

# DARKEST BEFORE THE DAWN

Presented by the **NTIA** NIGHT TIME  
INDUSTRIES ASSOCIATION

## OUR MANIFESTO FOR THE NIGHT TIME ECONOMY 2024

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## Philip Kolvin KC

It is both an honour and a privilege to introduce the author of the groundbreaking “Darkest Before the Dawn” manifesto, Philip Kolvin KC. In an era defined by rapidly evolving nightlife cultures and the profound challenges faced by the Night Time Economy, Mr. Kolvin has emerged as a leading voice and advocate for this vibrant industry. His manifesto encapsulates a visionary framework that transcends conventional boundaries, offering key recommendations that policy makers and Ministers should earnestly consider to not only enhance but also firmly support the future of this vital sector.

The Night Time Economy, encompassing a diverse range of businesses from bars and clubs to music venues and restaurants, has consistently proven its immense social, cultural, and economic significance. However, it has also confronted a series of obstacles, particularly in the face of regulatory pressures, urban development, and the shifting preferences of consumers. In this complex landscape, Philip Kolvin KC has emerged as a prominent figure, recognised for his profound understanding of the industry’s intricacies and his commitment to safeguarding its future.

“Darkest Before the Dawn,” penned by Mr. Kolvin, is more than just a manifesto; it is a visionary blueprint for revitalising and advancing the Night Time Economy. This document lays out key recommendations that address critical issues such as licensing regulations, community engagement, safety measures, and the promotion of cultural diversity. It calls for a paradigm shift in how policy makers and Ministers perceive and support the industry, advocating for a more collaborative, forward-thinking, and inclusive approach.

Philip Kolvin KC’s expertise in licensing law, his extensive experience as a barrister, and his dedication to ensuring the Night Time Economy’s prosperity have made him a trusted advisor to businesses, local authorities, and industry stakeholders alike. His manifesto, “Darkest Before the Dawn,” serves as a compelling call to action, urging us all to reevaluate our approach to this vital sector and embrace the transformative potential it holds.

As we navigate the complexities of our modern world, Mr. Kolvin’s insights and recommendations provide a clear path forward for policy makers and Ministers seeking to enhance and support the future of the Night Time Economy. His dedication to the industry, commitment to innovation, and unwavering advocacy for positive change make him a beacon of hope for those who cherish the vibrancy and cultural richness that the Night Time Economy brings to our lives.

In the following discussions, let us delve deeper into the thought-provoking ideas and recommendations put forth by Philip Kolvin KC in “Darkest Before the Dawn,” and consider how they can shape the future of our nightlife culture, ensuring it remains a dynamic and integral part of our society.



**Michael Kill**  
**CEO, NTIA**

In the pulsating heartbeats of cities around the world, the Night Time Economy thrives, weaving a tapestry of culture, creativity, and commerce that ignites the after-hours soul of our urban landscapes. Yet, this vibrant sector often stands at the crossroads of challenges and opportunities. As we step into a new era, it is imperative that we navigate this nocturnal terrain with vision, purpose, and innovation.

At the helm of the Night Time Industries Association, Chief Executive Michael Kill contributes to a compelling manifesto, one that beckons policymakers and ministers to recognize the profound significance of the night. It is a clarion call for the guardians of our cities to foster a more resilient, inclusive, and sustainable Night Time Economy that resonates with the aspirations of a diverse society. This manifesto outlines key recommendations that are instrumental in fortifying this vital sector, offering a roadmap to enhance and support its luminous future.

Join us in exploring the visionary path ahead, as we delve into the transformative potential of the Night Time Economy, and uncover the pivotal role it plays in the evolution of our cities and communities. Together, we embark on a journey that celebrates the night, igniting the stars that guide us towards a brighter, more vibrant future.





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# LIST OF RECOMMENDATIONS

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1. Move governance of the night time economy from the Home Office to DCMS
2. Appoint a Minister for the Night Time Economy
3. Create a power for the Minister for the Night Time Economy to create a Night Time Economy Strategy
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17. National guidance should make it clear that cumulative impact policies are to be reserved for genuinely exceptional cases
18. National guidance should promote partnership in the management of the night time economy
19. DCMS should work with the National Police Chiefs Council and trade associations to develop a consistent and fair approach to the use of statistics in licensing.

20. Parliament should legislate for remote licensing hearings.
21. The government should take action to reduce the cost and increase the speed of appeal proceedings.
22. There should be an exemption from licensing for small night cafes.

## **Chapter 6: People**

23. There should be mandatory training for Licensing Sub-Committee members.
24. There should be continuing professional development for night time economy workers.
25. Government should promote the establishment of Nite Schools.
26. National Guidance should recommend the appointment of a night time economy Ombudsman, performing an advisory and mediation function.
27. National Guidance should promote the use of street ambassadors.
28. Security providers should be licensed.
29. National strategy should focus on perpetrators.

## **Chapter 7: Best Practice**

30. Good practice schemes should be promoted by government.
31. Local authorities should accredit night safety champions.
32. Local authorities should plan their local arts ecology.
33. National strategy should promote late night transport initiatives
34. National strategy should promote diversity in the night time economy
35. National strategy should promote sustainability in the night time economy
36. Drug testing should be piloted and tested in town and city centres.

## **Chapter 8: Costs and finance**

37. VAT should be reduced.
38. The rates burden should be reduced.
39. The system for licence fees should be reviewed
40. A national fund for the protection of cultural venues should be established
41. The late night levy should be abolished.
42. The government should ensure that there is an equitable business interruption insurance scheme available to all venues.
43. The government should enable local authorities to impose a tourism levy.
44. The government should promote culture tokens for young people.





