As we know from IoL events and publications, our members are expert, engaged and pragmatic. And that pragmatism is needed now more than ever. The gains made from true partnership could be the difference between success and failure for your high streets and public spaces. Be that flexibility on licence conditions as operators reopen in new, often temporary, formats, understanding when issues arise as the sector emerges from enforced hibernation (with the hustle and bustle that returns also) or proactive investment to support the operating environment e.g., Liverpool's Without Walls initiative.

Partnership needs to be real and not something we simply pay lip-service to. We have seen over the last number of months, the consequences of having the entire sector closed with a huge spike in unlicensed music events, block parties and mass gatherings in parks and open spaces.

Re-opening safely presents a management challenge to operators and regulators alike. That challenge can best be met by true partnership working and not by slipping back into outdated 'them and us' attitudes. A partnership is two-way street.

Working together, we can ensure our neighbourhoods come out of this crisis as rapidly and as strongly as possible. With partnership a central tenet of our Institute, I am confident we can achieve that goal.

Enjoy this edition of LINK, which includes an excellent article from Kate Winstanley on the CAPS programme, which is thriving despite the pandemic, a request for collaboration to address the issues of insurance fraud in connection with licensed vehicles from Kevin Hocter at Horwich Farrelly Solicitors, and an update from the Gloucester Licensing Officers' Group on their collaborative work to agree common standards for taxi and private hire licensing across the county. All examples of different partnerships achieving excellent results. In addition, an insight into the implications of the recent Supreme Court decision on the status of Uber drivers, and a brief overview of the impending changes to alcohol licensing arrangements in Northern Ireland – with thanks to Stephen McGowan and Eoin Devlin who represented the IoL in giving evidence to the Committee for Communities.

Finally in this edition, I explain how we have applied the broken window theory and its principles to bring about regeneration in New Brighton, and in a 2nd article, how partnership working on the ground with the local authority, police and other stakeholders has benefitted the town in assisting the transformation from a neglected urban wasteland to the thriving community hub that is prevalent today.



ROCK POINT  
- LEISURE -



# PAINTING LAMP POSTS

Mending broken windows.  
Mending broken towns.

# Mending Broken windows, mending broken towns.



Words by Daniel Davies

In 1982 American academics James Wilson and George Kelling wrote an article in *The Atlantic Monthly* entitled “Broken Windows” in which they suggested that if a window in a building is broken and left unrepaired then other windows in that and other buildings will also soon be broken.

Working with Catherine Coles in 1996 George Kelling expanded his theory in a book entitled *Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities*. This book suggests a strategy for preventing vandalism, graffiti and other “low level” crime by addressing problems when they are small. Basically, if broken windows are repaired quickly then there is a likelihood that fewer windows will be broken. In a similar way if litter is cleared up quickly it does not accumulate, and people are less likely to drop litter in the first place.

Taking the argument further it has been suggested that improving the quality of an area reduces petty crime, anti-social behaviour and low-level disorder which, in turn, reduces major crime. Although the theory is not without its critics it has been tried and tested in various cities with some success.

I have lived in New Brighton all my life and, like everyone else, I have watched the area decline from a popular day-tripper resort to one of boarded up businesses, litter covered streets and fly-tipping – an area to avoid, not one to visit for a pleasant day out. Something had to be done if the town was not to slide into dereliction and obscurity and I decided that me and my team were the people to do it.

Starting with the “broken window” theory we filled dozens of skips to clear the fly-tipped rubbish. This was dirty and unpleasant work but if it was not done then it would simply have got worse. People in New Brighton, like the rest of Merseyside, are a chatty bunch and as we worked residents started to ask what was going on, they started to take an interest in their town again and see that fly-tipping could be reversed.

There is an old question – “How do you eat an elephant?” to which the reply is – “You start with one bite!” The locals had seen “an elephant” of a problem and despaired but once they saw someone “taking a bite” we could engage with them and listen to their ideas and thoughts. Finally, someone was doing something about the “problem” instead of just looking and shaking their head or simply ignoring it.



Street furniture had been neglected over the years, lampposts and railings had flaking paint and graffiti on them, the very few benches were in an equally poor condition and there was little or no attraction to sitting on them. Everyone knew this, it was glaringly obvious, but nobody could see the answer. If the motivation and ideas came from me and my team, the labour came from the community. Young people in



New Brighton used to do what young people have done possibly forever, they stood around chatting and, probably, contributing to the issue of low-level disorder.

However, if you give these same young people some paint and a paint brush and ask them to paint a lamppost or sand down and re-stain a bench seat then the result is two-fold, firstly they have a purpose – finally, someone believes in their ability to do something and all of a sudden members of the older generation start praising them and thanking them instead of moaning and criticising them. Secondly the young people start to have a sense of ownership and pride in their area – they didn't want to see their hard work damaged by others.

We saw young people with little aspiration and few hopes for the future so we took them along to my former business CPL Training Group where they had the chance to talk with some of the 250+ strong team who were only a few years older than them The CPL people spoke about what they did and explained to them the types of career opportunity that might be open to them.

