



How can licensing help combat social disintegration

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IoL Regions

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Foreword



By Sue Nelson, Executive Officer

So much has happened since the Summer Edition of LINK was published. The death of Her Majesty Queen Elizabeth II is of course the one which stands out – an incredibly sad occasion followed by a week of mourning during which around a quarter of a million people queued to see her lying in state. Finally, amid the biggest police operation in UK history, millions watched the state funeral on Monday 19th September.

Sadly, in addition to our Queen, we have all lost friends and colleagues throughout the year (and of course in previous years), and we would like to take some time to remember our licensing friends through a memorial page in this edition of LINK which we aim to repeat annually. If we have missed anyone, it will be because we haven't been told of their passing, so going forward, please let us know so that we can ensure that they are remembered in turn.

Turning now to some good news. Many of you will have seen our Chairman Daniel Davies at the National Training Conference last November and may or may not have realised that he was unwell. Dan was subsequently diagnosed with Stage 4 Hodgkin's lymphoma in January and has spent much of 2022 undergoing gruelling treatment. More recently though he has shared the fantastic news that the cancer is in full remission. I am delighted to say that he will join us at the National Training Conference again this year, as involved as last year, but back to full health!

Dan has taken the time to contribute an article for this edition of LINK and shares his achievement in being awarded the National Youth Anti-Violence Education Award in recognition of: 'your positive impact upon the borough of Merseyside. Addressing a national blight and the support provided in assisting the UK tour of the National Monument against violence and aggression, the Knife Angel'. Dan has spoken many times about his work with young people in New Brighton to engage them and install a sense of ownership and pride in their area, getting them involved in improvement work in the town.

There are many other articles in this edition to enjoy. Alex Flint talks us through the Safe Space Pledge developed in partnership by Nottingham BID and the Consent Coalition. The Pledge is designed to send a clear message to anyone living, working, studying or visiting Nottingham that the safety of women and girls is a priority. Paul Chase gives us his thoughts on the impact of minimum unit pricing in Scotland as SNP ministers launch a review of the policy. Graeme Mulvoy discusses the outcomes of a taxi insurance fraud investigation in Sheffield, and Jules Bradburn looks at some of the recent cases of animal licensing enforcement in action. Robert and James Button have both contributed to an article looking at digital ID, while Mike Smith discusses Licensing Act enforcement principles following the launch of an IoL course he has developed for us.

All these subjects and more will be covered within the programme of the National Licensing Conference and we can't wait to see many of you there.

Please consider contributing an article to a future edition of LINK – we are always keen to hear from anyone interested in doing so. It could be that you have a local project in progress, or an interesting case you have been involved in, or you could simply use the opportunity to share your ideas or thoughts on a related area. We will always welcome new contributors and contributions and we are sincerely grateful to all those who contributed to this edition, either as authors, or through advertising – Thank you to you all.

How can licensing help combat social disintegration



by Daniel Davies, Rockpoint Leisure CEO and IoL Chairman

Photo by Sara Groblechner on Unsplash

The signs of social disintegration are all around us. If you run a licensed premises in a town or city centre, you are at the sharp end of this. If you're a police officer patrolling the streets, a teacher working in an inner-city school, or a councillor trying to help local residents deal with anti-social behaviour, you will know that frustrated feeling that you're fighting a losing battle. In Liverpool we recently had a young girl shot to death in the hallway of her house as a gun-wielding thug in pursuit of his intended victim let some shots go, with tragic results. The horror stories are endless.

The root causes of this social breakdown are often blamed on poverty, but economic poverty is augmented by family breakdown, struggling single mums, kids having kids and the lack of positive role models for young men. And the locus of violence, gang culture and stunted emotional development are most vividly and visibly apparent among young men. This is a men and boys problem.

Think about kids growing up in 'problem families' in inner-city areas and sink estates. What positive male role models do they have? Very often there is no father present in the home; no male teachers in their early years or primary school education; precious few police officers on the street. Is it any wonder they gravitate

towards violent, male gang leaders driving around in flashy motors paid for by the proceeds of crime? Very often the first time they will encounter a male authority figure who will say no to them, or demand they comply with some rules or standards of behaviour, is when they rock up outside a pub or bar with a strong licensee and a well-trained team of door supervisors. But even that is breaking down with reports from colleagues in Liverpool of their door supervisors being overwhelmed by marauding gangs of over 50 youths storming the door.

To control what is happening in our public spaces we need a joined-up partnership approach like never before. Licensees working with door teams in cities with



good public CCTV systems working with local police, sharing intelligence and resources. An understanding from local enforcement and council licensing authorities that just closing down premises when there are public order problems isn't the answer. There needs to be a more supportive approach that recognises the systemic nature of the problems we face.

At Rockpoint Leisure, the regeneration project for the seaside town of New Brighton that I lead, we have an outreach programme. We recognise that no matter how big the town or city you live in, people live in villages of local communities, peer groups and friendship groups. Engaging with these young people and getting them involved in painting local street furniture, cleaning up back alleys and taking some ownership and pride in their local community has paid dividends in terms of reducing crime in our local area – violent crime and vandalism have reduced dramatically since we put a budget behind this approach.

At the same time, we try to deliver a high standard environment for our customers and in return we expect high standards of behaviour from them. If you insist on high standards and make those demands on young people, you gain respect. If you can co-ordinate that

local action with a national campaign like the Knife Angel – a statue of an angel made from confiscated knives – then so much the better. But what happens when the campaign moves on, what is the lasting legacy once you've highlighted the problem in a local area?

So much of this comes down to resources and we do need more police, but we also need to sweat the small stuff – better street lighting, CCTV and plenty of premises open. Which brings me to my last point. When I first opened the James Atherton pub (which we reopened after it had been closed for 5 years) in New Brighton there was an incident early one evening when a young man came running into the pub terrified, running from attackers. We tended to him, and some lion-hearted door supervisors protected him. His attackers sped off in a stolen car. I believe if we had not been there, open and trading, he would be dead. This winter we will see the loss of a lot of licensed premises as they founder on the rocks of higher prices, staff shortages and the energy price crisis. Well controlled licensed premises can be a beacon of safety for customers in local communities if they are run properly. With problems mounting, we need to work together more than ever before to create a real sense of community, otherwise the forces of disintegration will overwhelm us.