**CHAPTER 1:**  
**INTRODUCTION**

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## Chapter 1: A New Beginning

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As the sun sets, a vibrant world awakens within the heart of our cities and towns. It's the realm of the Night Time Economy, a complex tapestry woven together by businesses, artists, and individuals who breathe life into our society during the twilight hours. This dynamic ecosystem is a wellspring of creativity, innovation, and diversity. It's where new musical and artistic expressions take root, where mainstream culture meets the counter-culture, and where we embrace our passions, express our uniqueness, and celebrate our shared humanity.

From a practical standpoint, the Night Time Economy plays a pivotal role in the UK's economic landscape. According to data from the NTIA, it contributes a staggering £93.7 billion to the UK economy and supports nearly 3 million jobs. It's a major employer of young people, a significant draw for tourists, and a compelling reason for businesses to invest in the UK.

However, the Night Time Economy finds itself in a precarious state. Recent statistics are cause for concern. In the first half of 2023, two pubs closed every day (Altus), while nightclubs shuttered at a rate of two per week over the last year, with 31% of the sector vanishing in the past three years (NTIA). Grassroots music venues are disappearing at a rate of two per week (Music Venues Trust), and five restaurants are closing their doors daily (Price Bailey). These numbers are just part of a broader dataset illustrating the decline, particularly in the case of pubs, nightclubs, music venues, and LGBT venues.

It's crucial to recognise that this decline is not unique to the UK, and it's driven by a complex interplay of factors. In the UK, the situation is exacerbated by a perfect storm of economic downturn, a cost of living crisis, escalating energy expenses, burdensome business rates, an unfair tax system, excessive regulation, competing land uses, and the allure of home entertainment, among other contributors.

What is abundantly clear is that the Night Time Economy urgently needs support to survive. For far too long, the prevailing approach has been to regulate the sector when necessary and otherwise leave it to its own devices. This approach is no longer adequate; it's akin to fiddling while Rome burns.

In "Darkest before the Dawn," the Night Time Industries Association calls for a departure from this approach. It's time for the Government to step up and support the sector, much like it does for other vital industries. This isn't a call to abandon reasonable regulation but rather to acknowledge the Night Time Economy as a social good worthy of protection in the face of profound challenges.



In Chapter 2, we propose a national strategic approach to govern the Night Time Economy. In Chapter 3, we outline how this approach can be decentralised to local authorities, ensuring that each plays a part in safeguarding and nurturing the sector. Chapter 4 encourages a transformation in local governance, urging local authorities to integrate the Night Time Economy into their city and town visions.

Chapter 5 outlines recommendations to ensure that regulations governing the Night Time Economy are proportionate, evidence-based, and collaborative. Chapter 6 acknowledges the sector's reliance on various groups, including councillors, government officers, law enforcement, workers, volunteers, and customers, and offers suggestions on how to support them in contributing to the sector's success.

Chapter 7 sheds light on numerous best practices, initiatives, and principles that can be employed to prevent overregulation and promote collaboration within the sector. Chapter 8 addresses the impact of rising costs and financial burdens, proposing strategies for alleviating them.

With 44 recommendations, this manifesto centres on the principle that the sector's salvation won't come solely from regulation. It hinges on recognising the Night Time Economy as a valuable social asset, integral to our nation's culture and economy. Once this recognition takes hold, many of the recommendations become self-evident.

Our manifesto is born from the recognition of a divide between our sector's essence and policymakers' understanding. To bridge this gap, we aim to provide industry-led policy recommendations. For too long, the Night Time Economy has struggled under decisions that fail to acknowledge its uniqueness and potential. By offering comprehensive policy proposals crafted from within the industry, we hope to give policymakers a new perspective on our vibrant sector.

As we approach the next election, "Darkest before the Dawn" aims to spark a productive national debate. If this debate begins with the question, "How can we protect the Night Time Economy and help it thrive in the coming years and beyond?" then this manifesto will have fulfilled its purpose.

Our ultimate goal with "Darkest before the Dawn" is to empower policymakers, enlighten decision-makers, and establish a resilient, dynamic, and sustainable Night Time Economy that not only survives but thrives. With our industry and government partners, the Night Time Industries Association is committed to this transformative journey, eager to present its vision for a brighter, more vibrant nocturnal world.



**CHAPTER 2:**  
**NATIONAL**  
**GOVERNANCE**

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## Chapter 2: National Governance

In this chapter, we advocate an important change in governance of the night time economy.

Under the present system, national policy for the night time economy is to regulate it. Parliament sets the framework for regulation under the Licensing Act. The Secretary of State publishes guidance to licensing authorities as to how they should regulate it. Licensing authorities publish policies as to how they will regulate it, taking national guidance into account.

Because the night time economy is seen exclusively as something needing regulation, it is unsurprising that the lead department regulating it is the Home Office, whose other functions include terrorism, drug control, crime, illegal immigration and civil emergencies. The promotion of culture, music, vibrancy and joy are not within the Home Office's portfolio.

Translated to local level, the role of licensing is place-keeping. This is in contrast with the planning system, whose role is place-making, the promotion of sustainable development and high quality design. This is achieved through a National Planning Policy Framework and local development documents, which contain positive policies to drive national strategy in local settings.