A friend from South-Central Los Angeles talked to the group to give them a



perspective on the lives of young people in America including an explanation of the real meaning of a pair of trainers tied together and thrown over a telephone wire.<sup>1</sup>

As trust grew within the community we gave the youngsters other tasks and soon they were coming to us asking what "jobs" they could do. This new sense of hopefulness became infectious when other sectors of the community also started painting railings, planting flowers and picking up litter. The

community was "eating the elephant" one bite at a time and with considerable business investment the whole area has been turned around.

If this can happen in New Brighton it can happen in other places!

**NOTE:** I do not, in any way, agree with, support nor condone the eating of real elephants!



<sup>1</sup> Several theories have been put forth to explain the phenomenon. One posits that it's a form of bullying: a bully steals a pair of shoes and tosses them where they are unlikely to be retrieved. Another views shoe tossing as a practical joke played on drunks, who wake up to find their shoes missing. More ominously, a 2003 newsletter from former Los Angeles, California mayor James Hahn cited fears of many L.A. residents that "these shoes indicate sites at which drugs are sold or worse yet, gang turf." A 2015 study of shoe-tossing data in Chicago found that the rumor and relationship between dangling shoes and drug dealing was correlational, not causal. (Source: Wikipedia)

Share your trip → Driver profile →  
24/7 customer support → Driving  
hour limits → Speed limit alerts →  
Phone number anonymization →  
Safety toolkit → DBS background  
check → PIN verification → Real  
time driver ID check → Driver  
face covering verification →  
Door to door safety standard →  
Covid-19 checklist →  
**Safety never stops**

# Community Alcohol Partnerships (Cap) – Flexible, Resilient, Effective Even In The Midst Of A Pandemic



Words by Kate Winstanley

Like all enterprises that have historically operated through face-to face relationships, Community Alcohol Partnerships (CAP) has been hit hard by Covid. Nevertheless, the power of the partnership model to respond to changing circumstances and to innovate has never been more clearly demonstrated.

Despite the unprecedented challenges of the past year, we are proud of the innovative approaches that many local CAPs have taken during a difficult year to continue to protect young people from alcohol harm, enhance their health and wellbeing and improve their communities. CAP action plans have continued to focus on the following themes:

- Alcohol education
- Provision of positive activities for young people
- Retail signage and training

Many CAPs are now meeting via Zoom or Teams and we have even seen a number of new CAPs launched during various lockdowns.

## ALCOHOL EDUCATION

*Our focus on alcohol education is part of a long-term, preventative approach to ensure that young people are equipped with the skills and knowledge to stay safe from alcohol harms.*

This year, with so many children restricted to online learning, CAPs and our education partners have come up with creative ways to ensure that alcohol education continues and can be accessed by all. We've piloted an online version of the highly successful Young Health Champions programme and worked in partnership with Collingwood Learning to offer CAP schools the opportunity to participate in Smashed Online – a powerful drama based alcohol education programme.

## PROVISION OF POSITIVE ACTIVITIES FOR YOUNG PEOPLE

*CAP encourages local partnerships to assess leisure and other activities promoting health and wellbeing for young people in their area, to consult with them about what they would like to*



*do and look at ways to increase choice and accessibility.*

More than at any other time, our young people have needed additional support for their health and wellbeing. As a result of lockdown and social distancing requirements youth activities in CAP areas are now being offered online. Many have increased the numbers of young people engaged and supported using a variety of online platforms and social media tools.

One of our partners in Kent, Salus, delivers youth work in four different areas of Kent and works closely with our Kent CAPs. After lockdown, the way Salus worked changed dramatically. Its youth clubs were replaced with virtual groups, with up to 20 online Zoom sessions each day covering everything from yoga to bicycle maintenance. These have been hugely successful, enabling Salus to extend its work and reach a whole new audience.

*"We are very much led by what the young people want to do," says Roxanne Frost, Youth Services Manager for Tunbridge Wells and Tonbridge & Malling. "And we hope that as well as being fun and inspiring, we're getting across some important information about mental wellbeing and keeping*



safe during the pandemic. We're now looking at the idea of online debates, and alcohol education could be part of that."



## RETAIL SIGNAGE AND TRAINING

CAPs work closely with retailers, providing support, training and publicity materials. They tell us that being part of CAP makes them more aware of regulations about underage sales and more confident about complying with them, especially when dealing with difficult situations like confrontations in store and abuse of staff.

Lockdown has presented some challenges to the way CAPs work with retailers, but we have responded by finding new ways of keeping in touch and offering online training.

Neil Butcher, trading standards officer at Kent County Council, has launched seven CAPs across the county and knows that developing good relationships with retailers is a vital part of tackling underage drinking and anti-social behaviour.

He telephones retailers on his patch regularly and has put together a checklist covering issues such as whether wearing face masks has made it more difficult for them to check the age of young people or if they have seen increases in attempted underage alcohol purchases. He makes sure refusal records are up to date and that they have CAP publicity materials like posters spelling out Challenge 25 requirements for young people to carry acceptable ID or reminding customers that it's an offence to buy alcohol for under 18s.

Lancashire has experienced high levels of Covid-19 cases and been under the strictest of restrictions throughout the pandemic. Despite this the Trading Standards alcohol and tobacco team at Lancashire County Council has been working hard on policy and strategic approaches to tackling alcohol harm. One of the steps they took was to publish a new resource on their website, promoting the work of our CAPs in Burnley, Hyndburn, Lancaster and Skelmersdale. It also provides a one stop shop to access a range of free resources, including publicity materials, online Challenge 25 training for retailers, vulnerability training for staff involved in



the night-time economy, a video to deter proxy purchase and access to education resources including Smashed Online.