The Knife Angel

The Knife Angel (also referred to as the National Monument Against Violence & Aggression) is a contemporary sculpture formed of 100,000 knives created by artist Alfie Bradley and the British Ironworks Centre. It was completed in 2018, and stands at 27ft tall. Many of the knives used to create the angel are knives seized by the police or donated through knife amnesties. The sculpture was created in order to highlight knife crime in the United Kingdom and educate young people on the harmful effect violent behaviour can have on their communities

Following the completion of the sculpture in 2018 it began a nationwide tour in order to highlight the anti-violence message behind its construction. It came to Wirral in July 2022 and was displayed outside the Grand Entrance to Birkenhead Park, where I was delighted and honoured to receive the National Youth Anti-Violence Education Award in recognition 'of your positive impact upon the borough of Merseyside. Addressing a national blight and the support provided in assisting the UK tour of the National Monument against violence and aggression, the Knife Angel'.





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“Both Eastbourne Borough Council and Lewes District Council licensing authorities have been successfully using the Versant English Language Speaking & Listening test, along with Remote Monitoring from April 2022...The benefits to us include the saving of staff time, resource and office space previously dedicated to drivers attending the office to take the test in person and monitored by staff.”

Dean Love, Specialist Advisor
Regulatory Services (Licensing)
Lewes District & Eastbourne
Borough Councils



Pearson



Nottingham's Safe Space Pledge



by Alex Flint, CEO of Nottingham Business Improvement District (BID), the city centre business alliance.

In addition to residents and visitors who value Nottingham as a destination in which to relax and socialise, Nottingham welcomes over 40,000 university students each September. Ahead of their arrival, Nottingham's Night Time Economy Safety Group (comprising Nottingham BID, Nottinghamshire Police, Nottingham Trent University, the University of Nottingham and student unions, Pub Watch, and Nottingham City Council) meet to discuss and implement a range of initiatives designed to ensure they feel safe and supported in city centre pubs, clubs, bars and entertainment venues, as well as on public transport, especially when travelling at night.

This strong partnership is committed to supporting the needs of students, visitors and Nottingham residents, and champions partnership initiatives which continually respond to these. Earlier this year, for example, Nottingham BID and the Consent Coalition developed and launched the 'Safe Space Pledge', a new initiative which sends a clear message to anyone who lives, works and studies in, or visits Nottingham, that the safety of women is a priority.

Nottingham is a vibrant city, a great place in which to live, work, study and have fun in. We want visitors to know that whatever time of day they visit the city, they should expect to feel safe to explore and socialise, and move around the city with confidence

Alex Flint, CEO of Nottingham Business Improvement District (BID), the city centre business alliance.

premises. We recognised the need to engage city centre businesses in the night time economy with this initiative, and offered a free training programme to support them. As a result, businesses which have signed up are now able to show that they acknowledge women's safety as a priority, and that they will take proactive steps to improve women's safety and experience.

The Safe Space Pledge provides eight clear actions and commitments Nottingham venues can take to improve the safety of women within their

The pledge also integrates Best Bar None accreditation here in Nottingham. Under the heading of Vulnerability Management and the Safety of Women at Night, Best Bar None showcases the responsible,



Photo by Bruno Martinson Unsplash

effective management and operation of licensed premises. Over the past twelve years Nottingham BID has made a major contribution to growing the Best Bar None scheme to one of the largest in the country.

With this partnership approach, Nottingham has been internationally recognised as a safe place to socialise by the Purple Flag accreditation scheme, a key driver for safety partnerships, which recognises excellence in the management of safe town or city centres.

Nottingham BID has secured Purple Flag status for the city for over a decade, and proudly communicates this to visitors as an important hallmark for Nottingham as a safe, diverse and vibrant destination city for nights out. The accreditation has been updated recently in response to COVID-19, ensuring an enhanced safe, welcoming and well managed environment for visitors.

Further creating the best possible environment for visitors to enjoy their time in Nottingham, we continue to support Street Pastors as part of their activities to ensure a safer late night economy in the city centre.

Nottingham Street Pastors offer on-street support in the city centre on Friday and Saturday nights for those out in the city. This direct, on-the-spot support for individuals can include giving directions, including to transport and safe ways to get home, to looking after anyone who may be vulnerable as a result of inebriation or who has

lost contact with a social group.

To find out more about Nottingham BID and our commitment to licensed businesses and visitors, please visit <https://www.nottinghambid.com/what-we-deliver/managed-city/>



The Safe Space Pledge Poster

Full page version overleaf.



We pledge:

1

We are committed to **keeping women safe** in our venue – it's all about having a great night out.

2

Our staff are trained to **respond and intervene** if women feel unsafe in our venue.

3

We always take any **reports** of sexual harassment, violence, or intimidation seriously and take appropriate action.

5

We have **two champions** in our venue who lead on women's safety.

6

We **display information** about what people can do if they feel unsafe in our venue.

4

We have a **safe space** where our staff can offer non-judgemental support to women who don't feel safe.

7

We will always follow the most up-to-date **Safe Space pledge** and proudly display it in our venue.

8

We do not tolerate **harmful language, behaviour, or attitudes** towards women in this venue.



NOTTINGHAMSHIRE
POLICE & CRIME
COMMISSIONER

NOTTINGHAM **BID**
CITY CENTRE BUSINESS ALLIANCE



Minimum unit pricing – the medicine didn't work, so up the dose!



by Paul Chase, Chase Consultancy

Photo by Sebastian Coman on Unsplash

Over the years I have written more articles on minimum unit pricing (MUP) than any other subject. It's the bad idea that refuses to die. So, in response to rising alcohol-related societal problems the Scottish Government implemented a minimum price for a unit of alcohol on 01 May 2018 (a UK unit of alcohol is 10ml or 8gms of undiluted ethyl alcohol). This followed a lengthy battle through both domestic courts and the European Court of Justice and eventually the UK's Supreme Court decided MUP was not unlawful, and so it was introduced with the minimum price set at 50 pence per unit. Since then Wales and Ireland have followed suit.