We believe that there should also be a national strategy for the night time economy. The benefits will include national recognition of the benefits of the night time economy, greater public understanding of such benefits, a more positive approach by local regulators, and increased business confidence to invest in the economy itself.

### **Recommendation 1: Move governance of the night time economy from the Home Office to Department of Culture, Media and Sport**

DCMS is responsible for promoting the creative, cultural and tourism sectors. It was originally responsible for governance of the night time economy under the Licensing Act, before it was passed to the Home Office. It should now recover that responsibility. DCMS support for the sector will benefit the night time economy and strengthen the Department itself as the one ultimately responsible for culture in all its forms.

DCMS would also become the national regulatory body for the night time economy. But it will do so as a department which understands the balance between promotion and regulation. It currently performs this role in relation to sports stadia and gambling, and so is well-suited to the task.

## **Recommendation 2: Appoint a Minister for the Night Time Economy**

The night time economy is crucial to the life of the UK, both economically and culturally. It is a core reason for businesses to locate here and is an important part of the soft power of the nation. As an industry, it needs and deserves its own minister in government. An appointment would signal the commitment of the government to support and foster the night time economy, and to represent its interests and concerns both within DCMS, with other government departments and at cabinet level.

## **Recommendation 3: Create a power for the Minister for the Night Time Economy to create a Night Time Economy Strategy (“NITES”)**

The United Kingdom benefits from national strategies in several economic and service sectors. But it has never had a national strategy for the night time economy, which has largely been left to fend for itself. The decline of the sector in recent years, including in community pubs, music venues and LGBT facilities, has been caused by a number of factors, including economic pressure on households, the pandemic, energy and commodity costs and the rise of the online sector. These structural causes call for a national strategic response. The Government is currently preparing a strategy for the arts and creative industries, recognising the economic and cultural importance of that sector. There is a similar argument in favour of a Night Time Economy Strategy. This would cover a range of topics, including funding, taxation, employment, apprenticeships, skills, tourism, economic development, regional growth, safety, transportation and so forth. The Strategy would serve the function of promoting the night time economy, while equipping local authorities with the skills and resources they need to translate the strategy to local level.

## **Recommendation 4: Create a Night Time Economy Strategy Board**

We recommend the appointment of a Board to advise the Minister and inform the Night Time Economy Strategy. The Board would also review and advise upon the effectiveness of the Strategy. The Board would include night time industry leaders, workers, regional representatives and minority groups.



**CHAPTER 3:**  
**LOCAL**  
**GOVERNANCE**

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## **Chapter 3: Local Governance**

In Chapter 2 we advocated a national strategic approach which recognises that the night time economy deserves to be planned and promoted, not just regulated. In this chapter we explain how this new approach should be cascaded down to local level.

### **Recommendation 5: Introduce duty on local authorities to create a local night time strategy**

Local plans rarely make detailed provision for the night time economy. Licensing policies tend to be framed in terms of regulation rather than promotion or placemaking. Planning and licensing policies do not always pull in the same direction. Other local authority functions, such as regeneration, culture and public health, might touch on the night time economy, but not always with conviction. This should change.

An overarching night time strategy will encourage authorities to think strategically about the promotion and development of the night time economy in their area. A modest amendment, e.g. to the Local Government Act 1972, would require production of a night time strategy, to which the authority would have regard when exercising relevant functions, including planning and licensing. This will help the authority to develop a night time economy which is vibrant, distinctive and appropriate to the local community, its needs and traditions.

### **Recommendation 6: Create duty on local authorities to have regard to the national strategy when exercising relevant functions.**

The national strategy will set out strategic themes as well as specific ideas for promoting and supporting the night time economy. In exercising its functions, including producing its local plan, statement of licensing policy and cultural strategy, an authority will benefit from the ideas in the national strategy. Those ideas will have been published by the Minister following advice from an expert national board. Not every authority will adopt all of the ideas, but the national strategy will provide a ready reference and starting point for the development of local approaches.

The overall governance structure will, for the first time, mean that national ideas for the promotion of the night time economy will be formalised and cascaded into local settings, producing cultural and economic benefits for local communities.