## EVIDENCE OF IMPACT

*CAP's robust yet flexible evaluation framework provides a means for CAPs to measure their performance against key objectives. This has enabled us to demonstrate that CAP is a highly effective model achieving very significant improvements in key metrics linked to underage drinking.*

We ask CAPs to collect data for the following five indicators, both pre-CAP (baseline) and at the end of the initial 18-24 month period:

- Attempted purchase by under-18s (measured via licensee surveys)
- Proxy purchase (measured via licensee surveys)
- Alcohol-related anti-social behaviour among under-18s (measured via residents' surveys and police crime data)
- Levels of alcohol consumption for 13-16 year olds (measured via school surveys)
- Parents' attitudes to supplying alcohol to children (measured via surveys of parents of teenagers)

From data collected by CAP partners over the period 2016 – 2020, we have been able to evidence the following improvements in key metrics:



For more information about CAP including our latest annual report and award winners please go to our website:

**[www.communityalcoholpartnerships.co.uk](http://www.communityalcoholpartnerships.co.uk)**

You can also follow us on Twitter @CAPUKTweets



# Uber's Supreme Court Decision.



Words by Gary Jacobs, MD of Eazitax Group

Uber has filled the headlines for half a decade, becoming the embodiment of everything good, bad, and ugly about the gig economy.

## A quick background...

In 2016 two Uber drivers, James Farrar and Yaseen Asleem, on behalf of a group of twenty or so drivers, took the unusual steps of taking Uber to an employment tribunal. They claimed they were workers for Uber and were not self-employed, as Uber claimed. They were successful, and many thought that was the end of the matter. Uber appealed the tribunal decision, which was dismissed. The appeal was then dismissed at the Court of Appeal, and most recently at the highest court in the land - The Supreme Court. This specific group of Uber drivers are now classified as workers.

So what does this really mean for Uber, their drivers, and the gig economy at large?

### Time Is Money in The Gig Economy

**Drivers are now entitled to money whether they pick up a rider or not.**

Lord Leggatt's judgment outlined that 'working time' wasn't limited to trips ONLY, as Uber has argued, but any time the driver is logged into the app and ready to accept trips.

David Harmer, Tax Consultancy Manager for Markel Tax suggested that the decision will have 'wider consequences for the gig economy'. Apps like Uber and Deliveroo depend on having 1000s of workers unpaid on standby, waiting to pick up jobs.

Harmer pointed to the drivers' subordination to Uber, which resembles the 'dependent contractor' outlined in Matthew Taylor's 2017 'The Taylor Review of Modern Working Practices'. Uber's structure only allows drivers to increase earnings by working more jobs, which drivers are less likely to do if waiting time were paid. As has happened during the pandemic, drivers waste time and petrol without any financial compensation when there are fewer jobs.

### Uber Drivers Still Are Not Entitled to Sick Pay

**Statutory Sick Pay (SSP) is an employment right, not a right of workers. As a result, Uber drivers are not entitled to sick pay.**

In their declaration of a 'willingness to change', Uber simply gave the bare minimum that comes with their drivers being classed as workers. This didn't include payment for time spent on the app without a ride - something that Lord Leggatt specifically outlined. However, as an accountant, I notice that the age-old argument with the HMRC still comes into play: engaged or unengaged mileage, the issue not adequately dealt with is what constitutes 'work'. Waiting for a passenger or having 'someone in the back'. Many of my chauffeur clients spend more time waiting for a client than driving them but are paid throughout. Are the apps the new 'ranking up' or is it sitting in the driver's lounge?

Even while classed as workers, Uber drivers are still paid gross. Outside of the employed PAYE system, there is no secondary contributor to pay Class 1 National Insurance Contributions. Without a secondary contributor, drivers are not entitled to Statutory Sick Pay or other related payments like Statutory Maternity Pay.

To give sick pay, Uber would have to change not only their driver's employment law status but also their tax status too. Without this benefit, Uber drivers will have to rely on Maternity Allowance or Employment and Support Allowance from the government.

### Unanswered Questions for Drivers Who Use Multiple Apps

#### Do drivers working for multiple apps provide a get-out clause or an opportunity for Uber?

In Professional Driver Magazine, Industry consultant and expert Dr Mike Galvin, who works with Uber competitor Bolt, had this to say:

*'It's not mission impossible to work out how to apportion waiting time among companies, but it's pretty clear that a driver with three or four apps on the go is definitely an entrepreneur, not a dependent contractor.'*

*It's a valid and interesting point. Much of Uber's emphasis in their public statements have been on the 'flexibility' that the platform gives drivers. They claimed that after carrying out a survey, only 20% 'wanted more protection if it meant a loss of flexibility.' Although that may sound like tech spin – It is either a convenient truth that ignores the thousands of full-time drivers who are treated as expendable and left without employment or workers' rights, or the reality to many drivers. However, as Dr Galvin points out, things don't seem as straightforward with the presence of multiple apps.*

That being said, drivers registered with multiple apps aren't necessarily going so to enjoy life as a high-flying businessman. They are looking to pay

the bills, and so hedge their bets on several apps to get enough work. The money earned isn't the income associated with a growth entrepreneur, especially seeing as more money is only achieved by taking on more trips.