The purpose of MUP was always somewhat confused. Some argued this was a measure designed to reduce alcohol consumption across the whole population, supposedly a good thing in itself, but particularly good if it included reduced consumption among heavy, problem drinkers; others argued MUP was a targeted measure designed to raise the price of the ultra-cheap supermarket booze supposedly consumed by problem drinkers. So, whether MUP was a scatter gun or a sniper's rifle approach to tackling alcohol-related problems was never fully resolved.

Apart from those neo-temperance activists who promoted MUP, most people with an interest in this split into two camps: those, like me, who opposed government interference in alcohol pricing on principle, and those who took a more

pragmatic approach that if it works and does actually reduce problem drinking then they would support it, but not if it doesn't. So, the jury was out.

But not anymore. There have been a number of studies that have demonstrated that MUP has not worked – even in its own terms. Last month a report conducted on behalf of Public Health Scotland found the following: 'The introduction of a £0.50 MUP in Scotland led to a marked increase in the prices paid for alcohol by people with alcohol dependence. There is no clear evidence that this led to reduced alcohol consumption or changes in the severity of alcohol dependence among people drinking at harmful levels.'

Data is still emerging and some of the planned analysis

of health impacts has been hampered by the Covid-19 pandemic. However, the minimal impact on consumption amongst harmful drinkers is in sharp contrast to many optimistic forecasts of MUP's effect.

Moreover, a study published in the British Medical Journal 'Open' has found that MUP for alcohol in Scotland has contributed to an "associated increase in consumption" for the 5% of heaviest drinking men since its introduction in 2018 - among whom consumption increased by 10%.

The study examined the "immediate impact" of MUP on alcohol consumption in Scotland, and whether this differed by sex, level of alcohol consumption, age, social grade, and level of residential deprivation of respondents. It is based on data from the Kantar Worldpanel's 'Alcovision' survey, an ongoing commercial dataset which surveys the previous week's alcohol consumption, in Scotland and England. The final analysis also included drink diaries completed by 53,347 women and 53,143 men between 2015 and 2018.



Photo by Burçin Ergünt on Unsplash

The study found that MUP was "not associated with a reduction in consumption among younger men and men living in more deprived areas", those whom the policy was primarily designed to target.

In May 2020 the Institute for Alcohol Studies, published an article produced by Alcohol Focus Scotland, that sought to bust the myth that 'Dependent drinkers can't cut down so they - and their children - will go without food.' This referenced research stating that 'heavy drinkers would reduce their drinking by 7% per year on average as a result of MUP, bringing significant health benefits'.

Meanwhile the University of Sheffield's Alcohol Research Group, whose forecasts were the supposed evidential basis for the introduction of MUP, claimed that 'for the heaviest drinkers in the most deprived groups, we estimate that their spending on alcohol would decrease as a result of the reduction in the amount of alcohol they buy'.

These claims have not been substantiated. The same harmful drinking review published in June, found that 'People drinking at harmful levels who struggled to afford the higher prices arising from MUP coped by using, and often intensifying, strategies they were familiar with from previous periods when alcohol was unaffordable for them. These strategies typically included obtaining extra money, while reducing alcohol consumption was a last resort. MUP led to increased financial strain for a substantial minority of those with alcohol dependence as they obtained extra money via methods including reduced spending on food and utility bills, increased borrowing from family, friends or pawnbrokers, running down savings or other capital, and using foodbanks or other forms of charity'.

Was it not obvious that the response of dependent drinkers to MUP would be much more price inelastic than the response of moderate drinkers? It seems not. What these studies show is that we need to be wary of representing modelling as evidence for anything when it is in fact nothing more than a set of predictions that are only as realistic as the assumptions the model is based on. Rubbish in, rubbish out.

Will the Scottish government repeal MUP legislation in the light of these findings, or will they conclude, as neo-temperance activists claim, that the medicine didn't work because the dose wasn't high enough - a higher minimum price would have produced the desired health benefits. But a higher price would not only impact on problem drinkers but on the moderate drinking majority, including older drinkers and middle-class wine drinkers - the sort of folk that are highly likely to vote in elections. Try selling that one on the doorstep in the middle of a cost-of-living crisis.

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Events - What's On / Online?

We are delighted to offer the following training courses which can be booked online or via email to events@instituteoflicensing.org
<https://www.instituteoflicensing.org/events>



Virtual

Councillor Training (LA2003)

5th December 2022

This training course is aimed at all councillors who are involved in the decision making process of LA2003 licensing applications. The course will cover the general principles of licensing, including hearings and committee decisions under the Licensing Act 2003. Along with appeals / costs / conditions etc.



Virtual

Taxi Licensing

Basic – Wales (Specific to Wales)

16th January 2023

This course will give new/inexperienced delegates working in the field of taxi and private hire licensing a broad understanding of the licensing regime from a practical and operational perspective to support their day to day role.

Advanced - Wales (Specific to Wales)

31st January 2023

This Welsh specific course looks in detail at the hackney carriage and private hire licensing regime and the role and functions of the licensing authority and is suitable for the more experienced delegates working in the field of taxi and private hire licensing.



Virtual

BTEC Level 3 Certificate for Animal Inspectors (SRF)GROUP 13 (163497)

9th & 30th January, 9th & 23th February & 6th & 21st March 2023

This course is the Institute of Licensing's BTEC Level 3 Certificate for Animal Inspectors (SRF). The qualification is accredited by an OFQUAL provider and meets DEFRA requirements outlined in the Regulations. The course provides learners with all the knowledge and skills they require to be able to competently carry out their duties under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. COURSE UPDATED JANUARY 2022 TO INCLUDE REVISED DEFRA GUIDANCE WHICH CAME INTO FORCE IN FEBRUARY 2022.

