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Daniel Davies, MIoL
Chairman, Institute of Licensing

As I write, the first shoots of spring are beginning to show through after a freezing and turbulent winter. I think I speak for all of us when I say that we all hope that this is mirrored by a change in the mood and fortunes of the hospitality industry and all those who work within it and regulate it.

Back in the autumn we all gathered together at the IoL annual National Training Conference (NTC) for two and a half days of learning, knowledge-sharing, networking – and, hopefully, some fun! The smorgasbord of topics and speakers really reflected the broad church ethos of the IoL, and the NTC was once again a roaring success. We aim to make the event bigger and better year on year, and we could not do it without the invaluable work of Sue Nelson and her dedicated team who do so much behind the scenes to get the event up and running and make sure it all goes smoothly.

May I offer my congratulations on behalf of the IoL to those who were recognised for their achievements in the field of licensing – Yvonne Lewis of Swansea Council, the winner of the Jeremy Allen Award; Susanna FitzGerald KC, who was appointed as only the third Patron of the IoL; and Philip Evans, long-time councillor for Conwy County Borough Council, who was presented with the IoL's 2022 Chairman's Special Recognition for his exceptional contribution to licensing.

The Levelling Up and Regeneration Bill 2022 which includes provisions to make the temporary "pavement licence" regime permanent is still wending its way through Parliament. It is not anticipated that there will be any major changes to the draft legislation regarding "pavement licences", although there are some important differences between the draft legislation and the temporary provisions which are in force until 30 September 2023. We await the Government's intentions regarding off sales of alcohol.

This edition of the *Journal* is another varied read. We like to encourage contributions from practitioners across the spectrum of licensing – solicitors, barristers, licensing officers, the hospitality industry, regulators and everything in between. Our lead article is by Jane Blade from the Gambling Commission, a former local authority officer and a great friend of the IoL. Using her experience as Regulatory Delivery Manager at the Commission, Jane addresses eight common myths relating to gambling regulation, and provides the facts to bust those myths.

The Gambling Commission has also been busy in the First-tier Tribunal, with the Tribunal dismissing an appeal by Daub Alderney Limited against a fine imposed by the Gambling Commission for anti-money laundering and social responsibility failings. Philip Kolvin KC provides an insightful case note.

I would like to highlight in particular two important companion articles from Kirsty Tagg of the Security Industry Authority, who reports on the SIA's key role in promoting the safety of women and girls in the night-time economy, and from Jo Cox-Brown of Night Time Economy Solutions who updates us on developments and initiatives to help ensure that stakeholders are working together to make women safer at night.

The gambling theme continues with Chris Rees-Gay's article about race nights and similar methods of fundraising for small organisations, and with Richard Williams' piece covering the regulation of lotteries.

Rest assured that alcohol licensing and taxi licensing have not been forgotten. We have articles with up-to-date views and comment from James Button, Stephen McGowan, Nick Arron, Julia Sawyer and Richard Brown.

I hope everyone has had an enjoyable start to the new year, and I look forward to seeing as many of you as possible at IoL events in the coming months.

Institute of Licensing

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Leo Charalambides, FIoL
Editor, Journal of Licensing

On 3 February 2020 Choudhury J gave judgment in *R (CDE) v Bournemouth, Christchurch and Poole Council* [2023] EWHC 194 (Admin) on the relevance in sex licensing of "sex equality-based concerns", the definition of which is that the *presence* of sexual entertainment venues (lap-dancing, strip-tease and similar) has a negative effect on attitudes towards, and the treatment by men of, women and girls, by, amongst other things contributing to a culture in which women and girls are objectified, commodified, exploited, harassed, discriminated against and subject to sex-based violence.

Choudhury J ruled that while it was the case (on the basis of *R v Newcastle upon Tyne CC, ex parte Christian Institute* [2001] LGR 165) that a local authority need not put much if, any, weight on an objection to the licensing of a sexual entertainment venue (SEV) on that ground that such venues are "immoral", it was "not … precluded from taking into account objections from the local community as to whether there should be SEVs in the locality for other reasons, even if such reasons could be said to derive from or amount to a particular moral stance or outlook on SEVs more generally." [54] Sex-equality based concerns which expressed views on the *consequences* of having SEVs on relations between sexes and their *effect* on attitudes towards women and girls could not be dismissed as "straightforward objections on the grounds that SEVs should not be allowed to exist". Rather, they amounted to objections based on the potential consequences and effect of having such venues in the locality. [57] The judge held that such sex equality-based concerns must be subject to conscientious consideration which considered the impact on all women in the vicinity and wider society.

This case interprets *Christian Institute* on a significantly narrower basis than many local authorities have hitherto thought was appropriate. Only the most stark and unvarnished "moral" objection to the existence of SEVs is likely to fall foul of its prohibition, so re-interpreted.

Having found that the local authority downplayed or sidelined sex-equality based concerns in consulting upon its policy, Choudhury J went on to find that this consultation failure fed into a breach of the Public Sector Equality Duty (s 149, Equality Act 2010). He held [88] that the summary of principles applicable to the exercise of the PSED in *R (Bracking) v Secretary of State for Work & Pensions* [2013] EWCA Civ 1345 applied as much to local authority decision-making generally as they did to ministerial functions. The case is a salutary reminder that decision-makers in licensing need to grapple with the PSED "in substance, with rigour, and with an open mind" (*Hotak v Southwark London Borough Council* [2015] UKSC 30 [73]).

Equality-based concerns are not limited to negative effects. In July 2022, the London Borough of Tower Hamlets dealt with a variation application for a premises used by promoter for kink and fetish events which incorporated widespread nudity and sexual activity, and commented: "The LSC noted that the nature of these events meant that there was a greater impact on certain groups with protected characteristics. The LSC noted that although the events at the premises tended to cater to the queer community, there were disparate groups of people attending these events, some of whom shared one protected characteristic, others who shared another, and some who had none at all. The LSC was informed these events were inclusive, welcomed diversity and were open to all; being of the queer community was not a prerequisite for attendance or entry. Given the comments made by some of the supporters as to harassment and discrimination that they had faced in mainstream venues, and how safe they felt at events a such as Klub Verboten, the LSC accepted that these events were of considerable importance to the queer community."

It is no surprise that exercising the PSED in substance, with rigour and with an open mind, involves a duty of inquiry that requires public authorities to be properly informed before taking a decision. If the relevant material is not available, there will be a duty to acquire it and this may frequently mean some further consultation with appropriate groups: *R (Hurley & Moore) v Secretary of State for Business, Innovation and Skills* [2012] EWHC 201 (Admin) [89].

R (CDE) v BCP is likely not only to impact on the licensing of SEVs under the Local Government (Miscellaneous Provisions) Act 1982, but also on the wider approach of the interests of persons with relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) in our leisure and night-time economies. The PSED requirements to have due regard to the need to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic and those who do not can be engaged with in manifest ways in the licensing sphere, often with different interests competing. As an integral and important part of the mechanism for ensuring the fulfilment of the aims of anti-discrimination legislation, this decision underlines the court's expectation that licensing authorities are able to demonstrate that their decisions are taken following rigorous consideration of the PSED.

Common misunderstandings and myths about the Gambling Act 2005

The Gambling Commission's **Jane Blade** provides an enlightening guide to what's permitted and not permitted on the local gambling scene

One of my responsibilities at the Gambling Commission is advising local authorities and police forces all over Britain on the Gambling Act 2005 (GA05).

This article looks at some of the most common misunderstandings – or myths – I encounter and explains the true position.

MYTH 1: To obtain a club machine permit or club gaming permit, a members' club must be licensed under the Licensing Act (LA03).[1]

FACT: A members' club only needs to hold a club premises certificate under LA03 if it is applying under the fast track procedure.

Members' clubs wishing to obtain a club machine permit or club gaming permit do not have to be licensed under the LA03 at all, but they must meet the definition of a members' club under GA05.

The definition of a club under GA05 is slightly different from the definition under LA03.

The two types of clubs you will likely encounter under the GA05 are:

Commercial clubs – s 266 GA05 – entitled to a club machine permit.

Members' clubs – s 267 GA05 – entitled to either a club machine permit or a club gaming permit.

Members' clubs are eligible to apply under the fast track procedure.

Commercial clubs are established for commercial gain (regardless of whether they are making a gain). This applies to things like snooker clubs: they are set up to make money and they are run as a commercial enterprise.

Members' clubs must be conducted for the benefit of the members. They are similar to qualifying clubs under LA03, and if they apply under the fast track procedure, they will hold a club premises certificate under LA03. But remember, they do not have to be licensed to sell alcohol to obtain a club gaming permit – the club could be a knitting club and still qualify. Just focus on whether they meet the definition in s 267.

The fast track procedure was introduced because if a club meets the qualifying club criteria under LA03, it will automatically meet the members' club criteria under GA05. This means you won't have to carry out additional checks or do as much work as you would for a non-fast track application.

Both types of club must have at least 25 members, be established and conducted wholly or mainly for purposes other than gaming (unless the game is bridge and whist), and be permanent in nature. All clubs must comply with the Gambling Commission's *Code of Practice for Equal Chance Gaming in Clubs and Alcohol Licensed Premises* and / or its *Code of Practice for Gaming Machines in Clubs and Alcohol Licensed Premises* as appropriate.

MYTH 2: If the public cannot come in, gambling is private and does not need to be regulated.

FACT: While it is true the public cannot have access to the place (whether on payment or not), there are other requirements too:

- No charge (including money or money's worth) can be made for participation, including deductions or levies from stakes or prizes, and regardless of how the charge is described.

1 England and Wales only.

- It must be equal chance gaming (such as poker or bingo) unless it is domestic or residential gaming.

- Domestic gaming takes place in a private dwelling on a domestic occasion.

- Residential gaming takes place in a hostel, hall of residence or similar establishment not administered as part of a trade or business, where more than half the participants are residents.

It is important to understand whether gambling is private in relation to s 33 or s 37 offences (broadly, the provision of facilities for gambling or use of premises for gambling). Do not assume if you are told an event is private that no further enquiry is required!

MYTH 3: Lotteries / raffles can only be run online if they are licensed by the Gambling Commission.

FACT: You can run a small society lottery online, as well as things that might look like a lottery, but aren't.

Small society lotteries registered with the local authority are considered exempt lotteries under GA05 and can be run online.

Prize competitions and free draws are not lotteries / raffles, although they look like them. They are not regulated and can be run online.

Prize competitions require entrants to exercise skill to enter (ie, answer a question). Free draws provide a free entry route, either instead of a paid entry route, or in addition to it. "Free" in this context means 1st or 2nd class post, text at standard rate, or other method no less convenient than the paid route.

Most of the large draws you see online that are not run for charity make use of a free entry route.

MYTH 4: The application form and full process for uFEC permits is prescribed.

FACT: The licensing authority develops its own application form and determines what other information or documents should accompany the application. A template application is provided on the Commission's website that you can use if you wish.

Schedule 10 of GA05 says the local authority's statement of principles "may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of an applicant for an [unlicensed Family Entertainment Centre] permit."

For example, would you expect staff working in a uFEC to provide a DBS check, given they will be working primarily with children? If so, say this in your statement of principles, and ensure you make the requirement clear in the application form and guidance notes.

It should be noted that the form of the uFEC is prescribed.

MYTH 5: Local authority and police officers are not involved in safer gambling.

FACT: There is nothing to prevent local authority and police officers assessing compliance with safer gambling requirements, nor any provisions covered by the Gambling Commission's licence conditions and codes of practice.

Local authority and police officers have largely the same powers as Gambling Commission officers and can look at all aspects of gambling legislation.

- Section 307 gives the police and local authority officers the same powers as the Gambling Commission for determining if facilities are, will be, or have been, provided in accordance with the operating licence or premises licence.

- Section 317 gives police and local authority officers the same wide-ranging powers as the Gambling Commission to inspect anything, question anyone, access records, and remove and retain evidence relating to an offence or breach of operating or premises licence conditions.

- The licence conditions and codes of practice (LCCP) sets out the Commission's requirements for operating licence holders relating to matters such as safer gambling, money laundering and terrorist financing, marketing and advertising, underage gambling and self-exclusion.

- It is sensible that local authority and police officers are on local premises more often than the Gambling Commission. Though the Gambling Commission leads on enforcement action against operating licence holders, if you visit licensed premises and find LCCP requirements not being met, you can bring this to the operator's attention. You should always send us a copy of your findings, so we have an overview of the national situation. This information is helpful to the Commission and allows us to continue to use our

limited resources in a targeted way.

MYTH 6: If somebody applies for a licensed premises permit for three or more gaming machines, there's nothing you can do about it, even if they want ten machines in a small premises.

FACT: Yes, you can – see Schedule 13 GA05.

You can:

- Grant the permit as requested.
- Refuse it.
- Grant it for a smaller number of machines.
- Grant it for a different category of machine.
- Grant it for a different category of machine *and* a different number of machines from what was requested.

You must consider the licensing objectives, the Commission's *Guidance to Licensing Authorities* and "such other matters as [you] think relevant".

You must allow the applicant to make representations, and they can appeal your decision to the magistrates' court.

It's a good idea to talk about your approach towards licensed premises permits for three or more machines in your statement of principles; give some examples of what you will consider and when you might refuse the permit or grant it for a smaller number of machines.

Local authorities also have the power in s 284 of the GA05 to remove the exemption allowing alcohol licensed premises to provide exempt gaming or gaming machines.

MYTH 7: There's nothing you can do if a small society lottery doesn't send in its lottery returns.

FACT: If a small society lottery does not submit its returns, it commits an offence under s 262 GA05. You would handle the offence in accordance with your own enforcement policy, using your stated criteria to determine what type of action would be appropriate.

MYTH 8: Illegal gambling is dealt with solely by the Gambling Commission.

FACT: Licensing authorities and the police are co-regulators of the GA05. Police and local authorities will generally deal with local illegal gambling.

Licensing authorities know their area far better than the Commission, and we rely on you to be the eyes and ears in your locality to make shared regulation work.

As our *Guidance* to licensing authorities states:

> *The Commission was not established, and is not resourced, to lead on local gambling regulation. Licensing authorities have the power to collect fees, subject to statutory maxima, to cover the costs of local gambling regulation. In addition, local regulation is more cost effective and licensing authorities are better placed to understand and manage local issues. So, while the Commission aims to adopt a position of support and assistance for licensing authorities in carrying out their functions, that is in the context of licensing authorities taking the lead on local regulation of gambling.*

Where to turn for advice

The Commission has limited resources to provide advice to police and local authorities, although we always offer whatever help we can.

In the first instance, we have an excellent website that offers you support on all aspects of gambling regulation.

And don't forget, the Institute of Licensing also offers gambling modules in the e-learning area of its website.

If you do need help, these are the contact details for the Commission:

- Reports of suspected illegal gambling: intelligencereports@gamblingcommission.gov.uk
- Copies of licences and applications and notifications of licences lapsed or surrendered: gclocalauthority@gamblingcommission.gov.uk
- Requests for GC advice / assistance: complianceteamcb@gamblingcommission.gov.uk
- Outcomes of licensed premises visits: lainspection@gamblingcommission.gov.uk
- Help with Local Authority (LA) returns: lareturns@gamblingcommission.gov.uk
- Before requesting our advice or support, please refer to our website: www.gamblingcommission.gov.uk

Jane Blade
Regulatory Delivery Manager, Gambling Commission

Can a private hire firm have ‘taxi’ in its name?

Jim wants to call his company "Jim’s Taxis" but he doesn’t drive a hackney carriage. **James Button** gives his considered view on how licensing authorities may or may not respond

The question of whether a private hire firm can use the word “taxi” in its name arises reasonably frequently. In answering it, local authorities have different approaches in relation to the conditions they attach to private hire operators’ licences; and in some cases, they will refuse applications if they do not approve of the name under which the operator will trade.

The only statutory prohibition on the use of the word “taxi” is in relation to a roof sign mounted above the roof of a vehicle which is not a hackney carriage. That is contained in s 64 Transport Act 1980, and it applies across England and Wales where hackney carriages are licensed under the Town Police Clauses Act 1847 (TPCA 1847).