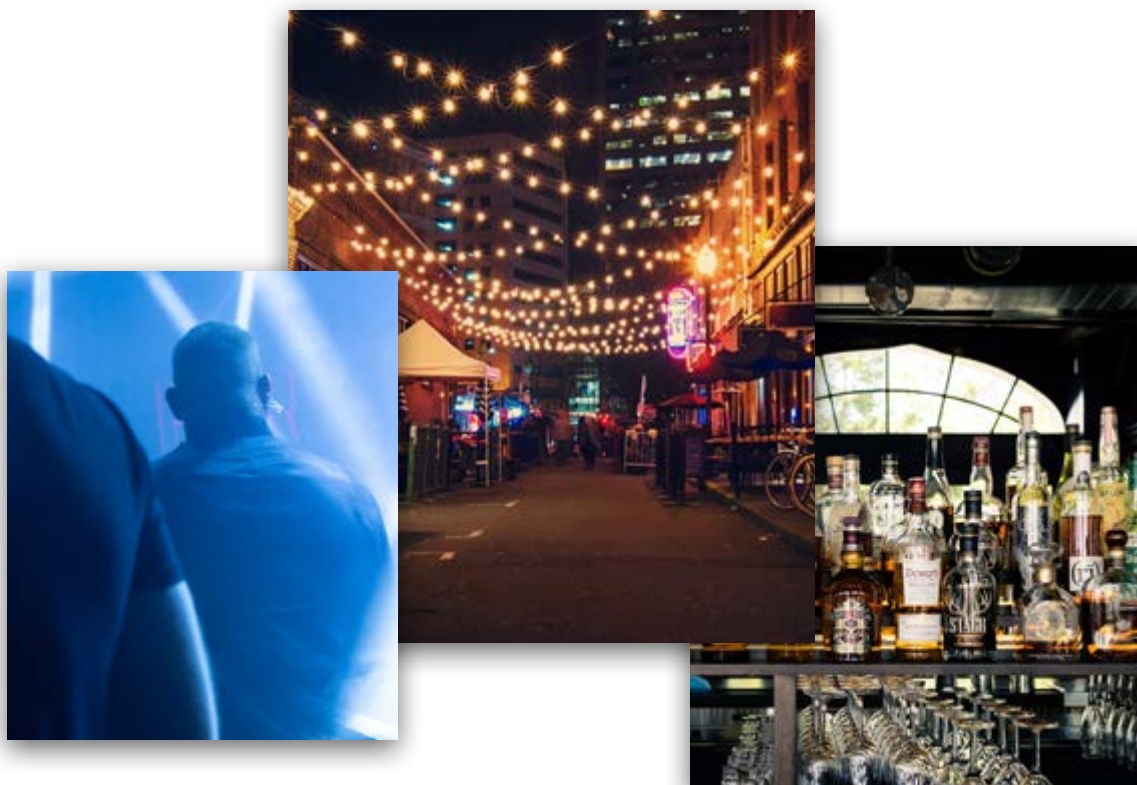


## **Recommendation 7: Promote the establishment of Offices for Nightlife**

Presently, local government structures rarely if ever include a post, let alone a department, focussed on the promotion of a safe and diverse night time economy. Cities and regions across the world have now established a specialised night time function. The most successful experiments have involved creating an office for nightlife. For example, the New York City Office for Nightlife is supported by an independent Nightlife Advisory Board. In the prototype, Amsterdam, the role of Night Mayor was in fact an independent non-governmental organisation.

In the UK, an Office for Nightlife would be established at city level or sub-regionally to promote and advocate for the night time economy, liaise with relevant bodies including local authorities, police, tourism agencies and cultural bodies, promote safe standards, conduct local research and collate data.

The Office for Nightlife would play a key role in advising local authorities on the development of their local strategies, so ensuring that the national strategy is effectively implemented at local level. Local authorities might decide to work with each other and the Office for Nightlife to produce a sub-regional strategy to create greater local consistency and benefit from economies of scale. This will also help to ensure that all areas of the UK, and not just larger towns and cities, benefit from the active development of a vibrant night time economy.



A dimly lit bar with a brick wall, shelves of bottles, and wooden stools. The scene is dark, with warm lighting from pendant lamps. The bar counter is visible with various bottles and glasses. The text 'CHAPTER 4: PLACEMAKING' is overlaid in white on the lower part of the image.

**CHAPTER 4:**  
**PLACEMAKING**

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## Chapter 4: Placemaking

The most successful night time economies are well-integrated in their local settings and serve the particular needs of their local communities. In this chapter we set out different tools for creating locally distinctive, viable and sustainable night time economies. These should be referenced in national strategy for consideration at local level, through planning and regeneration policies.

### **Recommendation 8: Local plans should set out express protections for the night time economy**

We recommend that all local plans should set out high level support for the night time economy. The question of how this is to be done will be for local decision-makers.

An example of such support is found in Policy HC6 of the London Plan.

Policy HC6 Supporting the night-time economy

- A** Boroughs should develop a vision for the night-time economy, supporting its growth and diversification, in particular within strategic areas of night-time activity building on the Mayor's Vision for London as a 24-Hour City.
- B** In Development Plans, town centre strategies and planning decisions, boroughs should:
- 1) promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, and town centres where public transport such as the Night Tube and Night Buses are available;
  - 2) improve access, inclusion and safety, and make the public realm welcoming for all night-time economy users and workers;
  - 3) diversify the range of night-time activities, including extending the opening hours of existing daytime facilities such as shops, cafés, libraries, galleries and museums;
  - 4) address the cumulative impact of high concentrations of licensed premises on anti-social behaviour, noise pollution, health and wellbeing and other issues for residents and nearby uses, and seek ways to diversify and manage these areas;
  - 5) ensure night-time economy venues are well-served with safe and convenient night-time transport;

6) protect and support evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues.

- C** Promoting management of the night-time economy through an integrated approach to planning and licensing, out-of-hours servicing and deliveries, safety and security, and environmental and cleansing services should be supported. Boroughs should work closely with stakeholders such as neighbouring boroughs, the police, local businesses, patrons, workers and residents.

The local plan may also identify areas in which cultural and/or night time economy uses are expected to remain the predominant use so as to protect the character of such areas and avoid uses which will later challenge existing cultural and/or night time uses.

### **Recommendation 9: local authorities should identify and facilitate late night zones**

The ability to operate late at night is critical for some elements of the night time economy, nightclubs and music venues being obvious examples. More generally, those who wish to access late night facilities should be able to do so, whether because of their working shift patterns, because late night socialising is part of their culture, or just because they want to.

Local licensing policies often set out presumptions against late night facilities, as part of cumulative impact policies or framework hours policies. But it is rare to find actual facilitation of later hours. The reason for this is that local authorities are concerned about the impact on the licensing objectives of prevention of public nuisance and crime and disorder. The risk, however, is that no provision is made for recreation during late night hours except by travelling to other areas altogether, a luxury not always available to those without private transport.