Contact the IoL team

Email: events@instituteoflicensing.org
or telephone us on 01749 987 333

Virtual

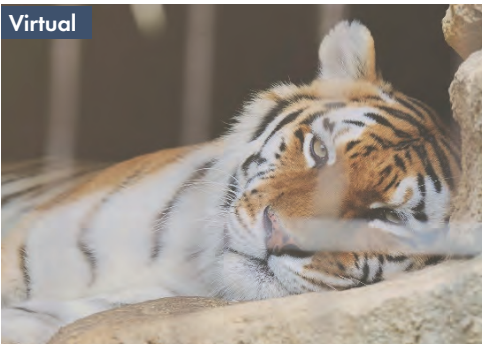


Investigators PACE Course Half Day Theory Course

31st January 2023

This course covers all you need to know when conducting PACE taped interviews and written statements.

Virtual



Zoo Licensing – Update

7th March & 23rd March 2023

With the new Standards of Modern Zoo Practice about to be announced we take an in depth look at the contents, how this will affect zoo inspections and the types of documentation needed to comply with zoo licences.

Virtual



Scrap Metal

31st January 2023

The course will explain the workings of the Scrap Metal Dealers Act 2013, how it works and how the renewal process is applied. It will also look at the workings of the Act and secondary legislation, together with the Guidance and puts it all in a practical context.

Virtual



Caravan Site Licensing

7th March & 23rd March 2023

This course will provide delegates with up to date details about Caravan site legislation, including recent case law. The course covers all aspects of the legislation including residential, touring, holiday and travellers sites and the distinctions between the different type of sites and will also consider the links between planning and licensing.



Taxi Insurance Fraud – collaboration in Sheffield

Collaborative working between Esure Insurance, Horwich Farrelly and Sheffield City Council Taxi Licensing successfully unravelled a collision claim for £100,000. Graeme Mulvoy explains the case.



by Graeme Mulvoy, Partner AT Horwich Farrelly

The Spring 2021 edition of LINK includes an article by my colleague Kevin Hocter who wrote about our initiative at Horwich Farrelly Solicitors (HF) to work with Insurers, the Institute of Licensing and Council Licensing Teams collaboratively investigating insurance claims brought as a consequence of road traffic accidents. The initiative arose due to the volume of cases which are investigated for potential fraud ranging from exaggeration through to the purposeful staging of accidents in order to facilitate a claim.



Photo by JJ Ying on Unsplash

It is clear that in most cases we are all in agreement that individuals that have a proven record of dishonesty, including through bringing fraudulent claims forward, are unlikely to meet the statutory 'fit and proper' test. This is supported by the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades', published in 2018 which suggests a period of at least 7 years should elapse following a dishonesty conviction before a licensing authority considers a driver licence. The DfT's National Standards published in 2020 also suggests the 7-year timeframe. This is even more pertinent in light of the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2020 that recently came into force.

Over the past few years, we have closely collaborated with Licensing Teams with a gratifying number of successes. One result in particular stands out and we believe it is the first of its kind in the insurance industry. This was a claim we investigated with the Licensing Team at Sheffield City Council eventually resulting in the driver's licence being revoked in August 2022. He admitted that the claim he together with seven other allegedly 'injured' claimants

brought for £100,000 was dishonest.

The case started early in 2020. It started with an allegation that on 27 January 2020 three vehicles – a BMW (insured by Esure) a VW Golf and a Sheffield City Council registered Taxi – collided in the Sheffield area. As a result of the alleged collision, seven claims were presented by the occupants of the three vehicles with Esure's (now ex) customer accepting fault.

Tort of deceit and conspiracy

Esure had concerns that the collision was "staged". As part of their investigation, they contacted the Licensing Team at Sheffield City Council to verify whether the taxi driver had reported the collision to them. The Licensing Team in turn contacted HF to highlight this as a case of concern; and HF advised Esure on the prospects of bringing a tort of deceit and tort of conspiracy claim against the drivers of the BMW, Taxi and VW Golf, underpinned by engineering evidence. It was quickly established that the BMW had sustained significant fire damage to its engine which rendered it undriveable,

so the accident could never have happened.

The engineering evidence went further, stating that whilst these vehicles had collided into one another, they had seemingly done so not in the manner alleged, and had in fact collided repeatedly in order to facilitate the appearance of accident damage.

Sorry, I don't speak English

Shortly before HF could launch the claim, the driver of the VW Golf issued Court proceedings. Seizing this opportunity, a counterclaim was brought against all the drivers for exemplary damages and during proceedings several issues were identified which strengthened Esure's claim.

One such issue arose when the taxi driver alleged that he was unable to speak, read or write in English thus needing all documents to be translated. This can be a common litigation tactic, and is believed to attempt to hide behind ignorance, or deny understanding of signed documentation; or in order to hinder any cross

examination in court. Unfortunately for the driver in this case, in order to have gained his taxi driver licence, he would have first been required to meet Sheffield Council's English language requirement. Additionally, the driver in this case had twice previously fallen foul of taxi licensing requirements and had been interviewed under caution during which he spoke perfect English.

HF obtained a transcript of the interview under caution from Sheffield's Licensing team. Additionally, he had signed several documents such as tax returns and a hire agreement, all in English.

Accepting that his case was irreparably damaged, the taxi driver provided a witness statement in which he accepted that his claim was dishonest, the information he provided to Sheffield Council when reporting the accident was false and that the collision did not occur. The taxi driver has since paid Esure £12,500 in damages and costs. In addition, Judgment has been entered against Esure's ex-customer (with a figure to be determined) and the driver of the Volkswagen Golf.

The case sends out a very clear message, while removing a dishonest driver from the taxi industry and protecting the public as a result. Collaboration between the licensing authority, insurances and HF paid off in increasing public safety and also through significant (£175,000 including legal costs) for Esure Insurance, and savings for every road user who pays for fraud by their insurance premiums. More importantly for us all, there is one less rogue individual operating as a licensed driver.