There is no statutory prohibition on the use of the word “taxi” on a private hire vehicle, but a local authority cannot licence a vehicle as a private hire vehicle if it is “of such design appearance as to lead any person to believe that the vehicle is a hackney carriage” as a consequence of s 48(1)(a)(ii) Local Government (Miscellaneous Provisions) Act 1976 (LG(MP) A 1976). There is therefore an argument that if the local authority either requires or permits the operator to have their name on vehicles that they operate and that the name includes “taxi”, this might lead a person to believe the vehicle is a hackney carriage. However, as will be seen below, that is largely a question of perception.

There is no reference to the use of the word “taxi” or “hackney carriage” in relation to the legislation concerning private hire. The only question in relation to an operator is whether or not they are a fit and proper person to hold the licence (s 55(1)(a)).

However, the local authority can impose conditions that are reasonably necessary on both private hire vehicle and private hire licences.

Therefore the question appears to be: is it reasonably necessary to prohibit the use of the word “taxi” in the name of a private hire operator?

My view is that this hinges to a very large extent on public perception. It is widely acknowledged that the public do not appreciate that there is a difference between a hackney carriage and private hire vehicle and they are regularly and generically referred to as “taxis”. On that basis it is difficult to argue that a customer would see the name of the firm, for example, “Jim’s Taxis”, and think it was a hackney carriage when it was actually a private hire firm. Indeed there may be more confusion if the firm was called “Jim’s Private Hire Vehicles”, as the term “private hire vehicle” is not widely understood by the general public.

In addition, the potential for confusion for the public is, I feel, limited because anybody who is contacting a private hire firm (even if it is named as a “taxi firm”) is obviously intending to make a pre-booking, which is the only way in which a private hire vehicle can be obtained. Nobody would make that telephone call expecting to instantly hire a hackney carriage. By contrast, the hackney carriages that are standing or plying for hire can have the word “taxi” on a roof sign and are clearly available for immediate hire.

However the counter-argument is that the Department for Transport (DfT) insists on using the word “taxi” to mean a hackney carriage and in all its documentation over the last two decades has referred to “taxi and private hire”.

My view is that this approach by the DfT has not altered public perception and I feel that any attempt to impose a condition on a private hire operator’s licence prohibiting the word “taxi” would be hard to defend on appeal.

In addition, I feel that this approach is supported by the Consumer Protection from Unfair Trading Regulations 2008. To be a commercial practice which is a misleading action under reg 5 and therefore an offence under reg 9, it would have to meet the following tests (reg 5(2)):

(a) if it contains false information and is therefore untruthful in relation to any of the matters in paragraph (4) or if it or its overall presentation in any way deceives or is likely to deceive the average consumer in relation to any of the matters in that paragraph, even if the information is factually correct; and

(b) it causes or is likely to cause the average consumer to take a transactional decision he would not have taken otherwise.

Regulations 2(2) to 2(6) indicate the characteristics of the average consumer and makes specific reference to three particular characteristics: they should be reasonably well-informed, reasonably observant and reasonably circumspect.

It is difficult to see how, bearing in mind the widespread use of "taxi" as a generic term, that the use of the word "taxi" in a private hire name would amount to a commercial practice which is a misleading action. This would appear to be reinforced by the need to pre-book via the operator, irrespective of the name of the company.

For all these reasons I feel that it would be difficult to prevent the use of the word "taxi" in a private hire operator's name by means of a condition attached to the operator's licence.

However, as yet, there is no senior court decision on the point and it will be a matter for each local authority to determine. The chances of successfully defending an appeal against such a condition must be carefully considered when determining what approach the authority wishes to take.

James Button
Principal, James Button & Co

Cardiff, Wales

The aim of the day is to provide a valuable learning and discussion opportunity for licensing practitioners to increase understanding and to promote discussion in relation to the subject areas and the impact of forthcoming changes and recent case law. Residentail and Day delegate places remaining. However if you require an overnight booking (from 6th June) you will need to contact us directly to see if there is any remaining overnight availability. Call us on 01749 987 333.

Sponsorship opportunities are also available for this event. Contact **sponsorship@instituteoflicensing.org** for more details.

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Any change? Revisions to the s 182 Guidance

The Government published the latest version of its licensing Guidance at the end of last year. **Richard Brown** assesses the new document, and in particular the agent of change principle, included for the first time

"In 1966, I went down to Greenwich Village, New York City to a rock club called Electric Banana. Don't look for it; it's not there anymore. But that night, I heard a band that for me redefined the word 'rock and roll'." – Marty DiBergi, *This is Spinal Tap*, 1984

Many people will identify with this memory from the fictional maker of the documentary (rockumentary, if you will) *This is Spinal Tap*. It is a rite of passage to witness the ethereal power of a live band and forever associate that memory and venue with a time long gone and never to be repeated. We do not know why the Electric Banana went to the great gig scrapheap in the sky – a victim of rapacious property developers? Licence issues? The police? Changing trends and demographics? But the allure of storied venues still permeates through the years, and closures ignite strong emotions.

In 2016, an East End version of the Electric Banana become worried that it too would be forced to close as a result of development, in this case the building of a residential block adjacent to it (itself replacing a former nightclub). Funnily enough the venue – the George Tavern on Commercial Road in London E1 – would be a strong contender for my own personal "Electric Banana", although for a band with a considerably smaller turnover of drummers than Spinal Tap. The owner of the George Tavern challenged the grant of planning permission for the development on the basis of, *inter alia,* the potential future impact on the viability of the business should there be complaints from residents of the new flats.[1]

Lord Justice Laws said that the impact of a prospective planning permission on the viability of a neighbouring business might in principle amount to a material planning consideration, albeit the concern was not sufficiently particularised before the planning inspector such as to justify overturning the decision on that ground.

It is against this backdrop that the agent of change principle has developed. It finally made its long awaited bow in licensing circles in the new Government Guidance issued under s 182 Licensing Act 2003. This article will firstly examine what changes have been made to the Guidance, and secondly delve a bit deeper into the background to and import of the inclusion of the agent of change principle.

Revisions to the s 182 Guidance

Section 182 Licensing Act 2003 (LA03) is one of the most oft-referenced sections of the legislation. Every practitioner knows that the Government, under the auspices of the Secretary of State, must under s 182 issue guidance to licensing authorities on the discharge of their functions under this act. It must be published in such manner as the Secretary of State considers appropriate. The Guidance may be (and has been) from time to time revised. We duly have a revised version of the Guidance to pore over, as of 20 December 2022.

A guide to the Guidance

To recap: the fundamental duty of a licensing authority is that it must exercise its functions "with a view to promoting the licensing objectives".[2] The Guidance is a document to which a licensing authority "must [also] have regard" when carrying out its licensing functions.[3] It is not binding on a licensing authority, but where a licensing authority departs from the Guidance, it should give cogent reasons for doing so.[4]

The Guidance comes into effect on the day it is published. The Guidance does not apply retrospectively.[5] So for example, where a licence application was made prior to the

1 *Forster v The Secretary of State for Communities and Local Government & Ors* [2016] EWCA Civ 609.

2 Section 4(1) LA03.

3 Section 4(3)(b) LA03.

4 Section 182 Guidance para 1.9.

5 Section 182 Guidance para 1.6.

publication of revised Guidance, it should be "processed" in accordance with the Guidance in effect at the time at which the application was submitted. This is in contrast to a statutory statement of licensing policy, any revised version of which is the applicable document when a hearing or appeal is held even if it was not in force when the application was made.[6]

As one would expect, the Guidance has evolved since it was first issued, although revisions have become less frequent. The latest version is effective from 20 December 2022. Prior to that, practitioners had for four and a half years been working from the April 2018 iteration.

Most of the various revisions of the Guidance over time have incorporated relatively minor changes of emphasis or content, or have purported to reflect changes in the law. For instance, the April 2018 iteration amended the controversial special status conferred on police representations in previous versions, and incorporated an entirely new section on cumulative impact assessments to reflect that the concept of cumulative impact policies had been placed on a statutory footing by way of s 5A LA03.[7]

The December 2022 Guidance likewise does not set the pulse racing, although the "headline" revision – the lesser spotted agent of change – has garnered no little comment. I will turn to that shortly.

One of the more noteworthy changes is the inclusion or amendment of sections relating to entitlement to work. Perhaps aiming a gentle broadside at some licensing authorities, emphasis is also given to the discretion a licensing authority has carrying out its duty to grant an application where there has been no representations. The seemingly innocuous change at para 9.2 can be read in conjunction with para 10.5, and put the onus on officers to be more selective in transcribing conditions from operating schedules into licences. Hopefully this will reduce irrelevant and / or unenforceable conditions cluttering up licences.

Other changes include amending para 7.15 on temporary event notices (TENs) to reflect changes to the TENs entitlement.[8] Minor amendments are also now present, such as clarifying that a designated premises supervisor (DPS) is not required to be present at all times when a licensed premises is being used for sale of alcohol (para 4.67) and a somewhat niche amendment to the section on club premises certificates to remove the reference that guests may be members of "the club collectively" in addition to a guest of a specific member (para 6.7) – one for the licensing anoraks.

Agent of change and dissonance between the licensing and planning regimes

I intend to focus for the rest of the article on what many saw as the biggest change – the long-awaited inclusion of the agent of change principle into the statutory Guidance – and the current status of the perceived tensions between licensing processes and planning processes. Or, rather, the long-awaited inclusion of a reference to the agent of change principle, as that is all it is.

Agent of change is a planning concept by which planning policies and decisions should ensure that development can be integrated effectively with existing business and community facilities, and that these existing entities should not have unreasonable restrictions placed on them because of development permitted after they were established.

It has been a hot topic for some years, and cases where the principle is invoked are apt to be picked up by the media, for whom the narrative (often false or at least over-simplified) of NIMBYs v hospitality are fertile clickbait ground.

The inclusion in the Guidance can be seen as part of the almost interminably slow process of aligning licensing functions more cohesively with planning functions, as recommended by the House of Lords Select Committee on the Licensing Act 2003 its report *The Licensing Act 2003: post-legislative scrutiny* back in 2017.[9] Recent developments have confirmed that the Government's view of the Select Committee's recommendations regarding planning and licensing remains unchanged since 2017: it acknowledges the less controversial points but rejects the more far-reaching proposals.

The Select Committee did not limit itself to LA03 but also considered related legislation and the Guidance. The Select Committee was not enamoured with the workings of LA03, concluding that it was "fundamentally flawed". The report contained no fewer than 73 conclusions / recommendations, a number or which suggested changes to the Guidance.

The Select Committee's report caused quite the stir at the time for the conclusions it drew from the heavy emphasis it placed on the potential synergies between the planning regime and the licensing regime and the primacy it appeared to afford the planning regime.

The most far-reaching recommendation was that s 6-10 LA03 should be amended to transfer the functions of local

6 See *Gurgur v London Borough of Enfield* [2013] EWHC 3483 (Admin).

7 As amended by s 141(1) and (3) Policing and Crime Act 2017.

8 See Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021.

9 Report of Session 2016-17 - published 4 April 2017 - HL Paper 146.

authority licensing committees and sub-committees to the planning committees (para 154 of the report).

Further riffing on the planning theme, the next recommendation was that a "full" agent of change principle be included in the Guidance (my emphasis) "to help protect both licensed premises **and local residents** from consequences arising from **any** new built development in their nearby vicinity." (Para 553.)

Finally, the Select Committee recommended another change to the Guidance "to make clear that a licensing committee, far from ignoring any relevant decision already taken by a planning committee, should take it into account and where appropriate follow it; and vice versa." (Para 246.)

The Government response to the report was published in November 2017. It rejected the first proposal out of hand, and pointed out LA03 already allowed for licensing and planning matters which are related to be referred to either committee.[10] The Government preferred to focus on 'improving training and providing stronger guidance on how licensing hearings should be conducted'; committing to "improving how the two regimes communicate and interact at a local level"; and exploring "whether there is additional support that local residents could be given to frame and present their concerns about a licensing application to the committee effectively."

The Government's response to the proposals to amend the Guidance to i) include the full agent of change principle and ii) make clear that a planning decision should, where appropriate, "be followed" was somewhat more amenable, although it stopped well short of agreeing that a planning decision should be "followed".

The Government confirmed that it had consulted on including the principle in the National Planning Policy Framework (NPPF) and that it would ensure that the Guidance remains consistent with the NPPF, if changes are made. The NPPF has included the principle since July 2018.[11]

The proposal that planning decisions be taken into account and "where appropriate, followed" was radical and goes further than judicial comments on the matter.[12]

The Government accepted that coordination between licensing and planning "is inconsistent and could be improved in many areas" and encouraged local authorities to "take steps to achieve coordination where appropriate and to avoid contradictory decisions as far as possible".

It pointed out that the Guidance already recommended "that the licensing authority secures proper integration of its licensing policy with planning" and that "the National Planning Policy Framework (paragraph 191) encourages the parallel processing of consents."

Instead, the Government committed to revisit how this issue is presented in the Guidance "with a view to strengthening the call for consistency, wherever possible, in the assessment and approach of those matters that are considered by both regimes to support local authorities to make effective decisions."

The April 2018 Guidance was duly amended but did not bring anything new to the party: "…as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs."

Fast forward to 10 March 2022. There has been much talk about agent of change in the meantime, including in the *Journal*'s pages, but there had been no more further revisions to the Guidance in respect of agent of change, and no more additions to the Guidance to encourage closer alignment. A House of Lords Liaison Committee held three one-off evidence sessions to follow up on the recommendations of the Select Committee.

The ensuing report was entitled *The Licensing Act 2003: post-legislative scrutiny follow-up report* and was published on 11 July 2022.[13] The report examines the (lack of) progress made by the Government in the implementation of the key recommendations made by the Select Committee in 2017.

The Liaison Committee picked up the baton, repeating the recommendations related to ensuring synergy between planning and licensing, and introducing the agent of change principle although, sensibly, it did not renew the Select Committee's plea for the transfer of functions of local authority licensing committees and sub-committees to the planning committees.

The Government was surely correct to have given that recommendation short shrift. The differences between planning functions and licensing functions at a micro level are too diffuse– for instance, licensing committees and officers simply have no powers to "agree" acceptable operating hours, and doing so would lead to accusations

10 LA03 s7(5).

11 NPPF para 187.

12 Eg *Forster v Secretary of State for Communities and Local Government and Another* [2016] EWCA Civ 422 para 24: 'Each will and should have regard to each other where both make decisions in the same context'.

13 2nd Report of Session 2022-23 - published 11 July 2022 - HL Paper 39.

of pre-determination and undermine the entire legislative structure of LA03. This can be contrasted with synergies at a macro level – eg, policy making, which absolutely should be leveraged to ensure consistency of outcomes to shape areas, the pavement licensing regime, and large developments which come before the planning authority but which are likely to have a clear impact on existing licensed premises and where it is clearly right that one hand knows what the other hand is doing.

The Liaison Committee did accept that there has been progress of sorts in other areas, for instance an agent of change working group (established by the IoL) and the Local Government Association's *Licensing Act 2003 Councillor's Handbook*. Nevertheless the Liaison Committee expressed its disappointment that "no practical progress has been made to address the lack of coordination between the licensing and planning systems."

Much to the chagrin of the Liaison Committee, at the time of its report the Guidance still did not include reference to agent of change. However, the Liaison Committee went further than the Select Committee, concluding that experience had taught that in any event, the agent of change principle as set out in the NPPF was "inadequate and does not sufficiently explain the duties of all parties involved and needs to go further to protect licensed premises **and local residents…"** (my emphasis).

The Committee repeated the call to reinforce the Guidance so that it reflects the importance of the need for coordination, to review and strengthen the agent of change principle and reflect these changes in the Guidance, and urged the issue to be incorporated into the planning reforms set out in Levelling-Up and Regeneration Bill 2022 (LURB 2022).