After the judgement, co-lead claimant James Farrar, made an emphatic statement:

*'Uber drivers are cruelly sold a false dream of endless flexibility and entrepreneurial freedom. The reality has been illegally low pay, dangerously long hours and intense digital surveillance.'*

'Flexibility', which is a genuine benefit possibly slightly inflated by Uber, is less critical than employment protections for people working full-time in the gig economy. Part-time workers using multiple apps are likely to enjoy the flexibility but full-time app users are the 'subordinate' and 'dependent' workers that Lord Leggatt's judgement is seeking to protect.

### The Decision Will Not Really Transform the Gig Economy

#### Even The Supreme Court cannot change the life of a gig worker.

Charlie Thompson, employment partner at Stewarts Law, believes that little will actually change, saying 'Other gig economy businesses and workers will take notice, and we may see a spike in claims, but because every employment case is decided on its own facts, we will still see arguments that all business shouldn't be treated like Uber'.

Two gig economy businesses are never the same, with the technology commonly the differentiating factor, even if drivers or users obtain jobs in the same way.

From a legal point of view, the rights of drivers as workers are significant. Uber is no longer allowed to define those that work for them in the way that most benefits them, that cannot be discounted. Uber must now admit that their drivers actually work for them,

which is significant.

However, in the end, the judgement amounts to three things: holiday pay, pension contributions and National Living Wage. Uber may not even bear the brunt of these added costs, which are likely to be passed on to the customers. When New York City's minimum wage law came into effect in 2019, Uber simply raised its prices in the city to remain profitable.

Charlie paints a grim picture of the gig economy of Christmas future:

*"Today's decision does not give individuals working in gig economy businesses basic protections such as a guaranteed amount of work, the right to paid sick pay, the right to take maternity leave and return to the same role or the right not to be dismissed without the company having a fair reason and following a fair process. A gig economy business can still, in practice "hire and fire" as it chooses.'*

This is certainly disheartening to read if you believed that this decision was an engine for substantive change.

The purpose of the legislation was to 'Protect vulnerable workers from being paid too little for what they do, required to work excessive hours or subjected to other forms of unfair treatment'.

Uber commended itself for providing three protections that most employees give as standard. Although the Uber case will act as a warning for future companies looking to engage workers in the same way, and for those that ignore the relationship with their sub-contractors, I don't see things improving drastically specifically for Uber drivers, for a while.

In conclusion, I genuinely feel from my own dealings, that this still does not represent the reality of many good private hire operators and their drivers, who have been around long before the Apps, and recognises the need to attract and retain their self-employed workforce.



# Events - What's Online?

We are delighted to offer the following training courses which will be delivered remotely via video conferencing/webinar. Book Online or email the team via [events@instituteoflicensing.org](mailto:events@instituteoflicensing.org)  
<https://www.instituteoflicensing.org/events>



## Councillor Training

Various dates / trainers:

- 7<sup>th</sup> June 2021 – Roy Light, St John's Chambers
- 21<sup>st</sup> June 2021 – David Lucas
- 5<sup>th</sup> July 2021 – Philip Kolvin QC, 11KBW

A must for all councillors who are part of the licensing decision making process, providing an introduction for those who are new to the role and a refresher for more experienced councillors. The course covers - Taxis and private hire licensing, Licensing Act 2003, councillor conduct, hearings (Licensing Act and Taxi / private hire licensing), decision making, appeals and costs and licence conditions.



## Acupuncture, Tattoo & Cosmetic Piercing

17th June 2021

Keep up to speed with the new trends, case law and methodology, with our updated course which consolidates best practice and new advice and explains the current trends found in many salons and parlours across England and Wales.

Tattoo's, cosmetic piercing, electrolysis and acupuncture are all covered in this extensive one-day course.



## Professional Licensing Practitioners Qualification

8<sup>th</sup> June 2021 - PLPQ Licensing Act 2003 Module ONLY (1 day)

29<sup>th</sup> June, 1<sup>st</sup>, 7<sup>th</sup> & 8<sup>th</sup> July 2021

2<sup>nd</sup>, 8<sup>th</sup>, 9<sup>th</sup> & 14<sup>th</sup> September 2021

2021 The training will focus on the practical issues that a licensing practitioner will need to be aware of when dealing with the licensing areas covered during the course (See Agenda for full details). The training is ideally suited to someone new to licensing, or an experienced licensing practitioner who would like to increase or refresh their knowledge and expertise in any of the subject matters.



## Responsible Authority Licensing Training

24<sup>th</sup> June 2021

Online training course

This one-day training course is aimed at Responsible Authority officers and will give them a good overview of the Licensing Act 2003, and the role of Responsible Authorities when considering and responding to licence applications or requesting review of existing licences

## Contact the IoL team

Email: [events@instituteoflicensing.org](mailto:events@instituteoflicensing.org)  
or telephone us on 0151 6506940

# The Institute of Licensing BTEC Level 3 Certificate in Animal Inspectors (SRF)

Now enrolling course delegates



We are delighted to announce that the training course is now being delivered.

Dates are confirmed for the Spring/Summer 2021 cohorts with further dates starting in September 2021 to be released shortly.