Over the last 3 years, HF have developed strong relationships with over 45 taxi licensing authorities and this case is the perfect example of the fruition of that hard work by everyone involved. This is the first case of its kind, where we have collaborated to bring a fraudulent taxi driver to justice both in civil proceedings and then with the licensing authorities. Aside from this outcome, it also demonstrates the savings insurers can achieve by working with licensing authorities on claims by taxi drivers.



Photo by Alexander Vilinsky on Unsplash

Sheffield Council's investigations were completed by Licensing Officers Clive Stephenson and Shelley Royston. We were all incredibly sad to learn of Clive's death earlier this year and would like this article (and the result of the investigation) to stand as a testament to his and Shelley's work.

BTEC Level 3 Certificate for Animal Inspectors (SRF)

COURSE DATES:

GROUP 13 (163497):

19 & 30 January, 9 & 23 February & 6 & 21 March 2023



The IoL's BTEC Level 3 Certificate for Animal Inspectors (SRF) is accredited by Pearsons, an OfQual Awarding Body.

The course will provide learners with all the knowledge and skills they require to be able to competently carry out their duties under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

The course includes 5-days of training delivery, and learners are required to complete written submissions and practical inspection assignments which are evidenced within their learner portfolio. Learners have 12 months to complete the course following enrollment, and additional tutorials sessions are available if needed.

Course Modules

Course content includes:

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



For more information on course dates and to book a course please contact the team via events@instituteoflicensing.org or call us on 01749 987 333

Animal Licensing – why is it important?



by Jules Bradburn

I am, at heart a licensing officer. I may also work as a trainer, assessor, course developer and a Judge in the First Tier Tribunal, but as a previous licensing authority officer, I have continued my involvement in all areas of licensing since leaving local government in 2012.

Over the last several years, and certainly since 2018, there has been a huge focus on animal licensing and specifically the licensing of activities involving animals, which sets out the animal licensing regime we are all currently working under.

My involvement in animal licensing has been varied and includes inspections as lead inspecting officer working under contract for licensing authorities, supporting local authority officers and inspecting premises alongside the police and RSPCA. The levels of neglect, ignorance and basic cruelty I have seen through this work is mind numbing. The licensing regime is a crucial part of the solution (although not a silver bullet unfortunately), and I am passionate about the need to use the licensing function for its basic purpose: protecting animal welfare.

A recent case where Lancaster City Council revoked the licences of two dog breeders, is an excellent illustration of the need and benefit of an applied licensing system.

The licences were revoked under Section 15 of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, after evidence of animal cruelty was found at two separate sites in Morecambe, Lancashire.

The initial concerns were raised by a member of the public, who arrived at Red Rose Kennels in Overton having arranged with the breeder to collect a puppy that they had paid for. On arrival, there was no sign of the breeder on the premises. They contacted the council to report their concerns about animal welfare having waited for several hours, during which they could hear dogs barking.

Lancaster City Council animal licensing officer subsequently conducted a joint visit with Lancashire Police on June 7. Twenty-five adult dogs and twenty-three puppies were found onsite in several outbuildings.

There was evidence to suggest that the dogs had been left for a considerable period. At the time of the visit all the dogs' welfare was not being met all of the animals were found to be dirty, kept in conditions with no light, no water, no food, and had heavily soiled bedding. Unsurprisingly all of the puppies and adult dogs appeared to be in distress.

Lancaster City Council animal licensing officers made the immediate decision to take twenty-one dogs into care and arrange for assessment by a vet. In total sixteen licence breaches were discovered. Tragically,



Photo by Jametlene Reskp on Unsplash

one puppy died, and several others needed medical attention.

Lancaster City Council believed at the time the licence holder, Jack Reay, was out of the country for four days, and didn't make adequate provision for the welfare of the animals in his absence. He was asked to attend a formal interview under caution and due to the severity of the welfare failings and number of breaches of the licence, Lancaster City Council are preparing a file to prosecute the licence holder.

On the same day, Animal Licensing Officers received a separate notification from the police of concerns raised for the safety and welfare of dogs housed at a licenced dog breeding premises on the Coastal Road, Hest Bank. The same officers arrived to once again find nobody on site.

Sixteen dogs and nine puppies were discovered in outbuildings, all in conditions with no light, no water, no food, and heavily soiled bedding. They were all taken into care. This time there were eleven identifiable breaches of Animal Licensing laws.

Lancaster City Council states that it's believed the licence holder, Emily Sutcliffe, was out of the country for six days, and didn't make adequate provision for the welfare of the animals in her absence.

Emily Sutcliffe was asked to attend for an interview under caution and again due to the severity of the welfare failings and number of breaches of the licence, Lancaster City Council are preparing a prosecution file for this incident.

It was noted that Sutcliffe had already stated to officers that a friend was meant to be looking after the dogs.

Suzanne Lodge, Director for Communities & the Environment at Lancaster City Council, revoked the dog breeding licences with immediate effect on the grounds of number and severity of the breaches of licence conditions, and the impact this has had on the health and welfare of the dogs.

These are just two examples – there are far too many more examples of greed outweighing any consideration of animal welfare. It is essential that the public continue to be made aware of these cases and educated to ensure that they are more discerning when looking for a puppy – and do not fall into the trap of sympathetic puppy purchases.

Bringing a puppy home should be a wonderful time, bringing one home from a puppy farm or a negligent and greedy breeder is more likely to spell heartbreak.

Digital Age Verification – A Users' Experience



by Rob Button

Well can I just start this by saying although it says Button as the author, I'm afraid I am not "THE" Button. I am one of his 3 children with very big shoes to fill!

So what I'm saying is, don't expect this to be "Button on Digital IDs". No, this is just a 21 year-olds' take on modern tech in a world where technological advances have largely stagnated. I have been using the Post Office and Yoti (yoti.com) digital ID apps now for 4 months, purposefully leaving my plastic driving licence at home to see how well they work, and more importantly, how widely they are accepted as proof of age.