On 8 November 2022 the Government responded to the Liaison Committee's report, promising to revisit the Guidance "with a view to strengthening advice on local coordination and the expectations of the local systems further".[14]

Thus, the December 2022 Guidance is the first revision of the Guidance since the Liaison Committee's elbow in the Government's ribs. Yet the only amendment relating to the planning / licensing dichotomy is the inclusion of a reference to the agent of change principle as it currently stands in the NPPF.

The December 2022 revision of the Guidance does now reflect the NPPF and is set out below:

> *14.66 Where there is an application for planning permission, the National Planning Policy Framework expects new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required by the local planning authority to provide suitable mitigation before the development has been completed.*

It will be immediately clear that although the agent of change principle is now parroted from the NPPF into the Guidance, it doesn't actually require anything to be done to further it. There is nothing additional to "strengthen advice on local coordination".

The agent of change principle in the Guidance as it stands is therefore at best a placeholder for possible future changes. It principally (and rightly) benefits established venues but does not help (and indeed could impose additional burdens on) new entrants to the market who themselves would be the agent of change. In this sense, it mirrors criticisms of cumulative impact policies.

I can't help but wonder what the Select Committee meant by the seemingly deliberate inclusion of a reference to local residents in its agent of change recommendation – "to help protect both licensed premises **and local residents** from consequences arising from **any** new built development…" – wording repeated by the Liaison Committee in its report where it refers to protecting licensed premises "and local residents" (my emphases). Does this mean that residents should be protected where the licensed premises or proposed licensed premises is the agent of change?

At present, it seems to me that the lack of teeth in the agent of change principle in planning sets residents and licensed premises against each other when the real villain, the developer, gets away scot-free. For instance, take a scenario where a developer builds a new block of flats adjacent to a long-established nightclub or live music venue. The licensed premises would obviously be concerned at the prospect of receiving complaints from residents of the new builds if suitable mitigation was not provided by the developer. Where the developer does not provide adequate mitigation

14 https://www.gov.uk/government/publications/post-legislative-scrutiny-of-the-licensing-act-2003-follow-up-report/government-response-to-the-post-legislative-scrutiny-of-the-licensing-act-2003-follow-up-report-accessible.

and problems arise, what does a resident do? Their only outlet may be to complain to the council.

Section 79(1) Environmental Protection Act 1990 sets out various categories of "statutory nuisance", one of which is "noise emitted from premises so as to be prejudicial to health or a nuisance" and imposes a duty on a local authority to "take such steps as are reasonably practicable" to investigate a complaint and where a statutory nuisance exists, or is likely to occur or reoccur, to either serve a abatement notice or (in the case of noise nuisance) to take such other steps as it thinks appropriate for the purpose of persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence.[15]

It is all too easy to blame the residents in this scenario when they have bought their property in good faith knowing it was adjacent to a venue but being assured that any noise transmission issues had been mitigated, or to blame the council for fulfilling its statutory duties under EPA 1990.

Going forward

It may be that the passage of LURB 2022 through Parliament will provide clarity or further development of agent of change. An amendment to LURB 2022 has been tabled by Baroness McIntosh of Pickering who has proposed a new clause.[16] The amendment defines agent of change as it is currently defined but would establish the concept in licensing law, requiring a licensing authority to *inter alia* have "special regard" to the agent of change principle.[17]

In truth, the route to a solution requires navigating a complex melange of sometimes competing and sometimes complementary legislation – LA03, planning legislation and policies, noise legislation and EPA 1990. At the current rate of progress this will not happen anytime soon, but a way forward may be found in LURB 2022 and the planning reforms which this initiates. Whether and to what extent this will in any event filter down into licensing remains to be seen.

Richard Brown
Solicitor, Licensing Advice Project, Westminster CAB

15 Section 80(2A)(b) EPA 1990.

16 Her Ladyship chaired the Select Committee.

17 https://bills.parliament.uk/publications/49414/documents/2835.

Institute of Licensing

NTC 2023 IS OPEN FOR BOOKINGS!

We are delighted to be planning our signature three-day National Training Conference for 2023 to be held in Stratford-upon-Avon.

The programme will include the range of topic areas our regular delegates have come to expect, with well over 50 sessions across the three days delivered by expert speakers and panellists.

We look forward to welcoming new and seasoned delegates to the NTC along with our expert speakers and our event sponsors.

Residential bookings sold out last year so book early to avoid missing out!

Sponsorship opportunities are also available for this event. Contact **sponsorship@instituteoflicensing.org** for more details.

For more information and to book your place(s) visit **www.instituteoflicensing.org** or email **events@instituteoflicensing.org** with your booking requirements.

Fundraising the right way at race nights and similar charity events

Fundraising via non-commercial events without the need for gambling operating licences or necessary permits is permitted, but there are still rules that must be followed, as **Chris Rees-Gay** explains

Gambling Act 2005 (GA2005) permits gambling without any specific permissions under limited circumstances. This article concentrates on non-commercial gaming and incidental lotteries as a means of fundraising. The Gambling Commission sets out these elements clearly and I cite it heavily in this article.

Non-commercial events

A non-commercial event is one in which participants stake money on games where none of the money the organisers raise from the event is used for private gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- By, or on behalf of, a charity or for charitable purposes.
- To enable participation in, or support of, sporting, athletic or cultural activities.

Money can be retained by the organiser for reasonable costs, which would include costs incurred for prizes, etc. If there are third parties selling goods or services at an event (ie, a third-party bar) this does not count as money raised for the charity or good cause and can be retained by the third-party operator.

The law

Section 297(1) and (2) of the Act states:

> *(1) For the purposes of this Act, gaming is non-commercial if it takes place at a non-commercial event (whether as an incidental activity or as the principal or only activity).*
>
> *(2) An event is non-commercial if the arrangements for the event are such that no part of the proceeds are appropriated for the purpose of private gains.*

Section 297(3) of the Act states:

> *The Act defines proceeds of an event as:*
>
> *the sums raised by the organisers (whether by way of fees or entrance or for participation, by way of sponsorship, by way of commission from traders or otherwise), minus amounts deducted by the organisers in respect of costs reasonably occurred in organising the event.*

A further definition to be aware of is that of "money's worth". For stakes and prizes, the maximum values include both money and money's worth. Money's worth is the fair or full equivalent of the money that is paid, and includes payment in-kind, vouchers, goods, donated items, goody bags, buy-ins and other poker tournaments, and other items which have a value.

Non-commercial gaming is split down into two categories: non-commercial prize gaming, and non-commercial equal chance gaming.

Non-commercial prize gaming

An organiser does not need to have an operating licence or premises licence, nor a prize gaming permit, providing that the conditions in s 299 of GA2005, summarised below, are met, namely:

- Players are told the purpose of the gaming is to raise money for a specified charitable, sporting, athletic or cultural purpose.
- Profits are not for private gain.
- The event cannot take place in a venue (other than a track) which has a gambling premises licence. The premises licence cannot be in use (in effect, no betting can take place) and no temporary use notice can have effect. The gaming must be on the premises

and not be remote gaming.

- In these circumstances, prize gaming occurs if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. Normally the prizes will be determined by the organiser before play commences.

Casino nights as non-commercial prize gaming

The players must be told what good cause will benefit from the profits of the gaming before placing any bets. The prizes must be advertised in advance and must not depend on the number of people playing or the stakes raised.

The casino gaming determines the individual winner or winners, for example by counting who has the most casino chips at a set time. The winners are then awarded the prizes that have been advertised in advance.

Poker nights as non-commercial prize gaming

For poker nights, the nature and size of prizes is not determined by the number of people playing, or the amount to pay for, or raised, by the gaming. The prizes will be determined by the organiser, before play commences.

Race nights as non-commercial prize gaming

Here, the "race" determines the individual winner or winners. For example, those who have paid are allocated or select a named horse in the race. The winners are then awarded the prizes that have been advertised in advance.

Non-commercial equal chance gaming

The conditions for equal chance gaming are set out at s 300 of the Gambling Act, with the main points as follows:

- All players must be told what purpose the money raised from the gaming is going to be used for (which must be for something other than private gain).

- There are then the following specific limitations that apply to equal chance gaming in relation to payments and prize levels:

    - The maximum payment each player can be required to make to participate in all games at an event is £8.
    - The aggregate amount or value of prizes in all games played at an event is £600. (However, where an event is the final one of a series in which all players have previously taken part, a higher prize fund of £900 is permitted.)

- The non-commercial equal chance gaming event cannot take place on premises (other than a track) which hold a GA2005 premises licence.

- The gaming must be non-remote gaming, meaning that it can only take place at events, on premises and for gaming in person and not done remotely.

Casino nights as non-commercial equal chance gaming

This is where participants stake money on casino style games, where the chances are equally favourable to all participants, and players are not competing against the bank. Charitable funds in this instance are usually raised through an entrance fee, participation fee, or through other payments relating to the gaming. The charges and prize money are as set out above.

The same principles apply exactly for both race nights and poker nights, in that charitable funds are normally raised through entrance fees or through other payments related to the gaming. The charges and prizes are as set out above. An example of a race night would be where each participant pays a fee for a randomly selected horse in each race and the participant with the winning horse or the person who selected the winning horse receives a prize commensurate with the stakes placed.

Race night incidental non-commercial lottery

An incidental non-commercial lottery can take place at a race night where the race night is not the only or main purpose of the non-commercial event. Here there are no limits on the amount that players may be charged to participate, but no more than £500 may be deducted from the proceeds of the lottery for the costs of prizes, which may be in cash or in kind. In addition, there may be no more than £100 for other expenses. The organisers of the lottery can only sell tickets at the event and they have to announce the results at the same event. For example, a horse might be picked at random for each paying customer who is awarded a prize if the horse wins.

Enforcement

None of these types of events would be at the forefront of the Gambling Commission's mind when looking at enforcement. Instead, it is an issue of concern for local licensing teams or trading standard teams and they would look to enforce, should there be any issues. I would imagine that this would come from tip offs, rather than steps being taken to try and find illegal events.

A good example of action being taken by trading standards can be found in relation to a certain Nicholas Hughes (https://warrington-worldwide.co.uk/2022/07/29/fraudulent-

charity-race-night-organiser-jailed-for-five-years/). Hughes ran "Hughes Race Nights" and "Hughes Casino and Race Nights", as well as trading under a variety of other trading names. He misled landlords of pubs across the country into believing that a significant proportion of the money raised at these events was being donated to well-known national charities.

One vigilant landlord raised concerns about Hughes' activities. Trading standards officers raided his home in August 2019, where business records showed Hughes had obtained over £1.4 million from at least 4,380 race nights in pubs across England and Wales between 2015 and 2019. The investigators, working closely with six national cancer charities and one Alzheimer's charity, pieced together the fact that of the £1.4 million he received, he donated only £17,469, with some of these monies being donated only after he realised he was being investigated.

Hughes had a pattern of moving from one charity to the next when questions were raised about the current charity he was using. In some cases he had the audacity to continue raising funds in a charity's name, despite fundraising agreements being terminated and warnings being issued to him to stop by those charities.

Hughes used posters, fundraising certificates and race cards to convince landlords he was legitimate, but he failed to disclose how little he was passing on to the charities. Hughes pleaded guilty at Liverpool Crown Court on the second day of a four week trial to the offence of running a fraudulent business, contrary to the Fraud Act 2006. In sentencing Hughes to five years in prison, the judge stated his actions were a "wicked and sustained course of dishonesty" and that "it was a sophisticated and well planned operation". In addition, Hughes was also disqualified from running a company or acting as a director for eight years.

It should be noted that the prosecution was led by trading standards officials and took place under the Fraud Act and not under GA2005. This example highlights that race nights may not always be what they seem on the surface, though one would hope that this was an extreme example of how the system can be abused.

Chris Rees-Gay
Partner, Woods Whur

Institute of Licensing News

A full licensing agenda

2023 is already promising to be a busy and interesting year for licensing practitioners. At the time of writing, we have confirmation that the Protect Duty will be known as Martyn's Law and will be introduced across the UK as soon as parliamentary time allows. It isn't clear at this stage who will be responsible for enforcing the provisions, but the Government has confirmed that "an inspection capability will be established to seek to educate, advise, and ensure compliance with the Duty". Draft legislation for Martyn's Law is expected in the spring.

In addition to Martyn's Law, we await the White Paper on gambling following the review of the Gambling Act 2005, a White Paper on hackney carriage and private hire licensing in Wales, a consultation on continuing arrangements introduced to assist businesses during the Covid pandemic in relation to off-sales and TENs and potentially further information about the Kept Animals Bill, which will introduce a strict licensing regime for primates.

In the meantime, the s 182 Guidance now includes a reference to the agent of change principle, mirroring the existing planning guidance, and we have recently had the consultation on proposed amendments to the Guidance in relation to drink spiking and consideration of sexual harassment and misconduct and gender-based violence.

We also wait to hear more about SILA following the comments by Suella Braverman MP, the Home Secretary, in her written statement to Parliament on 19 December 2022 which stated: "I intend to introduce the Sensitive Information in Licensing Applications (SILA) protocol (by way of an amendment to the Licensing Act 2003 (LA2003)) to align to the similar system already in place within planning legislation (Sensitive Information in Planning Applications (SIPA)), to reduce the risk of misuse of sensitive information in the public domain."

Wales is in mid-consultation in relation to visitor accommodation licensing and, more recently, special procedures (tattoos, body piercing, semi-permanent make-up, acupuncture and electrolysis), while Scotland is consulting on potential restrictions to alcohol advertising and promotion in the country.

Closed consultations – IoL responses

Home Office consultation on proposals update s 182 Guidance to make reference to spiking

The Home Office consulted on proposals to update the s 182 Guidance to make reference to drink spiking.

The consultation concluded on 13 January 2023, and the IoL has responded to the consultation as set out below:

Consultation questions

Q1: Do you support updating the s 182 guidance to make specific reference to spiking?

IoL response:

We agree with the Government that legislative changes to the Licensing Act 2003 are not necessary to address the issue of spiking. The current legislative framework provides sufficient safeguards and powers to address premises management issues which undermine the licensing objectives. As an alternative to legislative change, we would not object to the inclusion of a reference to spiking within the s 182 Guidance, but strongly recommend stakeholder engagement in drafting the content to ensure that it is clear, proportionate and effective in ensuring that licensing authorities give due regard to relevant issues when determining applications. We note that the Government has acknowledged that spiking is not confined to licensed premises and would highlight that more holistic approaches are likely to be needed as well. In stakeholder discussions, it has also been noted that there are many other elements to safeguarding in licensed premises and that the focus on spiking should not be to the detriment of the wider safeguarding agenda.

Q2: Do you agree with updating the s 182 Guidance to encourage local licensing authorities to consider placing additional conditions on licences to safeguard patrons against spiking?

IoL response:

No. Licensing authorities have discretion to add conditions to premises licences only where that discretion has been engaged through representations about the impact of the premises operation on one or more of the licensing objectives.

Any amendments to the Guidance should emphasise the need to ensure that conditions must be appropriate (we would suggest necessary) and proportionate to address the concerns or harm evidenced in respect of the premises which is subject of the application.

The Guidance already Institute of Licensing Response to Home Office Consultation: To update s 182 Guidance to make reference to spiking contains sufficient information to assist licensing authorities when considering the imposition of additional conditions. UNCLEAR - AP

We would support any intention to add to the Guidance to emphasise the benefit of working in partnership with applicants, licensees and other local stakeholders including best practice schemes such as National Pubwatch, Best Bar None etc and to agree local practices such as signage, staff training, etc to raise awareness of spiking issues.

Q3: Do you support updating the s 182 Guidance to encourage licensing authorities to consider the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence in statements of local licensing policy?

IoL response:

Yes. Local statements of licensing policy should be developed having regard to local considerations. We would support the suggested amendments but only to the extent to which they relate to the implementation of the Licensing Act 2003.

Q4: Do you support the collection of data on local licensing authorities' use of their powers to impose conditions or revoke premises licenses, where venues do not take sufficient measures to protect and provide support to customers in spiking incidents.