### Course includes:

- Training delivery (initially via zoom) for all modules.
- Access to our online learning management platform (Moodle)
- One to one support where needed.
- Additional group tutorials if required.
- Assessment of learning via Inspection assignments and online knowledge assessments (both multiple choice and short answer questions)

### Course Modules:

- Legislative overview
- Dog breeding
- Premises that hire out horses
- Home Boarding
- Kennel and Cattery Boarding
- Day care (dogs)
- Premises that sell animals as pets
- Premises keeping or training animals for exhibition and dangerous wild animals



Email the team via [events@instituteoflicensing.org](mailto:events@instituteoflicensing.org) to register your interest in this course, and we will confirm full details once confirmed.





# Taxi Licensing and Insurance Fraud



Words by Kevin Hocter, Horwich Farrelly Solicitors



Horwich Farrelly are leading providers of legal and handling services to the UK general insurance claims sector. With over 750 staff across eight UK wide offices, including Belfast and Glasgow handling over 50,000 instructions a year from insurance company clients.

Hackney carriage and private hire drivers and operators across the UK are subject to a licensing process which requires that they are 'fit and proper'. While a vast majority are law abiding and honest individuals, Horwich Farrelly Solicitors in Manchester have Court findings of Fundamental Dishonesty against over 100 taxi drivers nationwide. In layman's terms, this

means that a judge in a civil court has ruled they have brought a fraudulent insurance claim – the penalties for which can be severe.

As an Intelligence Analyst at Horwich Farrelly Solicitors who has spent his whole career investigating road traffic accident (RTA) claims, I know that 'insurance fraud' is wide ranging with

instances of people recklessly crashing cars on purpose, attacking their own vehicles with crowbars to make damage look worse and claiming against insurers for debilitating injuries whilst secretly running marathons, parasailing or going the gym, on a daily basis.

What if a taxi driver deliberately crashed their vehicle while carrying



innocent passengers, in an attempt to legitimise the 'accident'. What if the passengers were children? These scenarios have taken place and been discovered by, Horwich Farrelly acting as legal service providers to the UK insurance industry. Such activities go straight to the heart of any debate about whether the individuals are 'fit and proper'.

Insurers instruct us to investigate and defend suspicious RTAs. Unfortunately, it's a fact that many end up being found to be fraudulent. These range from genuine accidents with an element of exaggeration, to deliberately induced collisions staged or contrived purely to make money from an insurance company – which in turn of course leads to increased premiums for honest policyholders. You may know of these accidents by the common media term 'crash for cash'.

Historically, some accident management companies and solicitors would benefit financially from someone bringing a personal injury claim following an RTA. As a consequence of recent legislative changes however, the amount of money they can make from such claims has reduced significantly. There is however, one area that remains unregulated and which, subsequently, could be exploited by the unscrupulous; 'Credit Hire'. Credit Hire is the means of hiring of a like-for-like replacement vehicle on, usually, very expensive credit terms, whilst your own vehicle is off the road, either for repair or whilst a replacement is sought.

Whilst there are agreements and charging structures in place between some of the larger Credit Hire Organisation's (CHOs) and the insurance industry, the credit hire industry itself is largely unregulated. Anyone can set up such a credit hire company, and CHOs can – and routinely do - charge whatever daily rate they want for the hire of replacement vehicles; often many times above and beyond the rates charged by any of the well-known high street car hire companies.

Accrued credit hire charges are usually recovered against the 'at fault' driver following an accident. Payable by

their insurance company with the effect of increased insurance premiums for the average road user, ultimately it is normal motorists who are, through no fault of their own, funding this enterprise.

Further analysis of the tens of thousands of claims involving credit hire shows that many of these feature taxi drivers. Why is this? Taxi drivers are naturally on the road much more than the average driver and are therefore statistically more likely to be involved in an RTA. Secondly, given the tight restrictions on vehicles suitable for use as a taxi, many CHOs have fleets of vehicles ready quickly, and specifically, for such use and this allows them to charge premium rates for their hire – some as high as £400 or more per day!

As a result, is often the case that following even complex RTAs of some value, the amount claimed for credit hire will exceed claims for personal injury of driver's/passenger's!

Many CHOs deliberately and solely supply the replacement taxi industry. Many have cultivated closer ties to taxi operators, and there are cases where taxi drivers are incentivised to bring claims by the payment of 'referral fees' (often for thousands of pounds), to use the services of a particular CHO.

This approach provides the motivations for bringing a claim, and as a result it's easy to see why a driver would become involved in a deliberately staged or fraudulent 'accident'. Now consider other motivations.

Industry-wide data shows that, in times of economic downturn, through need, people turn to other means of income. In such times, fraud nearly always increases. Both ourselves and our clients see myriad examples of spikes in fraudulent claims during recessions. Consider Covid-19 too. Repeated lockdown's have reduced the need for licensed drivers as more people work from home. Many have sought alternative employment and relinquished their licence. With vehicle sales also impacted, involving a taxi in one last RTA could be seen as a way of recovering its value.

There are further concerns about licensed vehicle 'owners', i.e., an individual seemingly buying and licensing vehicles, to then 'hire' them to drivers. We've seen evidence of vehicle owners with close ties to CHOs. Often, a high value credit hire claim follows an accident. It's not uncommon for Horwich Farrelly to defend credit hire claims valued as high as six figures.