It has been an interesting experience to say the least, and I'm afraid to say my experiment seems to confirm my generation's stereotype that "Older people don't like and will not accept the new world" whereas younger people are willing to try new things.

As a relatively young person who is highly interested in tech (for example I am always watching the Apple "World Wide Developers Conference" each year where Apple announce new devices and software) when I heard about this new system of being able to show your ID digitally and not carry round a climate destroying piece of plastic I was all over it.

So I downloaded the app and it was very easy to follow. You take a picture of either your driving licence or passport (the latter is recommended), it then gets sent off to a cloud somewhere and is scanned, and then you take a photo of yourself. Which is good news if, like me your passport photo is from when you were a spotty 18-year-old with Justin Bieber hair! Then you are ready to go.

Once you are all verified, the premise of the app is fairly simple. You open the app and you can choose to show; your full name, your age, or your date of birth, all of which come up with your photo next to it, and a moving hologram which (I am reliably informed by my Father) means that it is a valid form of ID within the eyes of the law.

It has a long way to go to be widely accepted in the hospitality industry currently. It not only depends on the age of your server which can determine whether it is accepted but also the Venue/Pub Chain. For example, a Spoons (Weatherspoon) or an off-licence will be usually more than happy to accept it, but your local independent pub or most restaurants are a bit warier.

But it's not just the people and businesses holding this fledgling app back: it's also the technology as well. The app in its current state does not work if you are not connected to Wi-Fi or mobile data and then will not show your ID. This is not ideal in rural areas, or for the student on a low income who can't afford any more mobile data until the end of the month.

These apps could be great if they pushed them with heavy marketing towards the younger audience and also educated staff, but neither of these seems to have already happened or show any signs of happening. There is currently a gap in the market, and if they pounce, they will be successful!

But they have Apple hot on their tails. Apple have already started rolling out in the USA the ability to add your driver's license to your Apple Wallet. That will potentially make these apps obsolete if (or when) they roll this out in the UK as there will be a huge uptake of this. So Yoti and the Post Office



Photo by Stephen Petrey on Unsplash

need to become the market leaders and the default approach for consumers and retailers for this to succeed, before Apple muscle in.

If they can beat Apple they will do well.

Does the YOTI app satisfy the requirements for identity for purchasing alcohol



by James Button

As you will have read earlier in this article, Robert states that it is my view that this app is acceptable for alcohol purchases. However there seems to be some confusion about this, and even the CitizenCard webpage publicising the CitizenCard version of the YOTI app says that it cannot be used to verify ID for alcohol purchases. They state:

“What you can do with your digital ID:

- prove your identity to businesses and individuals
- prove your age online and at over 12,000 convenience stores in England and Wales (not for alcohol) [emphasis added]
- securely store and share credentials issued to you by third parties, including staff ID cards and health test results
- manage all your logins with Yoti's free password manager.”

Why is this, and is it correct? In my view it all hinges on the wording of the legislation. The mandatory condition is contained in the Schedule to the Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014 and states:

“3.— (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.”

The key elements are detailed in subparagraph (3). It is vital to recognise that the legislation does not require a “document”; it is simply “identification”.

The section 182 guidance (2018 edition) is of little assistance here, simply stating at paragraph 10.46:

“The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet

the requirements of the mandatory condition.

The question then is whether the app appears to satisfy all of those? It contains a photograph, it can state the date of birth (although the user can choose to simply show "Over 18", which would not satisfy these requirements) and it contains a mark. But is this a holographic mark?

The only argument that I can see is that the holographic image on the app as shown on the mobile phone screen does not fall within the definition of "holographic mark", and that phrase does not appear to have been considered by the Senior Courts. Holographic is defined as "relating to or being a hologram", and a hologram is "a three-dimensional image reproduced from a pattern of interference produced by a split coherent beam of radiation (such as a laser)". I am not a scientist, but a rectangular point on the app is either a hologram, or it effectively mimics a hologram (by having depth and being visible from different directions), so I find it difficult to see why this app is not acceptable for alcohol purchasing purposes.

Obviously, it will be for the senior courts to determine whether or not this constitutes a holographic mark.

From a practical perspective, what are the potential issues if this app is accepted by staff who then sell alcohol as a consequence?

In relation to selling alcohol to a person under the age of 18, that offence is contained in section 146 of the 2003 Act and would be committed by the personal licensee who authorised that particular sale. It is important to consider the defence contained in section 146 (4) and (5):

"(4) Where a person is charged with an offence under this section by reason of his own conduct it is a defence that—
(a) he believed that the individual was aged 18 or over, and
(b) either—
(i) he had taken all reasonable steps to establish the individual's age, or
(ii) nobody could reasonably have suspected from the individual's appearance that he was aged under 18.

(5) For the purposes of subsection (4), a person is treated as having taken all reasonable steps to establish an individual's age if—
(a) he asked the individual for evidence of his age, and
(b) the evidence would have convinced a reasonable person.

It is difficult to see how, when presented with this app, a reasonable bench of magistrates would not take the view that the evidence would convince a reasonable person that the purchaser was over 18.

In relation to the mandatory condition, failure to comply with that is an offence under section 136 of the Licensing Act 2003 because alcohol was sold (a licensable activity) "otherwise than under and in accordance with an authorisation". It would be a question of fact as to who actually committed the offence (see *Hall and Woodhouse Ltd v Poole Borough Council*).



The question of whether a prosecution in these circumstances would be in the public interest, bearing in mind that the section 146 offence is unlikely to succeed, is a question that would have to be answered by either the CPS or the local authority (depending upon whether it was an investigation by the police or trading standards).

There remains the possibility of a review for breach of condition which could be based on either crime and disorder or harm to children. However again, as the app would satisfy a reasonable person as to the age of the purchaser, it is difficult to see what action could be reasonably taken, apart from imposing a condition prohibiting the use of the digital app to verify age.