IoL response:

We would not oppose the inclusion of the number of refusals and revocations in the collection of data from local authorities. We would oppose any measures requiring local authorities to provide more granular data in identifying cases where conditions have been imposed or licences revoked on specific grounds such as spiking incidents or concerns.

Extended licensing hours for the coronation

This was a Government consultation about proposals to relax the licensing hours for His Majesty the King's coronation.

The consultation closed on 23 January 2023. The IoL responded to this consultation (20 January 2023) with no objections to the proposals for the extension of hours in England and Wales.

Membership renewals

It is promising to be a busy time for the IoL in other ways too, with a new website and membership and event management system pending. Membership renewals are now due, and all members will be contacted by the IoL team and invited to renew via email instead of online via the website as would normally be the case.

The team will administer the renewals, and we will strive to achieve a smooth transition to the new system. Membership subscriptions are unchanged this year (for the third year running), and we hope that the new website and system will further improve the service available to our members.

Meetings, training and events

National Training Conference 2022

It was fantastic to see so many of our members at the 2022 National Training Conference (NTC) which was held at the Crowne Plaza Hotel in Stratford-upon-Avon from16–18 last November. The event sold out of residential places, and we enjoyed a packed programme with over 90 speakers delivering nearly 70 different sessions including workshops, panel discussions, plenary and parallel slots across the three days.

The vibrancy of the NTC was greatly enhanced by our sponsors and exhibitors who filled the atrium and library areas and provided a brilliant networking and information flow for our delegates. The support from our sponsors has gone from strength to strength and we are sincerely grateful to them all for their ongoing support for the IoL and for the NTC.

2023 events

We have many notable training events already online and available for booking. Many of our courses remain online as this has proven to be very popular and enables easy access to the training. Some events are also being delivered on a face to face basis, and we have regular requests for bespoke training which can be both online or in person.

We have some fantastic training opportunities available to book online. These include our popular Working in Safety Advisory Groups (31 March), Responsible Authority Licensing Training (21 April 2023), the Professional Licensing Practitioners Qualification (Online, Four Days Training) during March, April and May, our Basic and Advanced Taxi courses and many more.

Conferences

We are looking forward to the online Taxi Conference on 18 April, and our Large Events Conference will follow at the Manchester Arena on 23 May when we will hear from a host of excellent speakers including Figen Murray, mother of Martyn Hett (Martyn's Law).

Summer Training Conference, 14 June (Cardiff)

We have a fantastic programme lined up for our Summer Training Conference, which will be held in Cardiff on 14 June. Hosted by our Wales region, we look forward to hearing from expert speakers on a host of issues including updates on Martyn's Law, forthcoming changes to taxi licensing, potential new licensing arrangements for beauty and aesthetics and more.

Information on our current schedule of events can be found on our website www.instituteoflicensing.org/events

BTEC Level 3 Certificate for Animal Inspectors (SRF)

We continue to welcome new cohorts onto our BTEC Level 3 Certificate for Animal Inspectors, and with DEFRA's latest update to the LAIA guidance, local authority inspectors will need to hold a level 3 qualification from 1 April 2023 in order to meet the requirements to legally inspect premises licensed for animal activities.

National Training Conference 2023

We will returning to Stratford-upn-Avon for our 2023 NTC from 15 - 17 November. Keep an eye on our website for more infomation and to book your place.

Awards

We were delighted to present our annual awards at the Gala Dinner during the National Training Conference on Thursday 17 November 2022, in recognition of three exceptional individuals.

Jeremy Allen Award 2022 – Yvonne Lewis

Our joint annual award with Poppleston Allen Solicitors was presented to Yvonne Lewis as winner of the 2022 Jeremy Allen Award for excellence in licensing.

Yvonne was nominated by six individual nominations, with a further 13 supporting submissions. It was a huge pleasure to be able to see Yvonne's dedication to licensing and to the IoL rewarded. Nick Arron presented the award and said "In a nutshell, Yvonne epitomises everything that the Jeremy Allen Award for Excellence in Licensing seeks to recognise."

We had some fantastic nominations this year, illustrating the respect and regard they are held in by their colleagues. Other nominees and finalists for the Jeremy Allen Award 2022 were:

- Clive Stephenson, Sheffield City Council (posthumous)
- Gareth Hughes, Keystone Law
- Mark Worthington, Worthington Licensing Solutions
- Nicola Rowlands, Newark & Sherwood District Council
- Richard Brown, Westminster CAB
- Sandra Bradbury, High Peak Borough Council

Chairman's Special Recognition Award 2022: Philip Evans

Philip Evans, previously councillor for Conwy County Borough Council, was presented with the IoL's 2022 Chairman's Special Recognition in recognition of his exceptional contribution to licensing and his role as a licensing councillor.

Philip has been a stalwart supporter of the IoL and a licensing champion for so many years now and was presented with his award by IoL President James Button, who said "Philip's commitment to councillor training and development and his support for the Institute of Licensing has been second to none. His involvement has encouraged other elected members to take part and enabled the Institute to continue to represent everyone involved in licensing."

And finally... A new Patron of the Institute of Licensing: Susanna FitzGerald KC

We were delighted to announce Susanna FitzGerald KC as our new Patron of the IoL alongside Jon Collins and Philip Kolvin KC. Daniel Davies and Gary Grant presented the award, with Dan saying "Susanna has been a force for good on the Board of the IoL since she joined in 2007 following the merger with SLP and she has been a truly exceptional licensing practitioner throughout her career. We are extremely fortunate to have her as a Director and I am delighted that she will continue her work with us as Patron."

It is always a pleasure to write the IoL pages of our *Journal of Licensing*. A huge thank you as always to all our contributors, particularly those that give their time and expertise to provide our regular features. Special thanks to our Editorial Team as well, as the *Journal* would not be possible without them. Now at Edition 35, this is a fantastic achievement for us and a tribute to everyone involved.

As always, if you have any queries about anything connected to the IoL, please let us know: the team can be contacted via info@instituteoflicensing.org or on 01749 987 333.

Sue Nelson
Executive Officer, Institute of Licensing

Lotteries – what are they and how are they regulated?

There are many types of lottery in this country, each with its own rules and regulations as **Richard Williams** explains

This article will examine the legal definition of a lottery in Great Britain, who can operate lotteries and how they are regulated. It does not cover the National Lottery, participating in which is not considered to be gambling under the Gambling Act 2005 and is operated under a licence issued under the National Lottery etc. Act 1993.

Lotteries – a brief history

Lotteries have been around for a very long time. The process of drawing lots to distribute property is thought to predate written records, and distribution of goods by chance is referred to in the Bible. State lotteries were used by the Roman Empire to raise funds and China's Han Dynasty operated a lottery to fund the construction of the Great Wall. In Europe, organised commercial lotteries became popular in the Low Countries during the fifteenth century and rapidly spread across Europe.

In Britain, the first state lottery was launched by Queen Elizabeth I in 1567 to raise money to build ships and ports around the world. Despite that lottery being a commercial failure, the British Parliament continued to promote state lotteries for the next 300 years. However, due to fraud, betting on lottery results, sharing and subdivision of lottery tickets, in 1823 a final state lottery was authorised and commercial and foreign lotteries were prohibited in Britain. Until 1934 lotteries were outlawed, but through the 1950s-1970s, legislation was gradually relaxed to allow lotteries to be operated for charitable purposes. In 2005, the Gambling Act set out the essential ingredients of a modern lottery in statute for the first time.

Legal definition under the 2005 Act

Lotteries are often referred to as "draws" or "sweepstakes" in the USA. It does not matter what they are called, if they satisfy the statutory definition they are lotteries. Lotteries are defined at s 14 of the Gambling Act 2005. Lotteries can either be "simple" or "complex". There are three essential ingredients for an arrangement to fall within the simple lottery definition: (1) persons must be required to pay to participate; (2) prizes must be allocated; and (3) the prize allocation process must rely wholly on chance. For a complex lottery the same principles apply, but prize allocation involves a series of processes, with the first allocation process relying wholly on chance.

Taking each of these elements in turn, there must be a requirement to pay to participate. Schedule 2 of the Act explains what a requirement to pay means. Paying includes paying money, transferring value, or paying for goods or services at a rate which reflects the opportunity to participate in the arrangement. So, for example, product promotions avoid being classified as lotteries by not charging more for a product which includes an opportunity to participate in a draw (eg, where a crisp manufacturer offers a holiday prize draw on packs of crisps and the price of the pack is not inflated to reflect entry into the draw). Provision of personal data does not constitute payment.

Similarly, where it is genuinely possible to enter a draw without paying, provided certain conditions are met, this is not a lottery (the "free to enter" route). Schedule 2 states that "paying" does not include paying to enter by ordinary post, ordinary telephone call or any other method of communication (eg, e-mail or standard phone call or text message, but not premium rate numbers or texts, which would be considered payment).

Where a person has an opportunity to participate via these "free" methods of entry, the option to enter for free must also be publicised so that it is likely to come to the attention of each person who wishes to participate. Furthermore, the prize allocation process must not differentiate between those who enter by paying and those who enter for free. Those with a keen eye will have noted that in order to operate legally, premium rate call / text TV draws always publicise an option to enter for free as an alternative to entering by paying. This is how these competitions (which often include a multiple guess "skill" question for no real purpose) operate without falling into the lottery definition. There are thousands of these "free draws" being operated in Great Britain currently. The ones that are compliant are only legal because they prominently advertise an option to enter for free (usually by post) as an alternative to paying to enter. You will no doubt have seen some of these draws being heavily promoted on TV and in the press. So, if you decide to enter by post to win

that house in the Lake District, the promoter cannot legally put your postal entry in the bin!

Secondly, a prize must be allocated. Within the lottery definition at s 14, a prize includes any money, articles or services and whether or not described as a prize. This is a very wide definition and a prize does not have to have any real-life value.

Thirdly, the prize(s) must be allocated by a process which relies wholly on chance. The word "wholly" is important to note. This means that the winner(s) must be selected using a random process. Selecting a winner will often involve a random number generator or ball-spinning machine or other certified random process. However, the random process could have already taken place before the entry is purchased, such as when buying a scratchcard. It is a requirement of the ASA CAP / BCAP Code that a draw promoter must be able to provide evidence that its prize allocation process is genuinely random. This also means that if a non-random process is used to select a winner, such as the 1,000th person to enter wins a prize, this would (arguably) not be a chance allocation and hence not a lottery.

Section 14 also states that where the prize allocation process requires persons to exercise skill or judgement or to display knowledge in order to win, the process is not a lottery. This might cover, for example, a crossword competition which (depending on its complexity) is likely to be a skill competition and not a lottery. However, the bar for the skill, judgement or knowledge test is set intentionally high, so that if the skill involved is so low that everybody who enters can win, and / or the level of skill involved does not deter enough people from entering, this would not be acceptable. This provision prevents the use of "multiple guess" questions, where 99% of those entering get the answer correct and the winner is then selected randomly from those skilled entrants – this is still a lottery.

The point at which skill etc becomes sufficient to avoid the selection process being based wholly on chance is a complex area. The satisfactory level of skill required to avoid a prize being allocated by chance is not mathematically defined. However, it's worth noting that in 2016, the Court of Appeal concluded that Spot the Ball is a game of chance and not skill under VAT legislation, which allowed Sportech to recover £97 million of overpaid VAT.[1] The status of Spot the Ball under gambling legislation has not been tested, but this ruling must be highly persuasive on the point.

Are there any exemptions?

If the process falls within the lottery definition, it's a criminal offence under s 258 / 259 Gambling Act 2005 to promote / facilitate it, unless an authorisation is in place, or the lottery is exempt. Social media companies get very nervous about the risk of advertising unlawful lotteries and often ask for a legal opinion before they will allow an advertising account to be used to promote skill competitions and free draws on their platforms in Great Britain.

Schedule 11 of the Gambling Act 2005 states the types of lottery that are exempt. These are:

- Private lotteries (private society lotteries, work lotteries and residents' lotteries).
- Incidental lotteries.
- Customer lotteries.
- Small society lotteries.

Different rules apply to each type of exempt lottery, which will be explained in more detail in a future article. As a general rule, exempt lotteries involve low-value stakes and prizes and must not be operated for profit or for private gain.

Who can operate lotteries?

Lotteries are designed to benefit good causes. The Gambling Act 2005 only allows society lotteries to be promoted to the public by non-commercial societies. A society is non-commercial if it is established for charitable, sport, athletics, cultural or other non-commercial purposes. Lotteries cannot be promoted for private gain.

What are small society lotteries?

Small society lotteries are a category of exempt lottery that are legal, provided that they are registered with the local authority. They can only be promoted on behalf of a non-commercial society (ie, not for private gain) and must be used to promote the purpose of that society (such as a charity, sports club, community facility etc). A minimum of 20% of the proceeds (ticket sales) of each lottery must be applied to the society's purpose. The proceeds of each lottery run by the society must not exceed £20,000, or £250,000 in total during a calendar year. The maximum prize per ticket is £25,000. To promote a society lottery, the society must register with the local authority where the society's principal premises are located and pay a fee. If the society were to breach these limits, it would commit an offence. However, the society could apply to the Gambling Commission for a large society operating licence when approaching the limits.

What is a large society lottery?

As is explained above, subject to strict financial limits, small

1 *IFX Investment Company Ltd and Ors and The Commissioners for Her Majesty's Revenue and Customs,* [2016] EWCA Civ 436.

society lotteries are exempt and can be operated legally by societies who are registered with a local authority. If a society wishes to exceed these financial limits, it must apply for a remote or non-remote lottery operating licence from the Gambling Commission, to avoid committing an offence.

The Gambling Commission may issue a large society lottery operating licence to a non-commercial society or to a local authority. A lottery operating licence may also be issued to an external lottery manager. The operating licence can cover remote (online) or non-remote lottery ticket sales. Section 99 of the Gambling Act 2005 sets out the conditions of lottery operating licences, including that 20% of the proceeds (ticket sales) of each lottery must be applied towards the purpose of the society (or towards local authority expenditure, in the case of a local authority).

The proceeds (ticket sales) of any lottery promoted under an operating licence must not exceed £5 million, or £50 million in total in a calendar year. The maximum prize (including rollovers) per ticket is the higher of £25,000 or 10% of the proceeds of that lottery (ie, a maximum of £500,000 per ticket). Other statutory requirements and licence conditions apply to lottery operating licences issued by the Gambling Commission.

What are external lottery managers?

External lottery managers (ELMs) are entities that must be licensed by the Gambling Commission to manage lotteries on behalf of small or large societies. This is because often societies do not have the IT knowledge or other expertise to run their own lotteries. Under these arrangements, the benefitting society must also be authorised to promote the lottery (via local authority registration or by holding an operating licence). The external lottery manager's operating licence authorises the ELM to carry out activities such as printing lottery tickets, printing promotional material and advertising the lotteries it manages. Without a licence, these activities would be an offence under s 258 / 259 of the Gambling Act 2005. ELM operating licences are subject to licence conditions and ELMs are bound by the same rules as the societies whose lotteries they promote. It is a criminal offence to misuse the profits of a lottery.

Other categories of gambling

It should be noted that a lottery is only one of the three categories of regulated gambling under the Gambling Act 2005. Just because an activity does not fall into the lottery definition does not mean that it is not regulated. The activity could be "betting" under s 9 or "gaming" under s 6. Alternatively, the activity could satisfy more than one of the statutory definitions of gambling. The Act also makes provision for this and how the activity is regulated if it is a cross-category gambling activity.

Conclusion

Lotteries are a key component of charity fundraising and are protected in law due to the fact that they must benefit good causes. Over recent years, the proliferation of free draws (which incorporate a free entry route, albeit most people will pay to enter) has chipped away at lottery spending. Free draws can be operated for private gain and are not legally obliged to benefit a good cause, although they often do. However, there is no indication that the Government's much delayed review of gambling legislation will focus on this area.