The claims process can be arduous and drawn out. It can involve protracted discussion on liability or fault. If the claim is disputed, or a concern is raised, it will then lead to investigation and, potentially, litigation. There will then need to be forensic examination of documentation, both for the drivers and their vehicles. By the time a disputed claim reaches court and we become involved, months may have passed – potentially even a year.

This is where Taxi Licensing departments enter the scene. Pursuant to Section of 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, a taxi driver is legally obliged to report an accident within 72 hours. Completing a Taxi Licensing Accident Report Form is often the first documented evidence of an accident. As such, it is key evidence when investigating a claim. Subsequent records relating to inspection and compliance testing of licensed vehicles - or medical records where a driver claims they sustained injury – are also key.

Working with our local council's licensing team on an investigation, led to conversations about ways to address exaggerated and possibly fraudulent claims, and the related dishonesty issues. In the public interest, and to ensure safe travel and good levels of service, the Council wanted unscrupulous drivers off the road.

It was clear to both Horwich Farrelly and our local authority licensing team that there was clear mutual exposure and a real desire by both to do something about it. Together we could make limited progress, but a wider collaboration involving more licensing authorities would be invaluable. We canvassed views initially from a number of licensing authorities, feedback from whom was

overwhelmingly positive, and in December 2019, we hosted an inaugural 'Insurance Fraud & Taxi licensing conference'. Designed to strengthen relationships, tackle fraud and assist authorities in taking dishonest licence holders to task, it was attended by representatives of over 20 authorities from across the North of England and the Midlands.

Topics discussed included different types of motor fraud, driver licensing, due diligence and intelligence sharing protocols, and outcomes where a specific finding of fraud is found against a licensed driver.

Following the conference, a close relationship was established with all attendees, particularly John Garforth and Kay Lovelady of the North West region of the Institute of Licensing (IoL). Consultations took place with a view to holding further events in early 2020 and to establish a practical workshop to discuss licensing/legal documentation and accident reporting. We also discussed how Horwich Farrelly, as a

representative of the insurance industry, could work with licensing departments to combat credit hire fraud.

Most significantly, the intention is to involve licensing authorities in the investigative and litigation process. Judgments of Fundamental Dishonesty (fraud) could then be shared with licensing authorities, enabling them to review licences. If licence holders are not 'fit and proper', they shouldn't be on the road.

Despite Covid-19, lockdown and the world pausing, we maintained contact with the IoL, and local licensing authorities and we are already seeing the results of our collaborative efforts in defeating claims. Since working closely with licensing authorities we've seen a 30% increase in findings of Fundamental Dishonesty (fraud) against licensed driver's bringing claims in court. A startling increase during a period when a pandemic has resulted in less vehicles on the road, and less accidents.

With the world now slowly reverting to normal we are once again proactively working and meeting with IoL members and licensing departments to defeat spurious claims. We look forward to meeting and speaking with you over the coming months.

I'll anticipate now your first question will be "Do people really crash cars on purpose to make these claims"? To which our answer will be "Yes. Here, let me show you..."



Taxi conference



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# Pavement pragmatism in practice



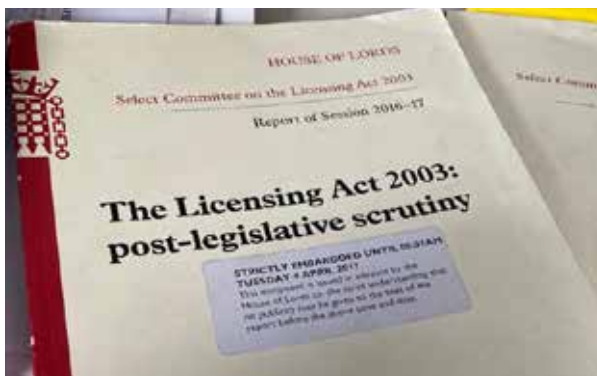
Words by Daniel Davies

The House of Lords Select Committee on the Licensing Act 2003 produced a post legislative scrutiny document which suggested planning departments and licensing departments collaborating much more closely would deliver huge benefits, and that has certainly been my personal experience locally. In my view, managing any business or

any situation should always be a question of teamwork and joined-up thinking rather than simple “shoot from the hip” solutions. The teamwork in New Brighton involves a large and diverse group of individuals comprising senior and middle managers, hospitality staff, the local authority, other local businesses, and service suppliers.

Working closely with Jo Moran and Margaret O’Donnell of the licensing department and David Ball of the planning department of Wirral Borough Council has paid huge dividends. Factor-in Mark Cambourne, Paul Graves and David Clynch from Wirral Council and their supervision of street lighting, maintenance, and security cameras - and a jigsaw of players start to build a model of a safe and enjoyable environment for the hospitality sector in New Brighton.

Jo Moran has been especially proactive in helping to build our vision of a positive future for New Brighton - which





has for so long, been in a state of decline and neglect. Examples of this include her willingness to work with the team concerning pavement licensing, recognising that the use of the outside area assisted in disrupting the issue of youngsters congregating on their bikes. It is not desirable for early teen children to be hanging out close to people drinking - which might encourage underage drinking as well as potentially creating a threatening atmosphere in the area.