It seems very unfortunate that this innovative, popular and secure method of establishing a person's age cannot be guaranteed to be acceptable for alcohol sales. In my view it complies with the law, but I fully appreciate that there are conflicting opinions. As far as I can establish no other age restricted product or service requires such detailed verification of age and I would suggest that e.g. purchasing bladed items by a person underage is far more dangerous than the purchase of alcohol. I would urge the Government to clarify the position by amending the mandatory condition as a matter of urgency.



Licensing Act Enforcement

Photo by Andy Cheetham on Unsplash



by Mike Smith, Senior Specialist for Licensing and Community Safety at Guildford Borough Council and Vice-Chair of the Institute of Licensing South East Region.

Following the launch of the IOL's new 'Licensing Enforcement' course, Mike Smith, Senior Specialist for Licensing and Community Safety at Guildford Borough Council and Vice-Chair of the South East Region examines the principles (and difficulties) to consider when dedicating resource to ensuring compliance amongst licensed premises.

When introduced, the Licensing Act consolidated the licensing regime covering authorisations for sale of alcohol, provision of entertainment and late-night refreshment to be administered by local authorities to enable better, local decisions and public involvement.

Licensing covers everything from small florists selling the odd bottle of wine to remote shipping containers storing alcohol for dispatch where the public will never have access to, popular pubs, supermarkets and outdoor festivals hosting tens of thousands of people. The difference between premises is also stark. The same legislation regulates restaurants where you would go for dinner before watching a film or a play before heading for a drink on the way home.

The Licensing Act was intended to be a 'permissive' process with a number of 'light touch' provisions such as the automatic grant if there are no representations, and presumption to grant a licence if there are, and the TEN regime which has recently been extended to assist following the pandemic.

Despite the attention and popularity of licensed premises, the Licensing Act contains no statutory requirement to inspect a licensed premises, let alone at any frequency of inspection as dictated by other legislation for example where food premises are inspected at a certain frequency of between every 6 months to 3 years depending on their relative risk and compliance. This often comes as a surprise to the public and elected councillors when complaints are made and investigated by the

Licensing Authority, with some Authorities perhaps finding a need to justify their interventions, or lack of, when genuine concerns are presented, and the premises has never been visited.

As things currently stand, inspection activity varies considerably between Local Authorities with some Authorities undertaking proactive patrols regularly and others only undertaking reactive visits to a premises as a result of a complaint.

The Act very early on not only establishes 'Licensing Authorities' but also sets their duties which are that they must carry out their functions with a view to promoting the Licensing Objectives.

So, the question to consider is how should local Licensing Authorities go



about their duties and promote the licensing objectives?

Firstly, we still need to remember that alcohol is an intoxicating drug which causes the Police, NHS and society in general, many, many problems if not used responsibly. The UK has a long history of legislating control of alcohol sales; the Gin Act 1751 restricted gin producers to selling only to licensed premises. Legislation exists to regulate activities, so there is a legitimate expectation that the law will be enforced where necessary. There are many provisions in the Act which give Licensing Authorities and Police a variety of tools to use which are explored as part of the IoL's Licensing Act Enforcement course, along with the principles and factors which must be considered when setting an enforcement regime.

This latest Government approach to regulation follows 15 years of what appears to be a central regulatory agenda designed to reduce the burden on business. Just as I was starting my local authority career the Hampton Review examined

'regulatory burdens' on business leading to the Legislative and Regulatory Reform Act 2006 which provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate.

This in turn led to the Regulators' Code, which came into statutory effect in 2014. Nearly all regulators, including local authorities must have regard to it when developing policies and procedures that guide their own regulatory activities.

This Code does not detract from the core purpose of regulatory activity, to protect the public, but seeks to promote proportionate, consistent and targeted regulation and enforcement through the development of transparent and effective dialogue and understanding between regulators and those they regulate. Having conducted a couple of Licensing Act Enforcement courses for the IoL now, I am surprised at the number of officers who tell me they have never heard of the code.

The Regulators' Code has six principles:

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow
2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
3. Regulators should base their regulatory activities on risk
4. Regulators should share information about compliance and risk
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
6. Regulators should ensure that their approach to their regulatory activities is transparent

Whether or not local authority officers are aware of it, the Regulators' Code is something which has been picked up by the licensed trades (the taxi trade in particular), when seeking to address perceived



Photo by Jon Cellier on Unsplash

burdens and it is surely only a matter of time until the actions of local authorities are challenged on the basis of non-compliance with the principles of the Code.

Sticking with the Government agenda to reduce burdens, the Licensing Act itself has been significantly amended, firstly by the Live Music Act 2012 and later Deregulation Act 2015. These amendments allowed a vast array of entertainments to be provided more freely and without restriction. This in turn has inevitably led to licensing enforcement challenges as conditions restricting noise now need no longer apply leading to an increase in complaints about nuisance.

Although the pandemic (or at least its restrictions) are now hopefully behind us, we are still seeing the impact of it in the regulation of licensed premises. There was a great deal of sympathy initially with premises being forced to close for long periods and operate differently following re-opening. Licensing Authorities were encouraged by Government Ministers to show a

‘pragmatic’ approach to premises facing difficulties, and the success of the Pavement Licence has been such that it has been extended again and looks set to become a permanent fixture.

The licensed hospitality industry has not had it easy since reopening. The issues of women’s safety at night, spiking and general safety, have all been subject to intense media spotlight, particularly due to the tragic case of Sarah Everard, serving to highlight the vulnerability of women in our society. Add to that staff shortages in both hospitality and the security sector, and now the energy and cost of living crisis – licensed premises are affected from all angles.

But in the meantime, with amid the concerns around safety in the ENTE, we are seeing an increase in complaints about noise and anti-social behaviour. This may reflect behavioural issues from customers, or increased intolerance from residents who came to enjoy the quiet associated with lockdown – probably it is a bit of both. Either way, councils and police are being

asked what they are doing to make sure premises are safe and issues addressed.