Richard Williams
Partner, Keystone Law

Still no White Paper but DCMS conducts inquiry into gambling-related issues

The long-awaited White Paper on the reform of gambling regulation remains under wraps but there is plenty of other interesting activity going on, as **Nick Arron** reports

At the time of writing, in mid-January 2023, there are still no signs of the Government's White Paper and the proposals therein for reform of gambling regulation in Great Britain. Stake and prize limits online, affordability, advertising, the Gambling Commission's powers, local authority powers and loot boxes are just some of the topics of the Government's call for evidence, which began over two years ago. Publication of the proposals has been repeatedly delayed by the political turmoil of the past few years.

Despite this (or possibly because of the delays), on 21 December 2022 the Digital, Culture, Media and Sport Commons Select Committee announced a further inquiry into gambling-related issues raised by Parliament. The cross-party committee is responsible for scrutinising the work of the Department for Digital, Culture, Media and Sport and its associated public bodies, such as the Gambling Commission. It is investigating the progress the Government has made to ensure regulation can keep up with innovations in online gambling sector. The committee will also review the relationship between gambling and broadcasting and sports.

In support of its inquiry the committee invited written evidence to be made by 10 February on the following questions:

- What is the scale of gambling-related harm in the UK?
- What should the key priorities be in the gambling White Paper?
- How broadly should the term "gambling" be drawn?
- Is it possible for a regulator to stay abreast of innovation in the online sphere?
- What additional problems arise when online gambling companies are based outside of UK jurisdiction?

This wide-ranging inquiry will lead to further delay in publishing the detailed proposals of the White Paper, as the responses to the questions are analysed and reported. The inquiry focuses on online gambling, which has been the industry sector most frequently punished by the Gambling Commission, for failing to keep crime out of gambling, for not protecting the vulnerable and for misleading customers. By referring to the definition of gambling, the inquiry also appears to target loot boxes, which have been a frequent topic of gambling regulatory discussion, owing to their potential to harm young gamers.

Gambling Commission successfully defends appeal

On 13 December 2022 the Gambling Commission issued a press release confirming the First-tier Tribunal had dismissed an appeal lodged by Daub Alderney Limited against a penalty imposed by the Gambling Commission.

In September 2021 the Gambling Commission fined Daub Alderney £5.85 million for anti money laundering and social responsibility failings. The social responsibility failings included neglecting to have effective policies and procedures for customer interactions. One example included a customer losing £39,000 in a three-and-a-half-month period while having received only one safer gambling message and two pop ups.

Anti money laundering failings included allowing a single customer to deposit £50,000 before Daub Alderney sought source of funds evidence.

Daub had originally sought a hearing before the Gambling Commission Regulatory Panel, having rejected an earlier fine amount the Commission had been minded to impose, of about £3 million. Following the hearing, the panel increased the fine to £5.85 million.

Daud Alderney, a Rank Group company with domain names including aspers.com, kittybingo.com, and luckyvip.com, lodged the appeal on the basis the financial penalty levied by the Gambling Commission was "excessive, unfair and disproportionate". Findlay J dismissed the appeal and stated the financial penalty was a "fair and reasonable regulatory response." There are only a handful of appeals to the First-tier Tribunal against Gambling Commission decisions, so this is significant. Licensees might note this decision as an example of the Tribunal confirming the approach taken by the Commission when imposing financial penalties. This decision could result in increasing fines for operators, with the Commission and its officers emboldened by the Tribunal's support of its approach.

Institute of Licensing Conference – Gambling Commission keynote speech

Some readers will have been present when Sarah Gardner, Deputy Chief Executive of the Gambling Commission, gave her keynote speech at the IoL National Training Conference (NTC) in November. The Commission plays a welcome active role in the IoL, is always at the NTC with a presence, with officers there for questions and discussion, but all the same it was very pleasing to see her engaging on behalf of the Commission. The speech gave some indications of the Commission's current focus, particularly in terms of land-based gambling.

Gardner gave an overview of the Commission's data on the gambling industry, and the recovery in the land-based sector since the pandemic:

- Compared to March 2021, the year to March 2022 showed participation overall up by 3% reflecting land-based gambling premises re-opening. This remains lower than pre-pandemic levels.

- In-person gambling participation rates increased to 26% (from 23% in year to March 2021), indicating signs of recovery of retail since the pandemic.

- Online gambling participation remained statistically stable at 26%, compared to year to March 2021, but continues its long-term increase.

- Overall participation in gambling is stable and has not been growing.

- Online has continued to grow, but the overall market has not.

Online gambling grew faster during the pandemic, when the land-based sector could not operate or was heavily restricted, but the figures show that was not a sign that gambling participation has increased greatly.

The Commission figures demonstrate that in terms of gross gambling yield, or GGY, online, and not land-based gambling, is now the largest sector.

As to areas of focus, Gardner encouraged local authority officers to consider the application of the 80/20 rule that sets out the proportion of Category B, C and D gaming machines, adult gaming centres (AGCs) and bingo games that premises provide for customers to play, explaining that the Commission is increasingly receiving intelligence from consumers, stakeholders and local authorities that operators are not always compliant. This could be due to the cost of energy driving operators to switch off some of their machines, or venues offering gaming machines of different shapes and sizes, such as on tablets. Talking to operators, their experience suggests that, for the first time since the end of the pandemic, local authority officers are inspecting gambling premises, as are their counterpart officers at the Gambling Commission.

Gardner's speech also highlighted continuing concerns relating to gaming machines in pubs and the test purchasing campaign in 2019, a joint piece of work between the Gambling Commission, local police and local authorities up and down England and Wales, which found that 84% of pubs were failing to prevent under 18-year-olds from playing Category C gaming machines. From speaking to operators I understand that a similar exercise is currently, or has been, in progress, with a number of tests of licensed venues having taken place in the past year.

Gardner also stressed that local authorities have primary responsibility for regulating gaming machines and that businesses are responsible for ensuring that they are compliant in checking age verification. Children are not permitted to play Category C gaming machines in pubs. Staff are expected to stop children playing on the machines and there should be clear signage indicating the age restriction.

Continuing on this topic, the Commission recently published the 2022 Young People and Gambling report, which found that 31% of children stated they had spent their own money on gambling in the last 12 months. The vast majority indicated their gambling was legal or did not feature age-restricted products. Examples of this include playing arcade

gaming machines, which include penny pusher or claw grab machines (22%), placing a bet for money between friends or family (15%), or playing cards with friends or family for money (5%).

A minority of children stated their gambling was on fruit and slot machines (3%), betting on eSports (2%), National Lottery scratchcards (1%), playing National Lottery online instant-win games (1%), placing a bet through a betting website or app (1%), or playing casino games online (1%).

More information is available on the Gambling Commission website.

Gambling Commission regulatory action

A brief analysis of the Commission's regulatory action of late demonstrates continuing failings on the part of online operators.

In January the Commission announced that online gambling business TonyBet had been fined £442,750 and received a warning for failing to have fair and transparent terms, and for failing to follow social responsibility and anti money laundering rules. Also in January, Vivaro agreed a regulatory settlement and paid £337,631, following an investigation which highlighted failings in Vivaro's processes aimed at preventing money laundering and safer gambling.

In November gambling business AG Communications was fined £237,600 for anti money laundering failures.

Nick Arron
Solicitor, Poppleston Allen

How safe and secure is your premises?

The recent tragic events at Brixton Academy have underlined once again the importance of considering every aspect of crowd safety and event management when staging concerts and other public events. **Julia Sawyer** outlines the many steps every organiser must take

How secure is the entry to your venue? Have adequate planning and preparations taken place to ensure that the public attending your event can gain access safely? And will employees working at the entrance point be safe in the work activity you expect them to carry out?

No one event is the same as another. People behave in different ways at different times. This can be due to a long range of different factors. These include: emotions on the day, peer pressure, audience profile, lack of communication, lack of event planning, lack of event management, not providing the right competency in the role expected, not allocating sufficient resource for certain equipment or control measures, incitement from the artist, consumption of alcohol or use of drugs, weather, and so on. Occasionally an accumulation of many of these factors has led to dire consequences and people have been fatally injured or come away from an event with life-changing injuries.

Part of the planning process to any event is identifying how people could react in different situations. The adequate assessment of that potential risk will ensure that there are appropriate control measures in place to protect all those coming to an event.

The inflexibility of some fixed venues may limit the event layout and design. The event will create new hazards and risks and there may be specific venue requirements when planning an event in an existing building. For example, you will need to consider:

- What is it that is being organised and what is involved in terms of entertainment and infrastructure?
- Where is it taking place and how will the characteristics of the site and its location affect the event?
- When does the event take place and what impact will the time of year have on the site and / or activities?
- Who will be attending, both in terms of the number of people and their characteristics, as well as how will their anticipated behaviour affect how the site is designed?

An event organiser needs to be prepared to manage the direct and indirect effects of risks. Robust safety and security management will protect your venue or event site and provide reassurance for employees, customers, and visitors.

Design of an entrance

When planning an event in a building, the design of the entrance must be taken into consideration to decide how you will manage the crowd flow into and out of the event.

When looking at the design of the entrance, the following issues will need to be considered:

- Is it a listed building or of special interest so that no changes or alterations can be made to the entrance?
- The energy conservation the door provides for those working in the entrance area and maintaining the temperature within the building.
- Does it comply with the manufacturer's guidance and has it been maintained adequately?
- Does it comply with Building Regulations and safety requirements?
- How accessible is it for people with limited mobility and emergency services?
- What will the capacity be for the building, and what can the flow rate be at the entrance?How secure is the entrance?

- What number of security or stewards will be required at the entrance to manage crowd flow?
- What impact will queuing have on the external area of the building?
- Are road closures required?
- What traffic management is required outside of the entrance?
- If the entrance is compromised, what alternative entrance can be used?
- What is the contingency plan if the entrance needs to be closed?
- Where do ticket holders, non-ticket holders and those wanting to purchase a ticket need to go to keep the crowd flow moving?
- What information needs to be displayed at an entrance informing people where they need to go?

Before the public enter the event, the entrance process should be well defined to ensure a smooth entry. It is important to lay out the plan for how attendees will be kept outside of the event before it starts. If the event is inside a facility, locked doors or blocked or roped-off entrances should be used to keep patrons from entering. Entry times should be posted well in advance to let attendees know what to expect on the day of the event. All those working at the entrance should know and understand the entry process.

The legal requirement

There are certain design considerations that must be adhered to, laid down in Building Regulations, detailing security, accessibility and energy efficiency of entrance doors as well as the manufacturer's guidelines to consider. In relation to safety in the workplace the following legislation details what must be complied with when looking at the entrance to your workplace or area where public attend.

The Health and Safety at Work Act 1974 specifies:

Section 2 (1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety, and welfare at work of all his employees.

Section 2 (2c) the provision of such information, instruction, training, and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees.

Section 2 (2e) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

Section 3 (1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

Section 4 (2) It shall be the duty of each person who has, to any extent, control of premises to which this section applies or of the means of access thereto or egress therefrom or of any plant or substance in such premises to take such measures as it is reasonable for a person in his position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health.

Management of Health and Safety at Work Regulations 1999 state:

Section 3 Every employer shall make a suitable and sufficient assessment of—

(a) the risks to the health and safety of his employees to which they are exposed whilst they are at work; and (b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking.

Workplace (Health, Safety and Welfare) Regulations 1992, as amended, state:

Regulation 5 (1) The workplace and the equipment, devices, and systems to which this regulation applies shall be maintained (including cleaned as appropriate) in an efficient state, in efficient working order and in good repair.

Regulation 5 (2) Where appropriate, the equipment, devices, and systems to which this applies shall be subject to a suitable system of maintenance.

Regulation 18 Doors and gates shall be suitably constructed (including being fitted with any necessary safety devices).

Risk assessment

When carrying out a risk assessment to manage safe access into your venue, the following should be considered:

- The capacity of the venue and the expected audience size.
- The suitability of the entrance and exits for the event planned.
- Means of escape in the event of an emergency.
- Provision for people with limited mobility or additional considerations.
- Maintenance of venue and equipment.
- If there is any possibility that the number of people arriving at the venue will come near to or exceed the overall capacity of the venue, then consider: a system for restricting the number of people who arrive at the venue as well as those who enter it. This demands close liaison with the police and transport operators at the planning stage and during the lead-in period before the event, as well as putting in place arrangements for closely monitoring the numbers of people arriving.
- Making the event “all-ticket”, even if it’s free; plan the advertising campaign to emphasise that it’s all-ticket only; state in the advertising that the ticket-only rule will be strictly enforced; discuss with the police how crowds could be redirected before reaching the venue; discuss with the transport operators the possibility of announcements at stations, advising the public of crowd problems at the venue; and use media to advise on the current situation at the venue.
- Experience of similar venues or events; problems raised at previous event debriefings; reports of previous incidents; experience of running events at a similar season / time of day.
- Seeking advice from relevant and experienced parties who have previously worked with the performing artist.
- It is advisable, if practical, to visit other venues holding similar events to obtain the relevant information.
- Qualifications and experience of the operational roles of the team.
- Are there sufficient entrances, spaces, and routes (ie, roads, gangways, walkways, stairs etc) inside and outside the venue to cope with the expected numbers and are they adequate to cope if people arrive in sudden masses rather than an even flow? And what impact will this have on security searches, if they’re taking place?
- Are precautions in place to deal with possible crowd pressure at the entrances and exits to the venue?An understanding of the performer and participant demographic is essential, and this understanding should be documented with reasonably predictable outcomes. Factors that should be considered include previous activity and behaviour, as well as the cultural and political views of those performing and participating.
- Duration and time of year that the event will take place.
- The proposed event activities and whether they are indoors or outdoors.
- The audience type / profile for these activities.
- Whether the audience will be standing, seated or a mixture of both.
- The circulation of the audience within the site.
- The structures and facilities that will be required.
- Communication to all relevant teams and the public.
- Contingency plan in an emergency.
- The topography and complexity of the site and surrounding area.
- Uneven ground, presence of obstacles within or around the site.
- Bad weather.
- Methods of communicating with the audience during both normal event and emergency conditions.
- Emergency and evacuation procedures.

- Prior history with the performing artist or similar music genres.
- The popularity of the artist.
- Additional awards or rise in popularity of the artist nearer to the event.
- The demographics of the local area.

When considering the rink assessment of crowd flow, these points act as indicators that additional resource needs to be put in place to minimise the risk to people attending the venue. They will also help decide if, ultimately, the risk cannot be reduced because of the nature of the design of the building or the area. If that is the case, then a decision needs to be made about whether an alternative venue should be found or the event is cancelled.

Crowd management plan

If the public are attending an event, a crowd management plan is an essential part of the event management planning process. It should be prepared by a competent and qualified person who has the knowledge and experience necessary to identify crowd specific hazards and propose suitable measures to reduce risk. In some cases, specialists are appointed to direct and manage crowd safety, though this may not be required for all events.

Key to the planning process of an event and the crowd management plan is the formation of a Safety Advisory Group. The participants of this group will vary depending on the size or nature of the event. Having different peoples' expertise and experience feeding into the planning will assist in developing the correct control measures.

The plan should detail the roles and responsibilities of all those involved in its implementation so they understand what is expected of them and how they interconnect.

A clear chain of command should be established. The arrangements will depend on the nature and size of the event and venue.

There is no simple ratio of crowd numbers to numbers of personnel required. A deployment plan defining roles, numbers, map locations and timings should be undertaken. Determining the number of stewards based on the deployment plan and risk assessment rather than on a generic mathematical formula will allow a full account to be taken of all relevant circumstances, including past experience.

For effective crowd management, position fully trained and briefed stewards at key points including barriers, gangways, entrances and exits, temporary structures, seating and standing areas.

Public safety is the main responsibility of all personnel involved with implementing a crowd management plan, whether they are professional or volunteer. This responsibility includes assisting the police and other emergency services in the event of a major incident or emergency.

All personnel must be competent to undertake both the function they are performing as well as any emergency roles they may be required to assume. This is particularly relevant for supervisors and managers, who would be expected to manage personnel if such a situation were to occur.