The answer to the problem is to identify local areas where late hours uses can be facilitated, subject to policies to promote the licensing objectives. This might be within defined late night zones where operators are encouraged to site late night uses. Zones might include strong perimeter security, medical facility, a drug checking service, and good night time transport links. These areas are particularly to be recommended where local authorities have introduced cumulative impact areas in the central part of their towns and/or where nightclubs have been forced to close. Zones could also be established to serve a region or sub-region.

Late night zones might be situated within town and city centres, particularly those without concentrations

of residents, on the edge of centres or in destination out of centre areas with good public transport access.

National strategy should not be prescriptive about where late night zones should be situated. Instead, it should emphasise the importance of identifying areas where late night uses will be facilitated. Where that should be is a matter for the local authority following an assessment of its own geography and competing interests.

### **Recommendation 10: Local authorities should promote night time enterprise zones**

Night time enterprise zones are town and city centre zones where there is a local commitment to developing the night time economy for the benefit of local people. Developed by the Mayor of London, night time enterprise zones promote activity in the centre after 6 pm, giving businesses more opportunities to increase income and footfall and giving local people better access to shops and services, while making the high street more welcoming and inclusive for a diverse range of people after 6pm and increasing the number of night workers that benefit from good work standards.

The zones might include better lighting, signage and environmental improvements, specific projects to open shops and services later, promotional activities such as mini-festivals, markets, light nights and street activities, a presumption in favour of pavement licensing for al fresco dining and the encouragement of local artists and performers. The establishment of a zone could be facilitated through a Business Improvement District or a town centre manager, and will usually benefit from a local fund to support activities and projects within the zone.

### **Recommendation 11: Local authorities should consider the establishment of a cultural industries quarter**

The prototype cultural industries quarter was established in Sheffield in 1994 in an area characterised by warehouses and other heritage buildings from the city's industrial past, repurposed to promote a grouping of arts, music, film and technology-based businesses. The further development of the city's universities in and around the cultural industries quarters have added to the value and vibrancy of the area.

The incorporation of night time elements into the quarter, such as a cinema, pubs, restaurants and late opening galleries, adds to the cultural and economic value of the area, while avoiding challenging concentrations of late night uses.

## **Recommendation 12: Local authorities should consider the establishment of an artists' quarter**

The shortage of housing is a challenge for society as a whole. One group particularly affected is young artists, for whom affordable accommodation as they make their way in their career presents a major challenge. The lack of such accommodation may lead them to move elsewhere or abandon their career, which in either case represents a regrettable loss.

Local authorities should survey their areas, including former industrial areas, which could be repurposed as cheap accommodation and studio space for young people working in music and art, together with retail, food and beverage and night uses. Such areas can become creative hubs, and part of the tourist potential of the town. A successful example is Republic of Užupis in Vilnius, Lithuania, whose free-spirited citizens have established a constitution and self-governance representing their way of life as much as their artistic calling.

Užupis provides an important reminder that local authorities need to plan to accommodate counter-cultural movements as much as mainstream night time uses. They will do this by listening keenly to the voices of young people, studying trends and examples from elsewhere and avoiding fixed conceptions of what the night time economy is, or ought to comprise.

## **Recommendation 13: The planning system should provide for cultural heritage designation of night time venues**

Sites of popular culture, such as pubs, night clubs and music venues, even those with illustrious histories or which have long been embedded in the local community, are not protected by the planning system.

Whereas the agent of change principle theoretically helps to protect such venues from adjacent residential development, it provides no protection from redevelopment of the site itself. This is important since residential land is almost invariably more valuable economically than cultural uses.

It is recommended that Parliament should provide for the designation and consequent planning protection of sites of cultural value. The system may be operated by local authorities, in the same way as the designation of conservation areas. A system of local designation will help to ensure that the historic value of the site receives due weight in the planning balance.

The overall system will help to ensure that sites of popular culture receive protection in the same way as high culture institutions such as opera houses, theatres and concert venues. In Germany, nightclubs such as Berghain in Berlin are treated as cultural institutions. We recommend that a similar approach should be adopted in the UK.



## **Recommendation 14: Local plans should protect local authenticity in the night time economy**

Creative hubs often arise from small units clustered in distinctive local areas, run by independent operators. Such areas merit protection in their own right. This may be achieved by protection against doubling up units and/or protecting against purchase by national chains, which dilute individuality and drive up rentals. A pioneer of this approach was San Francisco.

## **Recommendation 15: The agent of change principle should be effectively supported**

The agent of change principle, which requires the incoming use to protect the existing use, is recognised in the National Planning Policy Framework. However, there are examples of its not being applied effectively, so threatening night time venues. Through national strategy or planning policy, authorities should be required to delineate zones around late night and music venues. A planning officer should be designated as the agent of change officer, and should be specifically consulted on all residential applications within the zones. National training should be available, e.g. through the Local Government Association, on the practical application of agent of change principles.





**CHAPTER 5:**  
**LICENSING**

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## Chapter 5: Licensing

The Licensing Act 2003 has generally been effective, in subjecting licensed operations to control by the local authority and so promoting democratic accountability. Nevertheless, there are several opportunities to increase flexibility, save costs and protect venues from unnecessary action.

### **Recommendation 16: The concept of proportionality should be embedded in licensing**

Under the Licensing Act, licences may be refused or revoked, or costly conditions may be added to licences, simply because the licensing authority considers it “appropriate” to do so. The concept of proportionality does not appear in the Act at all.