With Wirral Borough Council repairing street lighting and improving security camera coverage the threat of criminal activity and anti-social activity is reduced. Local customers and others who are not our customers can walk home along well-lit streets. Building on this, despite the additional costs, we have introduced a three-stage closing plan. First to close is Rockpoint Records our café bar outlet, secondly the James Atherton public house closes and, lastly, Habibi which is a restaurant. In this way the clientele are not all trying to book the limited local taxi services at the same time. Crowds do not gather waiting for taxis because customers can disperse in a more controlled way.

As closing time arrives at Rockpoint Records and The James Atherton the local pizza shop supply, at our expense, pizzas and garlic bread which is put on tables at the cafe-bar and pub venues which has a three-fold effect. Customers are eating which means that they are quieter and more patient as they wait for their taxis, plus of course, a considerable amount of goodwill is generated which means that the already pleasant night out is rounded off in a very positive way.

Pavement pragmatism and joined-up thinking by all the various agencies has the combined benefits of reducing anti-social behaviour, building on our design for a safe and enjoyable evening experience, while at the same time, helping to rebuild New Brighton into a vibrant area which benefits both locals and visitors.



# Common Standards for Taxi/ PH licensing in Gloucestershire



Words by Louis Krog

Gloucestershire is a largely rural county consisting of six individual districts, each with its own district local authority. The exemptions are Cheltenham and Gloucester that are predominantly urban boroughs. The mix of rural and urban districts has an impact on licensing approaches and dynamics. Generally speaking, in urban districts there is a much higher number of hackney carriages (taxis) whereas in rural districts private hire licensing tended to be more prevalent. The varying circumstances of each district authority also influenced its local licensing policy and standards. For example, there were variations in conviction policies, use of NR3 and criminal records checks.

The differences in taxi and private hire licensing policies and standards across Gloucestershire caused a number of issues. For example, big private hire operators found it difficult to manage licences in multiple district areas, drivers tended to opt for licences in districts where standards were lower, and in rare circumstances, drivers refused in one district was able to apply and be granted a licence in another.

In July 2020 when the DfT published its Statutory Taxi & Private Hire Standards and Guidance, GLOG (the county licensing officers group), explored the potential of common licensing standards across the county and based on the DfT guidance. We are fortunate to have excellent working relationships across the six district authorities in Gloucestershire which made a conversation about adopting common licensing standards much easier.

It became clear from the outset that there was support at officer level for such a project. However, it

was important to also ensure we had political support. Gloucestershire is predominantly a Conservative dominated county with the exception of Cheltenham that was run by the Liberal Democratic Party. The merits and benefits of a common set of licensing policies and standards based on the highest possible standards fortunately cut across the political spectrum and political buy in was secured.

So in July of last year, work by all six district authorities in Gloucestershire started. At this point I must also pay tribute to South Gloucestershire Council. Whilst not part of Gloucestershire (notwithstanding the name), licensing officers from South Gloucestershire Council provided valuable input and contributions to the common licensing standards project.



## Common standards

Whilst much of the DfT's statutory standards and guidance is what it is and reflected in the draft standards drawn up, the project encountered a number of issues that had to be overcome.

### Common convictions policy

The first of these was the proposed



convictions policy. We were of the view that, whilst the DfT guidance was a good basis for a convictions policy, further work was necessary to expand on the statutory policy measures but also to add where we felt the policy lacked. In addition to the DfT policy, we drew on the Institute of Licensing's standards as set out in its 'Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades', and our own standards informed by experience and local knowledge to produce a local convictions policy.

### Criminal and background checks

The district local authorities in Gloucestershire were at different stages regarding implementing mandatory signup to the DBS update service and NR3. We were therefore not in a position to implement certain DfT requirements immediately. Instead, we had to agree on an implementation period to enable all the district local authorities in Gloucestershire to reach the same standards.

## Safeguarding & reporting

The common standards work of course was not exclusively the responsibility of district local authorities. It was clear from the outset that wider partners needed to provide input especially the police and county council.

Work on common standards provided us with an opportunity to undertake a comprehensive overview of safeguarding and reporting arrangements for the county. As a result, a number of improvements were identified including:

1. Enhanced partnership working to include non-statutory safeguarding issues to be included in the allegation management process;
2. Closer working with the Gloucestershire Safeguarding Executive; and
3. A review and enhancements to interaction between operational police staff and licensing officers on safeguarding issues.

These are only a few examples of specific issues that we had to work through but these are by no means the only issues that requires discussion and, to some level, compromise in order to develop a common set of licensing standards.

I am pleased to say that in March all six district authorities approved the common standards for consultation which is due to commence in April 2021 with the aim of having these standards adopted and in place by the autumn.

## Phase 2

There is still much to be done. As part of a second phase of work on common taxi and private hire licensing policies, a second phase of the work will include consultation on CCTV in licensed vehicles, development of a common training package for licence holders and work to complete joint authorisation for licensing officers.



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# Northern Ireland review of alcohol licensing - The Licensing and Registration of Clubs (Amendment) Bill



Words by Sue Nelson

In December 2019, the IoL responded to the consultation on Liquor Licensing Laws in Northern Ireland. That consultation was more recently followed by a call for evidence on The Licensing and Registration of Clubs (Amendment) Bill.

In Northern Ireland, the County Court is responsible for issuing liquor licences in their area, and there is a quota on licences for pubs and off-licences. As a result, an applicant for a new off-licence or pub licence must surrender an existing licence in order to apply for a new licence, and the court won't grant a licence if they think the area has an adequate number of pubs or off-licences in the vicinity.