While every plan is unique to its specific event, it should detail the following:

- Details about the site.
- A crowd risk-assessment.
- A crowd-dynamics assessment.
- The deployment of crowd management personnel, including roles, numbers, and timings sufficient to deliver a safe event.
- Methods of working.
- Safety and welfare of personnel.
- Command, control and communication.
- Audience demographic and likely behaviours of the crowd in question
- Methods and routes of ingress, circulation and egress.
- Consideration for the safety of the crowd when arriving and leaving the site.
- Contingency planning and backup communications systems.
- Emergency procedures, including evacuation and invacuation.

Events, venues, and their locations comprise a number of defining characteristics which can individually or collectively

influence crowd management. A site survey should be carried out during the early planning stage.

Many crowd behaviours are foreseeable with an understanding of the crowds' demographics. Even matters such as arrival and departure rates can be predicted if the demographics are understood.

The response of audiences to actions which may be perceived as curtailing their activity must be taken into consideration when planning and managing in both normal and emergency situations.

While most attendees visit an event for entertainment and enjoyment, some people can undermine the experience of the majority. Certain audiences and groups of spectators will engage in or be associated with recognised patterns of behaviour, such as seemingly unexplained aggression or anti-social behaviour. Such behaviour can be exhibited through individual or group activity, such as confrontation and may be affected by the consumption of drugs and alcohol.

Communication is key with attendees of an event and should be considered in crowd management plans, which could include:

- Advance public communications and media.
- Face-to-face between audience and employees.
- Loudhailers (to enable stewards to broadcast information locally).
- Information signage that directs people or displays conditions of entry.
- An additional public address (Tannoy) system to the event's main public address system.
- Electronic displays, VMS, LED screens.
- Websites, text messaging and social media platforms.

People look for clear, unambiguous information and indicators on expected rules of behaviour to help them decide how to act. Providing visual and audible information (eg, warnings, advice, directions, instructions) is of vital importance if an emergency occurs, when the situation can be confusing and unfamiliar.

Whether or not a risk assessment or an event's profile discloses the possibility of crowd-related issues, contingency planning should incorporate public-announcement protocols, including:

- Written statements for artists or announcers to deliver.
- Pre-recorded public announcements.
- Advance screen and stage visual messaging.

Trained stewards may also be employed in other key locations, internally and / or externally, to monitor crowd flow, activity, or behaviour. In certain situations, it may be appropriate to erect viewing platforms.

Crowd management planning and operations must consider the safety issues that relate to how people will access an event, move around and then exit. This process starts with how a person gains entry, by what method, how these impact on movement inside a venue and how a crowd departs.

The queuing space should be designed to accommodate an acceptable percentage of the total event capacity in comfort and safety and be coordinated with the opening and event start times to prevent a build-up of crowd pressure. Where possible, there should be an appropriate amount of distance between the front of the queue and the entrance to allow the venue to be opened and managed safely.

It is important to consider that there are often different time scales required to accommodate a crowd as it enters an event (a steady flow over a longer time) and when it leaves (a condensed flow over a shorter time). Depending on the design of the venue, these differences may put pressure on entrances, walkways and exits. Late arrivals should also be considered.

Queuing systems may include a combination of signage, stewards, and the use of barriers to guide people, manage crowd flow and prevent queue jumping. Queuing systems that require the use of barriers should incorporate emergency access points and escape routes. When considering the use of barriers, it is important to select the correct product and to ensure that it allows for unimpeded pedestrian movement. If any pressure loading is likely within the queueing system, then load bearing barriers should be considered.

Where people queuing are stationary for long periods of time, operate a policy of allowing entry and exit from the queue to access facilities. To ensure that the crowd can be kept informed or given notice of entry conditions, deploy a public address system or stewards with loudhailers. The behaviour of individuals in a crowd can be influenced by the things

they see others doing. The unauthorised actions of a few people can result in larger numbers following their example. Individuals within a crowd may carry out actions which they would not perform if they were on their own. For example, the frustration of excessive crowding, queuing or delays may result in incidents such as climbing of barriers or pushing of people in front of them, which could lead to overcrowding in another area. If safety rules are not visibly enforced, or crowd control is not maintained, the spread of non-compliant behaviour can have a serious impact on crowd safety. If a few people gain entry to a prohibited area by climbing over or under a barrier, others may follow suit if the response from those controlling the crowd is slow, weak, or non-existent. The resulting uncontrolled crowd flow may lead to overcrowding and other related hazards.

Definitions

Crowd surges: Crowd surges work like a wave, and people get swept along beyond their control. Once they start, they can be hard to stop. Preventing crowd surges involves careful planning and consideration in the risk assessment and crowd management plan. The following could help in preventing crowd surges:

Entrances and exits: Are there enough competent personnel for the size of the crowd? Are entrance and exit points signposted? Do employees have a separate entrance? Are there sufficient access points for emergency services? Are all emergency exits clear and unlocked?

Separating crowds: Do you have event barriers to prevent people from all being in one place? Will they be strong enough to prevent surges? Are standing-room-only areas sectioned off? Are there walkways between for security to use?

Security: Is there enough security? Can they easily access all areas of the event? Are they trained to deal with large crowds? Who manages security at your event?

Monitoring crowds: Are there people positioned to identify crush points and crowd build up? Where will they have the best sight lines? How will the artist be alerted to potential threats?

Effective communication: Provision of clear, unambiguous information to visitors. Good communication between the operational team assists a rapid and appropriate response if problems arise and that everyone understand their role and responsibility

Emergency planning: In an emergency, is there a protocol to stop the event? How will you communicate with the crowd? Who has overall responsibility for managing an emergency at your event? Are the operational team all aware of the emergency procedure?

In an emergency, the influence of the performing artist can be very positive in terms of keeping order and communicating safety messages. The opposite can also be true where the actions of a performer may have a negative influence, thereby disrupting the event and creating disorder. Communication in relation to the crowd management operation is vital for the exchange of information, both between individual employees and between employees and the audience and should be planned.

Often, separate companies are working alongside each other at events. To avoid confusion and greater risk, it is necessary to ensure methods of communication are clearly defined, eg, standardising the use of code words and minimising how many there are.

Reliable radio communications are essential, as are fall-back systems such as mobile phone networks and the various internet communication apps. These should be considered and used as appropriate.

When planning for an event to provide space for an all-standing audience, ingress and egress require specific consideration. Ingress relates to the audience gaining access to and being appropriately distributed throughout the standing area. This will also require an assessment of how stewards reach people who need assistance. Egress includes people departing from the standing space in both normal and emergency conditions and will require the designation of clearly identifiable exit routes.

Following an event, it is always important to carry out a review to look at what worked in the crowd management plan and what areas need improvement. Reviews can be a debrief after an event, part of an investigation following a crowd-related incident or scheduled routine examination. Subsequently, plans can be modified and plans updated according to the outcome of your review. Reviewing one-off events or regular review of safety measures at your venue provides important feedback for improving crowd safety standards and checking that your precautions continue to be appropriate.

Summary

With adequate planning, preparation, communication and with reasonable, appropriate control measures in place, a premises can be managed to ensure it is always secure and safe for public to access and egress and safe for employees to work at.

Each event, no matter how many times it has been staged at a venue, must be treated as an individual event. Look at previous history and debriefs to learn and make

improvements for each new event. Ensure that dynamic assessments are being carried out continually and that the team doing this are competent to do so. Check that control measures and emergency contingency plans are being regularly reviewed to ensure they are adequate. And seek and obtain competent independent advice, where required.

If an incident does still occur, then in addition to venue management, local authorities and / or emergency services being scrutinised, the public who decide to ignore information to protect their safety should also be involved in any investigation process. It is usually the cumulative effects of everyone's actions (or lack of action) that causes tragic losses. The only way to prevent future losses in this way is to fully understand why people behave the way they do in different situations.

Poor crowd management, inadequate security and outright negligence of different people cause the circumstances that lead to crowd surges and crowd crush. Learning from mistakes and understanding behaviour and putting in place change takes time and commitment, but without these concerted efforts, improvements will not be made.

Julia Sawyer
Director, JS Consultancy

Institute of Licensing

Public Safety at Events

16 & 17 May 2023

Bolton

This is a two day (non-residential) course which aims to build on candidates' knowledge and awareness of public safety considerations and likely risks at events, and its practical application to licensing processes and document submission by event organisers.

Day One will focus on an overview of the legislation and guidance followed by practical examples which relate to audience management and site-specific risks. Common mitigation examples will also be explored, as well as an update on Martyn's Law.

Day Two will provide opportunities to apply this awareness to licensing and Safety Advisory Group processes, including licence applications and event safety and risk assessments.

There will be group exercises and opportunities for candidates to share experiences and concerns. Candidates are encouraged to bring examples of applications and ESMPs that have concerned them that will be treated in confidence. Candidates are requested to bring an understanding of the licence application process and any event specific guidance available for event organisers provided by their Local Authority or Agency.

This event is aimed at Council and Police Licensing Officers, and other statutory agency staff. However, it will also be of benefit to small or new event organisers.

For more information and to book your place(s) visit **www.instituteoflicensing.org** or email **events@instituteoflicensing.org** with your booking requirements.

Violence against women and girls – an update on progress

Kirsty Tagg of the Security Industry Authority offers some insights into the SIA's work in support of the Government's ENOUGH campaign for tackling violence against women and girls

The issue of violence against women and girls is a huge problem and is widespread. It's an issue that's deeply ingrained right across society so lots of work needs to be done to move this into a different place in people's minds. In every walk of life, everyone has a responsibility to play a part in this. The issue is bigger than merely the security industry.

We've got to look at our culture, our education system, relationships and the way women are treated. Much needs to change, but it's a long game. Things are not going improve overnight, but there's a lot we can do to reduce and prevent violence against women and girls.

On 1 March 2022, the Government launched a new public campaign called ENOUGH. The campaign aims to prevent violence against women and girls by shaping the attitudes that normalise and tolerate different types of abuse.

Naturally, the SIA is right behind the campaign. It was already playing a big role in reducing violence against women and girls – protecting the public is at the heart of what we do. We have effective regulation to do that; to get a licence individuals need to be "fit and proper". Part of that includes the licence-linked training and qualifications needed to apply for an SIA licence. It outlines what's expected from those working in positions of trust on the front line in the security industry and teaches security operatives how to spot vulnerability.

Realistically, that's the just the beginning of protecting women and girls against violence. We build on the licence-linked training by undertaking a lot of promotional work. This involves bringing the issue to the forefront of the minds of venue staff, especially in high footfall venues. We've recently worked with security suppliers, venues and other partners on a freshers' week campaign. We reminded door supervisors what they are there to do and promoted to the public that the role of door staff is to keep people safe.

Despite what some might think, this work does not fall outside the SIA's regulatory remit of licensing - not at all. The Private Security Industry Act 2001, which established the SIA, requires us to license individuals and our purpose is "protecting the public through effective regulation of the private security industry and working with partners to raise standards across the sector".

Our work on protecting women and girls from violence sits within that. It's in harmony with our licensing regime and the skills we demand from licensed operatives. We have a responsibility to share intelligence and act on information we receive from partners to inform our decision-making process. That may be in relation to initial licence applications, or in suspending or revoking licences if individuals are showing predatory behaviour.

As well as operating within the licensed community, we look at the wider environment too. When we're out visiting venues, checking the validity of door supervisor licences or undertaking other operations, we use the opportunity to speak about the issue. We can use our influence to promote understanding, to check awareness of the issue and keep the campaign at the forefront of people's minds. And wherever possible, we aim to reinforce licence holders' initial training on tackling violence against women and girls.

The campaign's progress

There's a lot of momentum in the Government's campaign, which is great. I'm getting calls from people across the industry looking to work together, wanting more information about what we're doing and to offer support. There are many other campaigns' that touch on violence against women and girls so there are lots of opportunities to work collaboratively to reinforce our messages.

There's a lot going on and a lot of agencies involved. We work closely with the police, local authorities, the Safer Business Network and the Security And Vulnerability Initiative (SAVI). It's all about joining up the various messages; for example, working together with the Welfare And Vulnerability Engagement (WAVE), Ask Angela, and the Enough campaigns. Using other campaigns and partners' channels is a great way to get our own message across and extend our reach while at the same time speaking with a united voice and a giving a consistent narrative.

A recent initiative by the City of London Police, Reframe The Night, was a great success. It pooled resources from a host of agencies, all working to the same agenda of keeping people safe.

Reducing violence against women and girls – whose responsibility?

I lead the SIA approach, but really everyone is responsible; security companies, SIA licensed individuals, buyers of security, venue staff and society in general.

When we speak to front line staff the reception is good. When we talk about violence against women and girls, the feedback is generally, "Yes, we know what we're doing."

There's an initiative within one police force using a decoy team at venues to test security staff, particularly in response to drink spiking. So far, in the main the responses have been good. The approach is being used to understand the responses and develop approaches to improve standards further and reinforce awareness.

Across the industry, I've seen some great examples of how to approach the problem. Many of them come from larger companies - mostly SIA-approved contractors under our ACS (Approved Contractor Scheme). People are using social media to promote and share awareness, debate and ideas. We've had an approach from an ex-door supervisor with a wife and daughter who is passionate about keeping women safe. He suggested a campaign called BUDS (Brothers, Uncles, Dads and Sons). The idea is that all security officers and door supervisors have at the forefront of their mind that they are brothers, uncles, dads and sons to female relatives and keep thinking about how to protect them.

Doing the right thing

To help provide evidence of the good the sector is doing, incidents should be reported and filed. Training for door supervisors is to "Do something", be that to report an incident to the venue manager, or to support a person. However, we can't advise licence holders to do things they've not been trained to do. We can give best practice and guidance but there's a line we can't step over. A lot is covered in the licence-linked qualification five-day course. Feedback as to what front-line operatives are doing is generally good.

Conclusion

As an SIA investigator, it's sometimes easy to see the downside of the private security industry, particularly when we're on enforcement operations. But there are examples of fabulous work being done by door supervisors who really understand the issues around violence against women and girls. That's amazing to see. However, we're a fair way from this being the norm, so there's lots of ongoing work to do.

Kirsty Tagg
Investigations Officer, Security Industry Authority

Working together to make women safer at night

So much still needs to be done to allow women to enjoy the night-time economy and get home safely. **Jo Cox-Brown**, Night Time Economy Solutions (NTES), is at the heart of many initiatives around the country striving for exactly that goal

Night-time economies all over the world endeavour to create vibrant and inclusive spaces for everyone, regardless of their needs. If you want to dance into the early hours, you should be able to dance. If you want to see a show with friends, you should see that show with your friends. If you are a worker, you should be able to access transport links and amenities as easily as you would during the day. The night should be a safe and vibrant place for everyone, but unfortunately, as recent devastating events have shown, for some it simply isn't.

Violence against women is not a new issue and it was reported in the Femicide Census that 110 women were killed by men in 2020. Though not all these women were killed during the hours of darkness or on our streets, the cases of Sarah Everard, Bibaa Henry, Nicole Smallman, Sabina Nessa and many others show us a harrowing reality about women's safety at night. Violence against women does not discriminate based on class, sexuality, age, or ethnicity, however often the way we view these incidents, and the victims, does.

According to Sustrans one in two women and one in five men felt unsafe walking alone after dark in a busy public place. People often feel more vulnerable when walking alone: 63% of women reported feeling unsafe "always" or "often" when walking by themselves, and 49% reported feeling unsafe walking alone after nightfall in busy public places. The fact that so many women feel unsafe on our streets is everyone's business, everyone's problem and everyone's responsibility.

In a 2021 study from the European Social Survey, data shows that 32% of UK women surveyed said they don't feel safe when walking alone at night, one of the highest percentages from the 29 European countries surveyed. Our female team all stated that they never go out at night before planning a safe route home at the end of the night. This disturbs us and motivates us to want to do better. We must do better.

Physical violence and femicide is not the only concern for women at night. In 2018, occurrences of drink spiking in the UK had increased by 108% in just three years. Though the spiking of drinks does not exclusively happen to women, they make up 72% of all victims (10% of this figure consisted of women aged 18 and under).