However, proportionality is the touchstone of good regulatory practice. In essence, it means that any intervention (such as a refusal or revocation or the addition of a condition) is at the lowest level required to achieve the objective in question. In making that assessment, the licensing authority should take a risk assessment approach by considering the risk, the likelihood of its occurring and the severity of the consequences, so as to avoid imposing disproportionate burdens. The concept of proportionality is an essential tool to avoid over-regulation, and should be used with substance and rigour.

For these reasons, we recommend that the concept of proportionality should be alluded to directly in the Act and, if necessary, elaborated in national guidance and cascaded into local decision-making through statements of licensing policy.

### **Recommendation 17 : National guidance should make it clear that cumulative impact policies are to be reserved for genuinely exceptional cases**

*What is a cumulative impact policy?*

A cumulative impact policy (a CIP) is a statement in a local authority’s licensing policy that there will be a presumption against granting a licence application, if there are any objections to it. A CIP always relates to a particular area, which the local authority has decided is suffering from cumulative impact. The policy can apply to particular types of application, premises or hours.

The Licensing Act 2003 made no reference to CIPs. They were an invention of national guidance published under section 182 of the Act. They were then put on a statutory footing by the Policing and Crime Act 2017.

### *The development of cumulative impact policies*

The need for CIPs was promoted by Westminster City Council, which had experienced a rapid increase in licences in the 1990s, with the total number of alcohol licences increasing to nearly 3000, and the number of pubs and bars increasing to nearly 1500.<sup>1</sup> The national policy response to this exceptional set of circumstances was to include the novel concept of CIPs in national guidance, to provide a tool to limit further proliferation.

Since then, the number of cumulative impact areas has itself proliferated. The most recent available data shows that no fewer than 86 local authorities have adopted CIPs, with a total of 189 cumulative impact areas in place.<sup>2</sup> CIPs mostly apply to town and city centres, where clubs and pubs are normally located.

### *Cumulative impact policies are harming the sector*

However, during the period 2000 – 2022, the number of nightclubs fell 60%, from 2800 to 1130.<sup>3</sup> And the number of pubs fell 24% from 60800 to 46350.

Cumulative impact policies mainly strike at clubs and bars. But while the number of such premises has fallen, and continues to fall, catastrophically, the number of CIPs has not fallen commensurately. The conclusion is clear: that CIPs are part of the reason for the decline of the sector.

### *Policy overreach*

According to the Licensing Act 2003<sup>4</sup> a cumulative impact assessment is a statement that the licensing authority considers that the number of licences makes further grants unlikely to promote the licensing objectives. National guidance makes it clear that any such decision must still be made on the merits.<sup>5</sup> That is not how policies are now routinely drafted. Policies adopt several techniques to block further licences or extensions of hours, including any or all of the following:

- They state that the policy is to refuse.
- They state that the policy is to be strictly applied.
- They state that, as well as demonstrating that the application will not add to cumulative impact, applications will only be granted in exceptional circumstances.
- They do not state what circumstances are regarded as exceptional.
- They rule out particular circumstances, such as the small size of the application or the quality or track record of the management.

These drafting techniques are not unlawful.<sup>6</sup> But they go far beyond what is contemplated in national licensing policy, and have a chilling effect on what is an already contracting market.

<sup>1</sup>Westminster City Council Statement of Licensing Policy (2008, Appendix 12) | <sup>2</sup>This represents a fall from 222 recorded in 2018, principally due to the impact on the sector of the pandemic | <sup>3</sup>CGA / NTIA | <sup>4</sup>Section 5A Licensing Act 2003, inserted by the Policing and Crime Act 2017 | <sup>5</sup>Section 182 Guidance paragraph 14.28 | <sup>6</sup>They were contemplated by the High Court in R (Westminster City Council) v Middlesex Crown Court [2002] EWHC 1104 (Admin).

### *Thresholds and shelf-life*

CIPs are a block on business, entrepreneurship and jobs, particularly jobs for young people. They stifle investment. They provide artificial protection to incumbent licence holders over new entrants to the market. They reduce incentives to innovate. They inflate the value of licences and therefore of properties. They involve applicants in excessive costs in trying to prove that they are an exception to policy.

As such, they ought to be a measure of last resort. Other steps for dealing with cumulative impact ought to have failed before CIPs are considered.

But national guidance makes no such requirement. It points out that there are other ways of controlling cumulative impact.<sup>7</sup> But it does not say that other means should have been tried before resorting to a CIP. For that reason, the adoption of CIPs is often a lazy response, stifling growth rather than dealing with any underlying issues in the evening and night time economy.

Furthermore, the oldest CIPs have been in place for nearly two decades. Such policies are draconian. They ought to be an exceptional measure while cumulative impact is addressed. A CIP is a drag on development: its shelf-life should be limited.

### *Meeting a need*

Even if a CIP is genuinely necessary, it is insufficiently understood that the purpose of the policy is to block a venue – and therefore a customer service and experience – for which there is a demand. This may be a grassroots music venue, a club or space for dancing, of particular appeal to young people or another section of the community. Any licensing authority which decides to stymie such a venue in one locality should make it clear where such venues would be welcomed. Otherwise, the result is cultural depletion which, given the downward trend in venues, should be avoided.

### *Changing times*

Times have moved on from when CIPs were first being considered 20 years ago.

The profile of the night time economy has changed. The proportion of venues which are alcohol-led has reduced markedly, with far more premises offering food, entertainment, competitive socialising and other experiences.