Not only are there expectations from public about compliance in licensed premises; there are expectations from other stakeholders including Responsible Authorities who have their own resourcing pressures and are looking for, and in some cases expecting, the Licensing Authority to act upon a particular issue as their capacities are stretched. This expectation often stems from the fact that the Licensing Authority receives the licence fee and is assumed to be well resourced in order to respond to issues at licensed premises. It is well established that fees under the Licensing Act have not changed since the inauguration of the legislation, placing Licensing Authorities under their own financial pressures despite there being a need to carry out its functions with a view to promote the licensing objectives.

The Licensing Authority itself was made a ‘Responsible Authority’ under Police Reform and Social Responsibility Act 2011 presumably to enable a quick

response to a local issues, so Licensing Officers are now working on the same footing as the Police, Environmental Health and Trading Standards colleagues in that capacity.

How the Licensing Authority aims to discharge its functions should be set out in its Statement of Licensing Policy and is also subject to the Section 182 Guidance. Statements of Licensing Policy vary considerably between authorities in terms of details provided about enforcement and it is perhaps important to remember that enforcement policy and activity needs to be tailored to local circumstances and risks. The level of enforcement needed in a small rural area where licensed premises close at 11 pm will be quite different to what may be required (and expected) in a large urban city with a busy night-time economy.

Within the Section 182 Guidance, there are surprisingly only two paragraphs dedicated to the subject of enforcement, and one of those sets out the need for a protocol with the Police as to responsibilities. The second reiterates the principles as set out in the Regulators' Code, while stating that inspections are discretionary and should be focussed on those high risk businesses. The question presents itself: how would a regulator know whether a premises is high risk if it hasn't been inspected?

Some Licensing Authorities have introduced a 'risk based' inspection scheme for premises allowing them to focus their activities however it is also arguable that the 'lower' risk premises also need some interaction and I refer to my favourite example of visiting a 'low risk' small village hall benefitting from the sale of alcohol a couple of years ago where the DPS had died seven years previously.

Enforcement activity isn't solely

confined to the inspection of premises and investigation of complaints. There is a whole raft of schemes such as Best Bar None and Purple Flag which aim to encourage operators to raise standards. Pubwatch meetings are vital forums where information can be easily and quickly disseminated to licence holders with a view to promoting compliance. Time spent on these interventions, using the 'carrot' rather than 'stick' approach to enforcement are very worthwhile and fit in well with what are likely to be the Local Authorities wider corporate aims of supporting businesses.

To conclude, having worked in licensed premises for many years before embarking on a career in local government it is clear that hospitality is a crucial part of society. They need to be both supported and regulated and therefore licensing

authorities have a conflict: We are dealing with long standing legislation surrounding licensing sales of alcohol against a backdrop of stagnant fees, deregulation and an expectation of needing to provide the public with reassurance.

I would welcome readers onto the next Licensing Enforcement Course which looks at the framework of the Licensing Act and associated enforcement powers available under the legislation. The course explores the role and functions of the licensing authority, the general principles of enforcement and use of the mechanisms in the legislation to ensure that those administering, enforcing and operating under the regime can confidently uphold the licensing objectives. Full details are available on the IoL website.



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In Memory...

The death of Her Majesty Queen Elizabeth II was an incredibly sad occasion for the UK and globally and one which we will never forget.

Sadly, in addition to our Queen, we have all lost friends and colleagues throughout the year (and of course in previous years), and we would like to take some time to remember our licensing friends through a memorial page in this edition of LINK which we aim to repeat annually. If we have missed anyone, it will be because we haven't been told of their passing, so going forward, please let us know so that we can ensure that they are remembered in turn.

Cllr Bob Squire

Conwy County Council

Bob enjoyed an extensive career in local government over nearly 60 years as a chief officer (Director of Public Protection) and an FIEH and then as a councillor, serving Conwy County Council as the local member for Old Colwyn since the early 2000s.

Bob thoroughly enjoyed Licensing Committee work which led him to regularly attending the IoL's Annual conference at which he became well-known for his duets with Dave Daycock. Philip Evans speaks for many of us saying "We thank him for his 6 decades of dedicated and productive public service – and, of course, all the fun on the way. Farewell old friend."

Clive Stephenson

Sheffield City Council and NALEO

Clive worked for Sheffield City Council for over 40 years and was their Taxi Licensing Expert in his role as Policy and Strategy Officer. As well as being a member of IoL, Clive was a great supporter of NALEO, serving as both National Chair and Vice Chair. He will be fondly remembered for his jovial humour and respected for his knowledge. Clive was a valued colleague who worked tirelessly to improve things for others and his commitment to making the world a better place was inspirational. He was a genuine, modest man with a fabulous sense of humour. Clive will be sorely missed by those who had the privilege of knowing him.

Sean Williams

Blue Owl Events

Sean was previously a Board member and Chair of the IoL South West region while still serving as a police inspector with Avon & Somerset police. He spoke at several IoL events and developed the Public Safety at Events training course. Sean was just the best at keeping a level head when all around him were in chaos. On retirement Sean formed a business partnership with Jim Goddard that encompassed so many different events and festivals – they had a blast!

David Blurton

NALEO

Prior to his retirement from NALEO in 2016, David had worked for over 30 years in the public sector, including working as Licensing Officer with Conwy Council and Principal Transportation Officer with Wrexham County Borough Council managing both school and social services transport. David had dedicated the last few years of his work running a qualifications programme and gave invaluable help and advice to Officers David was a true friend who could always be relied upon in good times and bad. It will be impossible to replace such a huge character, but one thing is certain, he will always be remembered with love and affection, and gratitude from those fortunate enough to have been able to call him a friend.



HM Queen Elizabeth II

1926–2022

“ This is a very sad day for the nation and commonwealth. Her Majesty was the longest serving monarch in British history and has been with us all of our lives as a leader, figurehead and inspiration. Her passing will leave a massive void in the nation's lives and hearts, and we pray for her and the Royal Family at this very sad time. We also think of the new King as he takes on his constitutional role. As a mark of respect, all IoL events will be postponed until after the funeral has taken place and national mourning has ceased. ”

John Garforth JP, Vice Chairman

Link



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