The prevalence of street harassment and catcalling has also increased. Over 10,000 people shared that they had been harassed in the street with the Instagram page Catcalls of London, and it is estimated by Plan International that two in three women have experienced sexual harassment in public spaces. Further to this, the coronavirus pandemic and the various lockdowns that ensued added another layer to the experience of women. Having restricted access to public space, emptier streets, fewer bystanders and no access to dedicated safe spaces, the fear of being harassed and experiencing unwanted sexual attention only increased.

So what can be done to make our cities safer at night? Here at NTES, we are as dedicated as we have ever been to improving women's safety at night. We want to help push this crucial matter forward and help create cities and towns that are safe spaces for all women at night. We have lots of experience as a team dealing with the safety of women on the street, in venues, in the workplace, and on public transport. Here are some examples of work that has been done over the last few years.

Behaviour change programmes

We believe that all women should feel safe at night. The responsibility should not lie solely with women to keep themselves safe from the violence of men. Men need to take responsibility for not raping, groping, attacking or stalking women. Men need to challenge their peers when they see or hear inappropriate behaviour from fellow men. Bystander intervention and male behaviour change programmes, such as a recent project we have been running in the London boroughs of Kingston, Merton, Richmond & Wandsworth, is becoming increasingly important.

Funding

It's essential to have long term funding in place. In 2022 Gov. UK unveiled a Safety of Women at Night Fund which led to a

number of successful projects such as the one that we worked on with Bristol City Council to develop and roll out anti sexual harassment training for all night-time venues, including training trainers who can continue to run the training for new employees: this is essential for the sustainability of the project post funding. However, this funding had to be used in a three-month period and for funding to be successful it has to be given over a longer period of time. Subsequent funding such as the Safer Streets funding and the Safer Women At Night funding, which are 12 month projects, has led to a number of excellent projects. These include the comprehensive package of work undertaken by Northamptonshire Police and Fire Commissioner including the installation of help points, a Safer Nights Out van, training for venues and police officers and a women's night safety strategy. We would recommend that local police and crime commissioners and violence reduction units consider creating specific funding pots for local community groups to undertake women's safety work in their own communities.

Women's safety charters

We feel so passionate about women's safety at night that we have developed our own Women's Safety Night Time Charter. There are lots of fantastic examples currently in place across the UK by both top-down and bottom-up organisations. Both the London Night Czar's office and National Pubwatch have a Women's Night Safety Charter. We have also worked with London boroughs such as Hammersmith and Fulham and Norfolk BIDs to take this further and create a Women's Safety charter implementation plan supported by a business adoption toolkit and training programme.

Women's safety strategies

Every town and city needs a night-time economy strategy. It's essential that if you have a strategy, that you have a supportive activation plan in place. In the last year we have worked with areas such as Norfolk, Hammersmith and Fulham and Northamptonshire to create bespoke women's safety strategies, supported by bespoke training for all stakeholders, integrated marketing and social media campaigns and toolkits for businesses to adopt.

Campaigning

The national movement Reclaim the Night has held demonstrations across the UK. In Newcastle-upon-Tyne a community organisation partnered with local young women's project Bright Futures and set up women's street watch. Northumbria Police and the local crime commissioner launched the Fun without Fear campaign, which speaks up for the rights of women across the area and aims to promote behaviour change in men, encourage reporting and signpost victims to help and support.

Safe spaces

Safe spaces are an excellent way of protecting intoxicated or vulnerable women from harm and ensuring that everyone gets home safely. They can be run out of buses, venues, trailers and ambulances and generally operate on Friday and Saturday nights. They normally require committed partnership funding of approximately £100,000 to £200,000 each year as well as a combination of paid medical and security staff and volunteers to be successful. They have effectively been used in cities since 2008 when I launched the first safe space in Nottingham with Tackling Knives and Serious Youth Violence Programme (TKAP) funding. We have been involved with the setup of safe space concepts across various cities such as Chester, Nottingham and Manchester and are currently working to launch new safe spaces in Liverpool in time for Eurovision in May and Bath in time for spring.

Training

Everyone working in the night-time economy needs training in how to protect women and girls from harm. This training can be broken down into:

Venues and workers: Tailored training packages such as anti sexual harassment training, vulnerability training, night-time economy first aid and drugs and alcohol training, and anti drink spiking have been proved helpful in supporting venues and workers to make empowered decisions about women's safety and should be run on a regular annual basis at least. This can be taken further to include training for DJs, artists and musicians. We developed training this year for Sony Music and Black Star Agency to support their DJs, artists, musicians and those working in their studios to protect their workers. This can further be supported by policies and marketing materials that venues can adopt.

Police: It's great to see police forces take women's safety seriously and we have developed the first-ever police officer night-time economy training course, which was trialled and rolled out in Wiltshire, London and Northamptonshire with 4,000 officers taking part. The course deals specifically with the safety of women at night, spotting potential perpetrators, managing vulnerability, partnership working with venues and volunteers and using police powers effectively to manage safety at night. A sergeant in the Metropolitan Police said "this should be a must for all new police officers and those returning to night-time working".

Taxi, private hire and transport: We are currently

working with Northamptonshire Police and Fire Commissioner to develop the first taxi and private hire women's safety training programme, which will be rolled out to all new and existing license holders. We are also working with an e-scooter provider to enhance their operational practices and policies for those who ride at night. Much more can be done to ensure that transport is safe and welcoming for all at night. We would love to see transport providers actively working on night safety strategies, adopting training for all staff and promoting safety marketing campaigns.

Partnerships and online training: To increase the feeling of safety and to help women, girls and genderqueers feel empowered and supported, SafeUP, WAVE and NTES have formed a new partnership. We will working together to create safe havens in cities across the UK in order to make public spaces safer for women. SafeUP members can connect to trained nearby SafeUP Guardians, who are members over the age of 18 that have completed training to know how to support women. If someone is going for a run, on a date, or waiting for the bus, and they are feeling unsafe, they can connect with the SafeUP Guardians via call or video, or activate the safety checks.

We will not stop there. As a team of specialists, we will challenge ourselves to develop new and innovative ways to reduce vulnerabilities across different user groups and specific situations. Going beyond the standard offerings, we want to help all involved to deal with a wide range of specific issues relating to a variety of safety of women at night.

With a concerted effort from all involved in the night-time economy and cities after dark, we can help to improve the experience women have at night and ensure that their safety at night is on the agenda for all. We are responsible for the change we want to see and are dedicated to working in partnership to achieve this. We are keen to chat with other towns, cities and practitioners so that we can work together to push the boundaries and ensure that our towns, cities, businesses and transport provision become safer for all after dark.

Jo Cox-Brown
Director, Night Time Economy Solutions

Institute of Licensing

Zoo Licensing Course

17th & 18th May 2023

Noah's Ark Zoo Farm, Bristol

A super two day Zoo Licensing course with both practical and theory aimed at those who carry out zoo inspections and / or administer the applications. The course covers all elements of Zoo Licensing from application to inspection and the licensing process.

The first day will focus on zoo licensing procedure, applications, dispensations and exemptions. We will also review the requirement for conservation work by the zoo with input from the Zoo's specialist on this.

On the second day the morning will be spent with a DEFRA inspector and staff from the zoo conducting a mock zoo inspection with mock inspection forms. We will have access to various species of animals and the expert knowledge of the zoo staff. The afternoon will include an inspection debrief alongside reviewing the inspection, question and answer session on the inspection, then presentations on inspectors reports, refusal to licence, covering reapplications for zoos, dispensations and appeal and what to do when a zoo closes.

Alcohol advertising & promotion under threat in Scotland

The Scottish Government's 'whole population' approach to alcohol policy may help problem drinkers but will punish the vast majority of the country, says **Stephen McGowan**

On 17 November 2022 the Scottish Government released a new consultation on proposed changes that would introduce prohibitions around alcohol advertising and promotions. The powers which this consultation discusses, if enacted, would likely be the most significant restrictions ever to have been placed on the alcohol and retail industries in Scotland. The level of prohibition proposed goes further than anything ever seen before, being more restrictive than even the temperance legislation of the late 19th and early 20th centuries.

Background

The announcement of this consultation was expected by those of us who follow these things, although the precise proposals are a shock. At the very heart of this consultation is a presumption that something must be done around the advertisement and promotion of alcohol, particularly in relation to how it may affect vulnerable persons such as those with alcohol addition issues, and how it may affect children and young people.

This all goes back to the Scottish Government's Alcohol Framework 2018: Preventing Harm, which, amongst a suite of other suggestions, which the public health actors refer to as "best buys", included the following two points:

1) To consult on marketing restrictions to protect children and young people from alcohol marketing; and

2) To press the UK Government to improve measures to protect children and young people from exposure to alcohol marketing.

Further work was undertaken by certain stakeholders in 2019 but for obvious reasons the consultation was delayed following the onset of the pandemic. In the now launched consultation, the Ministerial foreword makes the following claims: "It is likely that alcohol marketing influences heavy drinkers and acts as an incentive to drink…. [Prohibition] will reduce the potential triggering effect that alcohol can have on heavy drinkers and those in recovery and treatment."

However, although there is a focus on harmful drinkers, and on young people, the consultation also acknowledges that this is a "whole population" approach. In other words, because it be argued that a very small group of individuals can be negatively affected by alcohol marketing and promotions, we all need to take the medicine collectively, at a societal / macro level.

Hard-working alcohol producers will be vexed, I would suggest, to see in the consultation document the following comment: "Without branding and other marketing strategies, alcohol products in each beverage sub-sector are essentially variations of the same thing."

This is an overt effort to eradicate the diversity and personality of individual alcohol products; to reduce them to a denominator common to those who are so opposed to it; that is, to see alcohol only as a harmful commodity, a vice. This one sentence discounts centuries of craft, effort and enterprise. This one sentence discounts the joy in sampling one malt whisky over another and sharing that experience with a friend. These, of course, are positive traits and experiences, which explains their absence.

This all springs from the idea, put forward by anti-alcohol campaigners, that alcohol is inherently bad, and we all need to be protected from it – every one of us. In turn, the producers and retailers of the product are also painted by those proponents as bad faith actors, to the extent that there have been calls by some groups to exclude the alcohol industry from this consultation altogether.

It is difficult to conclude, looking at the levels of prohibition proposed here, other than that Government has apparently been captured by such thinking on this issue. Despite the focus on children and vulnerable groups they say: "The proposed actions [in the consultation] are intended to have an impact on everyone in Scotland", notwithstanding they also say: "There is limited academic evidence on the impact alcohol marketing has on the adult population."

It is not enough that there are two key groups who, it is argued, need protecting. Here we are told we all need

protecting, whether there is any evidence to that effect or not.

The consultation is influenced by a growing trend in policy-making: reliance on what is called "lived experience". With lived experience, the emotive, very personal comments of individuals who may have a negative experience of alcohol are put forward as the basis, the rationale, for policy change. It is in hearing the views of individuals, many of which have been gathered through arranged events and interviews, that we are offered a moral platform to justify the proposals. Just ahead of each of the consultation questions, you will find "lived experience" quotes, providing an emotive drive and narrative against which the reader is invited to frame their analysis. No similar quotes are presented to offer any contrary view.

The consultation is peppered with links to a multitude of research papers all of which, when taken together, present a fait accompli: marketing and advertising of alcohol is an inherently bad thing, but especially for persons with harmful consumption patterns, and especially for children and young people. Again, there is no contrary view put forward; no wider perspectives are explored or even suggested.

Before looking at the proposed restrictions, it is worth noting that the consultation does come out with at least one concession, which is that the Scottish Government can only put forward policy which is within the powers of the Scottish Parliament. It will be interesting to see if any responses to the consultation suggest elements of the proposals are ultra vires.

That being said, I think the following sentence summarises neatly where the Scottish Government wants to take all of this: "It is crucial that any potential restrictions to reduce the volume of alcohol marketing are as comprehensive as possible."

No holds barred, then. Let us examine the proposals.

Sports sponsorship

The first part of consultation asks us whether we should prohibit all alcohol sports sponsorship in Scotland. This flows from recommendations, laid out in terms, from the Young Scot Health Panel and Children's Parliament which include p rohibiting alcohol branding on merchandise (ie, shirt sponsorship) and banning wider sponsorship (ie, on boardings /hoardings); as well as creating "Accredit" venues, which are more family friendly, and where the organisers have agreed to restrict alcohol. The proposals even go so far as to suggest venues should place a limit on the number of drinks people can buy and ensure live TV does not show people drinking in the crowds.

Many sporting authorities have already responded with extreme alarm to these proposals. No doubt they are making those views known in responses to the consultation. What is frustrating is that there is no evidence of any attempt to take those views as part of a more balanced exercise to understand the nuance before now. Where are the "lived experience" quotes from representatives of the community sports team, in praise of support they receive from the local distillery? Were efforts to understand how alcohol businesses support local communities such as through sporting groups through even made? While I have no doubt such views will result from the public consultation, the perception created is adversarial, requiring those affected to be on the defensive (pardon the sporting pun).

Event sponsorship

Part of consultation tells us there is no evidence at all as to whether sponsorship of "events" (by which they mean music, cultural events and so on, as opposed to sporting events) by alcohol has negative outcomes. Nevertheless, unhindered by any expressed desire to wish to proceed with probative and proportionate policy making, they plough on and ask whether there should be a prohibition on alcohol sponsoring of all events across Scotland. This, if enacted, would end alcohol sponsorship of musical or cultural festivals as well as local community led events. Heaven knows how you organise a beer festival.

The fait accompli element of all of this is writ large in the following paragraph:

> *The Scottish Government acknowledges it would be a significant undertaking if alcohol sponsorship was prohibited for all events, without an adequate lead-in time. This takes account of the commercial nature of sponsorship contracts whereby these are made for a number of years. We welcome views on whether a lead-in time would be appropriate as well as how, and for how long, this might operate.*

Public places

Perhaps the most incredible proposal within this consultation is the suggestion that there should be a complete ban on any and all promotion / advertising of alcohol in public places. This notion is suggested not, it would seem, as an intrinsic goal, but on the basis that it might be quite difficult to create a more nuanced law. Consider the following paragraph:

> *Given the difficulties around defining places as places children and young people frequent, as well as the*

> *likely impact of alcohol marketing on adults too, a prohibition of alcohol advertising in public spaces may be the best course of action.*

I find that to be a remarkable statement. Here we have the Government saying that, because it might be too complex to prohibit alcohol marketing under defined circumstances, they should just go ahead and ban it altogether. We are looking at the white-washing of the alcohol industry across the country. We are looking at alcohol being treated as a substance which must be hidden from plain sight from the entire population. And we are looking at this happening (a) without an evidential base, (b) because it is the easier option legislatively, and (c) absent any analysis of the positive impact that the alcohol industry and alcohol has for individuals, local communities and society.

Notwithstanding the acceptance of "difficulties", they go on to propose examples of places and environments where advertising and promotions might be banned, such as near schools or nurseries, on public transport or bus stops and train stations, and even leisure centres.

In-store alcohol marketing

Its section on in-store alcohol marketing is a good example of how parts of the consultation are framed through lived experience. Here we are presented with the following two lived experience quotes:

> "When you go to the till, you pass the big alcohol bit" (9-11 year old).

> "Alcohol is right at the counter… it's a trigger for me, so I have to avoid it. I don't go there. If I haven't got milk, I have to wait until I go to the [big] shops." (Lisa, 1 year sober.)

We are being encouraged to see these proposals subjectively, through the eyes of these two contributors. We are invited, therefore, to see the proposals not as they might affect the wider population, and not with any causal evidence, and certainly not as to how the proposals might affect the alcohol industry or the people who work in it, or whose jobs are supported by that industry. We are instead invited to look at these proposals only through an extremely narrow lens, the lens of harm experienced by a few individuals. I make no point as to the validity of the experiences the contributors have had; but I do ask whether testimony from a small clutch of individuals, all of which is geared towards the same pre-disposition (in this case negative experiences of alcohol marketing), is a sure footing for policy, and in turn law. Is introducing population-wide restrictions based on the negative experiences of a small cohort truly proportionate?