The proportion of the population which does not drink at all has increased, with 20% of the adult population not drinking at all<sup>8</sup>, rising to 29% in the 16-24 age group.<sup>9</sup>

<sup>7</sup> Paragraph 14.47 | <sup>8</sup> Drinkaware | <sup>9</sup> Statista, 2022

At the turn of the millennium, app-based private hire services had not been invented. This meant that dispersing customers from the high street was a more challenging task, with long queues for night buses and taxis, and occasional flash-points. That has now changed. Dispersal is far easier than 20 years ago.

Because of the increase in premises offering food and the decline in wet-led premises, exterior queues for fast food premises, and flashpoints in such queues, are a less significant issue in town centres.

Many town centre initiatives have been adopted to reduce cumulative impact, such as better conditions on premises licences to reduce intoxication and improve wind-down and dispersal, the use of door staff to aid dispersal, and town centre initiatives such as Purple Flag, Best Bar None, night time Business Improvement Districts, street and taxi marshals and town centre CCTV.

In other words, the conditions which prompted the need for CIPs have changed, and changed for the better.

We therefore advise that the Government should amend national guidance to make it clear that:

- CIPs are a remedy of last resort.
- Other measures to control cumulative impact should have been tried before CIPs are imposed.
- CIPs are temporary measures to allow a licensing authority and other authorities to resolve the underlying issue, not a permanent block on the development of the evening and night time economy.
- The wording of CIPs should not go beyond the wording of the Licensing Act 2003. In particular, the following wording should be avoided:
  - o The policy is to refuse.
  - o The policy is to be strictly applied.
  - o Applications will only be granted in exceptional cases.
  - o The following factors are not exceptional ....
- CIPs should be carefully tailored, to ensure that they do not block premises with cultural value, including those promoting music, dance and performing arts.
- If the policy creates presumption against particular types of premises, it should also state where such applications will be encouraged.

In conclusion, CIPs are a blunt instrument, imposing a restraint on the development of the night time economy. They should be recognised as such, and tempered to ensure that they are a last resort, genuinely needed, targeted and temporary, and balanced by countervailing measures to promote and encourage the night time economy.



## **Recommendation 18: National Guidance should promote partnership in the management of the night time economy.**

The Licensing Act 2003 provides for licences to be granted and varied, and then it provides for licences to be reviewed and even revoked. It is silent on how licensees, responsible authorities and communities can work together to avoid the necessity for reviews.

When there is true partnership, reviews will be a measure of last resort, with draconian measures only necessary in the most extreme case.

Reviews place licensed premises under serious burdens, involving cost, anxiety and the expenditure of time. The potential to lose a licence following a brief review process and hearing is a disincentive to investment, particularly for smaller operators.

The encouragement of entrepreneurship and creativity in night-time culture can sometimes involve helping venues into compliance, rather than pursuing draconian measures as a result of non-compliance. In the USA, police forces call this “doing with rather than doing to”.

Very few operators set out to break the law, breach their licence or damage the licensing objectives. What happens in premises involves a complex human interaction between staff (some of whom are learning on the job), security (mostly employed by third party agencies) and customers (some of whom may be poorly behaved, despite the best efforts of the operator).

When something goes wrong, the venue itself may be a victim, yet is sometimes treated as a guilty party requiring the application of a sanction.

Sometimes, however, the venue’s performance is capable of improvement. In such cases, it may benefit from assistance and encouragement to improve its performance rather than a draconian sanction. Even venues whose performance has slipped through inattention or neglect can be given a chance before their livelihood is threatened. Businesses in other spheres of society do not face ruin as a result of an error: there is no reason why licensed premises should be the exception.

If the mindset of authorities is to assist the venue into compliance, much litigious time and effort will be saved. This takes a careful approach by the authorities, with the best practices meriting wider appreciation.

### *Informal meetings*

Good partnership involves foresight, planning and joint working. Whether or not there is a pubwatch,

police should meet with all venues in an area on a regular basis, e.g. quarterly, to discuss common issues and planned responses. This may be advocated in guidance.

### *Compliance*

The great majority of licensees want to operate safely and compliantly. In some cases, they need advice and mentoring to achieve this. Random and sequential compliance inspections by different agencies can be unnecessarily stressful and resource-intensive. The need for and frequency of inspections should be risk-assessed, pre-notified and carried out on a multi-agency basis. The licensee should know in advance what s/he should expect at an inspection. Results should be recorded and shared. Any remedial steps should be discussed, agreed, recorded and then signed by the licensee.

### *Enforcement*

If any responsible authority has a concern about premises, whether revealed at an inspection or otherwise, they should meet around a table with the operator to discuss the concern. The meeting should be minuted. Any agreed actions should be recorded.

If the operator resolves the concern, this should itself be recorded. If it does not, this should be pointed out in writing and any further agreed actions recorded.

If any responsible authority considers that premises may be heading towards a review, the operator should be offered a meeting with a senior officer, to agree an action plan. The action plan should be written, and signed by both parties. The action plan may be carried into effect by a minor variation of the premises licence, so as to incorporate new conditions on the licence.

In general, a review should never be brought on the basis simply of recorded crime at the premises. The true question is not whether crime happens at premises, but whether the operator is taking sufficient steps to prevent crime occurring. Furthermore, the threat of such a review acts as a deterrent to the reporting of offences. Experience in the USA is that police forces will not attack licences because of crime, but because of a failure to report it or resolve the underlying concern.