The Bill proposes a number of changes to Northern Ireland's alcohol licensing laws, including:

- Introduction of an occasional additional late opening hour which will allow certain licensed premises houses to serve alcohol until 2am.
- An extension of drinking-up time to allow some premises to open until 3am;
- Abolishing the formerly restrictive Easter opening hours to bring it in line with the rest of the year;
- The alignment of the alcohol and entertainment licensing systems;
- Changes relating to children on licensed premises;
- Prohibition of self-service and vending machines;



- Formal approval for codes of practice on responsible retailing; and
- Changes to allow local drinks producers to sell their products directly to the public in limited circumstances.

The Licensing and Registration of Clubs (Amendment) Bill was formally introduced in the Northern Ireland Assembly on 19 October 2020. The Bill has now reached its Committee Stage, and the Committee for Communities has responsibility for the Bill at this Stage.

The Committee for Communities issued a call for written evidence which the IoL responded to, and following a request from the Committee, the IoL gave oral evidence at a meeting on 18th February 2021, represented by Stephen McGowan and Eoin Devlin, IoL members based in Scotland and Northern Ireland respectively within TLT Solicitors.

At the committee session Eoin recapped the response from the IoL in welcoming the measures to modernise legislation while protecting community safety and public health. This included provisions for additional licensing hours at Easter giving licensed premises more flexibility similar to arrangements in England and Scotland.

On the alignment of alcohol and entertainment licensing systems, the IoL was cautionary of the proposals which would potentially limit flexibility and fetter the discretion of local councils who are responsible for the licensing of entertainment. The proposals would prevent licensees from providing entertainment beyond the hours of their alcohol licences. The IoL has also made it clear that any proposals for wider reform to move to a council-based licensing system would be supported – the current regime in Northern Ireland leaves the licensing of alcohol within the remit of the courts.

Stephen McGowan was able to provide comparison with Scottish alcohol licensing, speaking about the licensing arrangements in Scotland which has some notable crossover with proposals in Northern Ireland, particularly in relation to loyalty cards, taprooms, extended hours and tightened alcohol display regulations.

Stephen advised that in Scotland over the past number of years, there has been a boom in small, local craft breweries the length and breadth of Scotland. They supply local beer to the pubs in the local area as well as to shops, and many of those breweries have 'taprooms'. There are no issues or controversies with taprooms in Scotland, with around 120 independent breweries currently operating in Scotland. These breweries have generally been robust during recent COVID restrictions, with support from the majority of local licensing boards in granting special temporary licences to allow them to sell directly to the public. Stephen noted that the concerns in Northern Ireland in relation to taprooms may be a result of the current licence moratorium.

On the matter of loyalty cards, Stephen advised that such schemes are lawful in Scotland, where alcohol can be gained through accumulating points on loyalty cards on the concept of cash equivalency. In other words, in order to get points

from a loyalty scheme, you have had to pay money for other products to get the benefits. Stephen advised that minimum pricing and loyalty cards can coexist as a result; i.e. where a loyalty card reduces the cost of an alcoholic item to below the minimum price, that still meets the requirements because the loyalty points equate to a cash equivalent.

Looking at extended hours, Stephen referred to pilots in Scotland saying:

*'...The first and probably the most famous of those was in the Fife area, where premises in places like Kirkcaldy were allowed to trade until 4.00 am. When that proposition was put forward, Police Scotland — the single police authority in Scotland — was, it is true to say, very concerned about the idea of later hours. It was very concerned about antisocial behaviour, asking whether we were just putting grief back an extra hour or two at the end of the night, and opposed the pilot project...'*

*'... At the end of the year, the premises in Kirkcaldy and other parts of Fife that had been trading until 4.00am were all called back in, along with the police, for a review. At that stage, the police completely reversed their position and said that it was the best thing that could have happened for antisocial behaviour in the area because it had gone down significantly. Part of the reason for that was that people were more relaxed and leisurely; they were not rushing to finish their drinks by an earlier cut-off time and were not rushing to get taxis and causing resource issues in that regard. With the staggered and later closing times, people went home in fits and starts, which had a positive impact on antisocial behaviour. So, when the year-long pilot in Fife ended, the police supported it. Fife has moved forward on that basis for a few years...'*

Stephen advised that a 4.00 am pilot for nightclubs in Glasgow City had started just a few months before the lockdown kicked in, and has not yet had a proper trial, but other similar projects have been run in smaller Scottish locales, in places such as Dumfries and Dumbarton. Those smaller and, in some cases, rural areas have recognised the need for later hours and have instituted projects where they have granted licences (permanent licences, in some cases) for later hours, and results seem positive.

This was an important opportunity for the Institute of Licensing, and the information and answers to questions from Eoin and Stephen representing IoL were well received by members of the Committee for Communities. It remains to be seen what the final proposals and changes to liquor licensing in Northern Ireland will look like.

Eoin has provided a detailed article on the proposals for Northern Ireland which will be published in the July edition of our Journal of Licensing.

The Committee meeting recording is available to watch via: <https://niassembly.tv/committee-for-communities-meeting-thursday-18-february-2021/> (the IoL appearance starts at the 2 minute mark).





# Thank you for reading!



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