One of the proposals in this section is that alcohol should not advertised or even seen in window displays at all, so that no alcohol can be visible from outside the shop. I find this sort of proposal to be a remarkable blind spot when it comes to the history of licensing rules and regulations. It takes us backwards, to a period of time where it was assumed there is an inherently corruptive element to simply seeing alcohol in a window display. Does this not add a layer of secretive mystique, countering the Government's stated aim to make alcohol less attractive?

There are many businesses which specialise in selling alcohol. If these proposals are taken forward, you are looking at a blackout of store fronts of premises such as dedicated off-sales or retail units for local distilleries and breweries. Craft beer shops will be under rules akin to the restrictions on licensed sex shops, but with less colourful wording on the black vinyl stretching across the windows.

Oh, and good luck with the local brewery setting up a stall in the local farmer's market.

They even take us into territory where alcohol must be seen in the same context as tobacco, to wit: "Where alcohol is displayed behind the checkout this could be required to be in a closed cupboard, like tobacco products."

I am almost surprised not to see a reference to plain packaging here (although note the comments below on advertisements).

They also propose that aisle-end displays be banned, and that "mixed" aisles be restricted, so that alcohol is not in the same aisle as some other product. All of this suggests that the Scottish Government seems to have satisfied itself that there is evidence of unfettered patterns of impulse buying.

They go further, and explore the "shop within a shop" idea and ask: "Do you think we should consider structural separation of alcohol in Scotland to reduce the visibility of alcohol in off-trade settings (eg, supermarkets)?"

There is no suggestion as to how any such restriction would be imposed on existing retailers. There are huge licensing implications here, of course. Any change to alcohol displays would mean a variation of the premises licence, meaning new architects' plans, and might also mean a loss of product range, and physical works having to be carried out. What of premises whose entire premises is one big alcohol display, like a working distillery with a retail shop or visitors centre?

Brand sharing and merchandise

Not content with proposing a complete ban on all alcohol

advertising in all public spaces, and the shuttering of shop fronts, the Scottish Government goes further, and suggests that there should be a ban on the sale of alcohol-branded merchandise altogether. No more hats or mugs. No more t-shirts. No more craft brewery hoodies: in the context of this consultation, these have become "walking billboards". And they go further still, and present a case that even alcohol-free products should be banned as they are, in essence, "gateway" brands to expose people to the alcoholic variants, because of the use of the same names and logos, saying: "This demonstrates the need to carefully consider restricting these other distinctive and identifiable elements associated with the alcohol brand, in addition to restricting use of the alcohol brand name."

Print advertising

If you have been reading closely so far, you may agree with me that what we are looking at here, when you combine these proposals, is the almost complete eradication of the public presence of alcohol. It is no surprise to see, therefore, a proposal that alcohol advertising in all newspapers and magazines should simply be banned altogether, although, to be fair, they do say: "Some consideration would need to be given to specialist consumer publications, trade press and industry-focused publications."

Online advertising

Concerned with alcohol advertising appearing online and through social media channels, a number of further questions are posed. This will also make for worrying reading for alcohol producers and retailers who use websites and social media channels to engage with their customers and sell their products. Take a look at the following questions:

- *Do you think we should restrict alcohol branded social media channels and websites in Scotland?*
- *Do you think we should restrict paid alcohol advertising online in Scotland?*
- *Do you think we should restrict alcohol companies from sharing promotional content on social media (eg, filters, videos or posts) – whether this is produced by them or by consumers?*
- *TV and radio advertising.*

Here again the consultation documents tells us that because people watch TV, they may therefore be exposed to alcohol advertising. That being so, restrictions should be considered. Here are some example questions:

- *Do you think we should explore prohibiting alcohol advertising on television and radio completely?*
- *Do you think we should introduce a watershed for alcohol advertising on TV and radio (eg, like Ireland), and if so how would this work?*
- *Do you think alcohol advertising should be restricted in cinemas?*
- *Restrictions on content of advertisements.*

Not content with removing alcohol's visibility from public gaze, if any residual advertising may remain, the Government wants this to be controlled so that only state-sanctioned attributes can be referred to, such as geographical origin and certain factual criteria. The approach is summarised in the following sentence: "By removing the attractiveness of alcohol in the advertising we begin to change the culture around alcohol."

This links to the earlier observation I made about the notion that alcohol is intrinsically negative, and cannot be allowed "personality". This is how we reach the perspective that "alcohol brands portraying drinking alcohol as a fun, sociable and a community activity which makes people feel good and equals happiness" is a reality which must be challenged.

Enforcement

Towards the end of the consultation the Government suggests that a new regulator may have to be set up to deal with the enforcement of all of this. But there is no word on who is going to pay for that. The industry? The tax-payer? What might this new regulator look like? A Scottish Alcohol Advertising Standards Commission? Is this the body which will issue the "accreditations" suggested earlier; as well as taking action to ban adverts or shutter window displays? All of this remains to be seen.

Conclusion

I have been reviewing and practising alcohol-related law in Scotland over some years, in my role as a licensing lawyer representing the trade, and I have written on this topic widely. I have often been a "critical friend" of the Scottish Government, having sat on many working groups and bodies on licensing reform, and must also concede I have been withering in my analysis of the efficacy of some of the licensing law which the Parliament has produced. That being, said even I am amazed at just how far these new proposals go, and the absence of balance.

The entire consultation is driven by what I am left to describe as a moral position that alcohol is inherently bad, a

negative aspect of society from which everyone needs to be protected and shielded. It is not enough that consumption of alcohol (whether harmful or not) must be reduced, we cannot even be trusted to see it; and wider civil society must be encumbered with disproportionate prohibition, instead of the proportionate targeting and delivery of support to those very few who need it.

It is an entirely one-sided consultation. It reads like it was written by anti-alcohol pressure groups. It makes no effort at all to consider, present or even acknowledge the positives of responsible alcohol retail and consumption. It makes no attempt to explore the positive economic contributions that the alcohol industry makes through promotion and advertising, or the social cohesion and enjoyment that responsible alcohol retail and consumption can bring. It makes no effort to analyse what the impact of these proposals would be on the alcohol industry, or the other connected industries and communities and families supported by that industry. How many businesses could survive in such a hostile environment for the industry with no means to promote or sell their products? What will that mean for diversity of products? How many jobs would this impact? Would this have a disproportionate effect on smaller, independent businesses such as craft breweries or local convenience stores?

It also makes no real effort to analyse the hard work put into responsible retailing and responsible drinks advertising by the industry, and there is little here as to how all of this might cut across efforts by other agencies such as the Portman Group or the ASA.

There is no doubt at all that some people within Scottish society have a problematic relationship with alcohol. I doubt anyone would seriously argue a government should not take steps to help those who are harmed, or who are harming others. But the suggestion that the response should be a wholesale eradication of visible alcohol from public society is, in short, a prohibitionist's charter.

It is incumbent on the Scottish Government to lift its head from the playbook of those who agitate for that prohibition. Consider the balance in the following quote by Lord Hodge, in the famous minimum pricing judicial review [2012] CSOH 156, from the Court of Session:

> *The industries which the petitioners represent include companies which make a substantial contribution to the national economy and their products when used responsibly contribute to human happiness. But the abuse of alcoholic drinks and the harm which the abusers cause to themselves and others is a matter of general public concern both in this jurisdiction and throughout the United Kingdom.*

The consultation can be found online https://consult.gov.scot/alcohol-policy/alcohol-advertising-and-promotion/. However, the deadline for responses was 9 March 2023.

Stephen McGowan
Partner and Head of Licensing, TLT Solicitors

Penalties for gambling breaches

Daub Alderney Limited v Gambling Commission [2022] UKFTT 00429 (GRC)

Practitioners will be aware that in recent years the Gambling Commission has handed down some significant financial penalties for breaches of operating licences. In an appeal recently heard by the First Tier Tribunal, Daub, a subsidiary of the Rank Group, challenged a penalty imposed by the Commission. The appeal was dismissed, and the judgment contains some helpful analysis for operators and their advisers.

Facts

In 2018, the Gambling Commission fined Daub £7.1 million for serious regulatory failings relating to anti-money laundering and social responsibility. In 2019, Rank purchased Daub. In 2020 the Commission carried out an assessment which revealed further social responsibility code breaches and commenced a review. It rejected a regulatory settlement offer of £3 million and went on in 2021 to impose a penalty of £5.85 million, its Regulatory Panel commenting that the 2018 penalty had not been an effective deterrent. Daub appealed.

Appeal

This was the first appeal against a financial penalty to reach the First-tier Tribunal. In a tightly-reasoned decision, Finlay J accepted the *Hope and Glory* orthodoxy in relation to appeals against administrative decisions. She said: "… it has been repeatedly recognised in appellate case law that decisions of statutory regulators are not to be lightly reversed and the burden of proving that they are wrong lies on the Appellant. Further the courts have recognised that regulatory decisions are not of the "heads or tails" variety and are matters of judgment rather than pure fact."

This approach, which is clearly the correct one, obviously presents a challenge to appellants against financial penalties, where there is no single apposite penalty: rather it is a matter of judgement for the regulator, subject only to the power of the appellate court to intervene when the decision is wrong. Here, Finlay J decided that the penalty was not wrong. Rather, the Gambling Act required the respondent to prepare a statement of principles for the exercise of power to impose a financial penalty. She found that the Commission had properly applied the principles in determining the penalty. It had correctly taken into account that the 2018 penalty had been intended to deter future breaches, but further breaches of anti-money laundering and social responsibility requirements had continued over a long period commencing almost immediately following the first penalty. She also found it likely that Daub had concealed its breaches from the Commission, which was an aggravating feature.

Rank, through Daub, had sought to argue that imposing large penalties on subsidiaries, which would inevitably be met by the parent, deterred the acquisition of smaller companies by larger ones, which could be expected to improve the compliance of the acquired entity. It was also argued that Rank had already lost out by acquiring a non-compliant company, and this should reduce the amount of the penalty.

Finlay J rejected these arguments entirely: "It is expected that all licence operators should be compliant and it is not a relevant mitigating factor that larger companies should not be discouraged from acquiring smaller companies." Furthermore: "Rank is a sophisticated business. The acquisition meant that Rank was responsible for any profits or losses flowing from the acquisition. Any anticipated risk should have been factored into the terms of the acquisition."

Nor was the judge prepared to treat the growing post-acquisition losses of Daub as a mitigating factor because "it was likely that the loss of profitability was due to the cost of the measures that had been put in place to improve the processes and procedures in relation to anti-money laundering and social responsibility" following discovery of the breaches by the Commission.

Before Rank acquired Daub, Commission officials had responded to a request by Rank by saying that they were satisfied with Daub's recent compliance record. Rank, through Daub, advanced this as mitigation because it had affected its decision to purchase Daub. However Finlay J accepted the Commission's submission that Daub had misled both Rank and the Commission about the true compliance position, and Rank, which was aware of Daub's previous behaviour, had taken a risk upon acquiring Daub. Indeed, the learned judge found that the commercial consequences of the acquisition incurred by Rank were not relevant when fixing the penalty for breaches by Daub.

Finally, as exhorted by the Court of Appeal in *Hope & Glory*, the fullness and clarity of the regulator's reasons are to be taken into account in deciding whether the decision is wrong. In this case, the Commission clearly applied its own principles and gave detailed reasons for the penalty. Accordingly, Daub failed to discharge the burden of satisfying the Tribunal that the decision was wrong, and the appeal was dismissed.

The decision may be found at https://www.11kbw.com/content/uploads/027-011222-AMENDED-DECISIONS-.pdf.

Philip Kolvin KC
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Institute of Licensing

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JOURNAL OF LICENSING - CONTRIBUTOR PROFILES

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Nick is a solicitor and lead partner in the Betting & Gaming Team at Poppleston Allen. He acts for a wide variety of leisure operators from large corporations to single-site operators and has particular expertise with web-based operations. He is retained as legal advisor by the Bingo Association.

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Richard is an adviser at the Licensing Advice Project, Citizens Advice Westminster. The Project is an innovative partnership between the public sector and the third sector, providing free advice, information, assistance and representation at licence hearings to residents of City of Westminster regarding their rights and responsibilities.

LEO CHARALAMBIDES
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Recommended in *Chambers and Partners*, Leo advises local authorities on all licensing issues, and niche areas such as garage forecourts and sexual entertainment venues. His licensing practice has developed to include wider aspects of associated local government law, and he recently contributed to Camden's licensing scheme for street entertainment and buskers.

DANIEL DAVIES
Chairman, Institute of Licensing

Daniel is a co-founder of CPL Training Group. Until its recent sale, Daniel was a hands-on member of the team and developed allied businesses to support CPL's growth. He sits on the House Committee and Council of UK Hospitality and is on the board of the Perceptions Group. He is spearheading a major regeneration project in Merseyside's New Brighton.

STEPHEN MCGOWAN
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Stephen's expertise in licensing law is recognised at the highest levels. He has sat on a number of Scottish Government expert groups including those which oversaw the update to personal licence refresher training, and training for licensing board members. Stephen was appointed to the position of Chairman of the inaugural Scottish region of the Institute of Licensing in October 2016 and has been a member of the IoL since 2010.

CHRIS REES-GAY
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Chris was part of the original Woods Whur team, before leaving for a brief stint with the team at Pinsent Masons. He has now returned to Woods Whur to focus solely on licensing law, which he has specialised in since 2010. Chris deals with all aspects of licensing, both contentious and non-contentious. He has also acted for gambling operators (remote and non-remote) in high profile Gambling Commission Operating Licence Reviews.

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Kirsty is the Tactical Lead, SIA, Preventing violence against women and girls and she works with the private security industry to ensure women feel safer. In 2016 she became involved in the Women's Night Safety Charter, which has led to further work being undertaken operationally in light of the Home Office strategy to prevent violence against women and girls.

JANE BLADE
Regulatory Delivery Manager, Gambling Commission

Jane has over 17 years' experience of all aspects of GB gambling regulation. A policy expert, she has national praise for her pioneering sex establishments policy work in Camden. She was a Board member of the IoL and played an active role in helping drive the strategic direction of the Institute, and in fostering relations between regulators and industry. She was awarded the Jeremy Allen Award for Excellence in Licensing in 2015.

JAMES BUTTON
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James is a solicitor and runs his own practice, specialising in licensing, environmental health, public health, criminal investigations and prosecutions and human rights. He has a wealth of experience advising and representing councils, as well as the licensed trades, and is the author of *Button on Taxis: Licensing Law and Practice*.

JO COX-BROWN
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Jo is the founding Director of Night Time Economy Solutions, which she established in 2017, and High Streets Task Force Expert at High Streets Task Force, which helps communities and local government transform their high streets. She is an experienced place management consultant who has spent many years working in partnership with towns, cities and businesses to facilitate effective evening and night time place management strategies.

PHILIP KOLVIN KC
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Philip is one of the country's most eminent licensing QCs. His practice spans all fields of licensing, including alcohol and entertainment, gambling, sexual entertainment, taxis, sport and the security industry. He is Patron of the Institute of Licensing, a board member of the Sports Grounds Safety Authority and an Associate Fellow of Westminster University's Centre for Law, Society and Popular Culture.

SUE NELSON
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Sue joined the IoL as Executive Officer in October 2007. Sue is heavily involved with the Summer Training and National Training Conferences, amongst many other task and continues to undertake the Company Secretary duties. She was previously Licensing Manager for Restormel Borough Council (now part of Cornwall Council) and has over 18 years' experience in local government licensing.

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Director of JS Safety Consultancy, which she set up in 2006, Julia is a qualified safety and health practitioner. She spent 19 years in local government, with her last five years managing safety and licensing at Hammersmith and Fulham. An active member of the IoL - London Region, Julia provided the fire risk assessment for the opening ceremony of the London 2012 Olympics.

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Richard is a specialist gambling, licensing and regulatory lawyer with expertise in remote and land-based gambling. He works with a range of gambling clients from start-ups to multinational gambling operators, including casinos, betting shops, online gambling platforms and software developers. Richard advises on operating licences, the risks of operating in international markets and defending licence reviews, amongst other areas. He also specialises in liquor licensing.

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