Similarly, while a summary review can in law be brought after a single serious offence at premises, this represents poor practice. Banks are not closed after robberies or football stadia after pitch invasions. Premises should always be helped to ensure that the offence does not happen again including if necessary, through action planning.

If an operator does not comply with its licence or an action plan, the responsible authority may issue a "yellow card" giving the venue an opportunity to correct the non-compliance. In the USA, this is referred to as a "Code Violation."

The responsible authority is not expected to issue repeated yellow cards. But if it is considered necessary to start a review, it should be able to show a written record of true partnership in seeking to resolve the issue first.

Sometimes, responsible authorities say they have “no confidence” in the operator. That is an opinion which can only be tested by reference to whether the responsible authority has engaged appropriately and transparently with the premises but to no avail. Accordingly, the expression of such an opinion is a poor shortcut, and an inadequate substitute for true partnership work.

### *Local residents*

Venue owners should set out to maintain good relations with local residents. Where there are concerns, they should hold periodic meetings to discuss them, with actions agreed and minutes kept and distributed.

In the case of local residents, there should normally be a mediation process before review proceedings are commenced. The mediator should be an experienced licensing officer who can help to formulate an action plan, following the process described above.

Residents, of course, cannot be prevented from starting review proceedings, but they may be advised that it is often simpler and more effective to try mediation first before invoking the formal process of review.

### *Reviews*

A review threatens jobs, livelihoods, investments and cultural opportunities, they are expensive to defend and the ability to review is itself a disincentive to investment. Whereas authorities have powers to stop reviews brought by local residents, there is no threshold requirement, permission stage or strike-out power for reviews brought by authorities. The Guidance should state that reviews should only be brought as a last resort. In particular:

- the mere existence of crime at a venue (e.g. assaults) does not in and of itself justify a review. Crime will happen in the NTE. Rather, it is a question of the steps venues take to prevent and deal with crime
- steps to deal with crime should be agreed in meetings with the venue, and be signed by both parties
- a review might then be brought if the venue fails without good reason to take the agreed steps.

## *Conclusion*

We therefore advise that the following changes be made to National Guidance:

1. The need for partnership in the operation of premises should be stated.
2. Partnership helps identify and resolve issues at an early stage.
3. The need for action planning to resolve any issues at the premises should be emphasised. It should be clear that reviews should not normally be brought before such a process has occurred.
4. Guidance should recommend that authorities encourage mediation of disputes between residents and premises, before reviews are started.
5. In general, it should be underlined that reviews are intended as a last resort.

## **Recommendation 19: DCMS should work with the National Police Chief Council (“NPCC”) and trade associations to develop a consistent and fair approach to the use of statistics in licensing**

### *Introduction*

If a licence is granted to turn a vacant building into a nightclub, members of the public will visit. Some will become intoxicated. There will be occasional thefts, or even assaults. And so the number of crimes in the building will increase. If the licence is reviewed, it is obvious that revocation will reduce the amount of crime in the building. Does this compel refusal in the first case and revocation in the second, and if not why not?

Underlying these questions are two issues. The first concerns how statistics are used in licensing. The second concerns the purpose of licensing itself. The licensing system does not exist to prevent any use which may result in crime. It is to promote the prevention of crime. Operators who take proportionate measures to prevent crime should not be prevented from opening or forced to close. It is a continuing source of concern to the licensed industry that crime and disorder happens in all kinds of places, but only licensed premises risk closure because of it.

Night-time venues do not criminally profile their guests. They administer no questionnaires. They do no background checks on their history. Of course, they don't admit intoxicated or poorly behaved people. Depending on their venue policies and licence conditions they may search and/or ID scan them on the door. And they eject those who are poorly behaved. Such filtration makes a night-time venue a safer place to be than a street. But no venue can filter out all crime.

While licensing authorities and police do generally accept that venue managers do their best to prevent crime and disorder, there are inconsistencies of approach which could be resolved by a national protocol on treatment of data. Some common errors are as follows.

### *An acceptable level of crime?*

All licensing practitioners have experienced Licensing Sub-Committee A, which expresses deep concern about any crimes in venues at all, while Sub-Committee B understands that the admission of the public into venues means that some crime can be expected.

What is an acceptable level of crime? There is no such thing. What the Sub-Committee should be looking for is proper management of the venue, not some arbitrarily determined “acceptable” level.

### *Size of venue*

In a review of a nightclub licence, statistics may be produced showing an annual level of crime. Viewed in isolation, these may appear concerning. But taking account of its footfall and opening hours, the data may compare favourably to smaller venues opening fewer hours. But the crude total places the venue at risk of closure, loss of investment, jobs and cultural opportunity. It demonstrates how an unsophisticated approach to data may lead to the wrong conclusion.

### *League tables*

Sometimes league tables are produced showing the best and worst performing night-time venues, to support an application to revoke the licence of the league leaders. However, such crude approaches are unhelpful, because the league table does not answer important questions regarding the size, capacity, footfall, style and hours of the venue.

But even if it did, that would not justify closure of the league leaders. Imagine the comparison is between a high energy dance venue and an opera house. It is likely that the dance venue will experience a greater level of crime, due to factors such as clientele, movement, density, lighting and so forth. That implies that the management of the dance venue must recognise the risk factors in how they run their premises. It does not imply that they must be shut unless they achieve figures commensurate with the opera house.

### *Lumping crime together*

Sometimes a crude figure for total crime is provided. This may then lead to an argument as to the breakdown of the figure. Sometimes, it transpires that the figure largely comprises reported theft of mobile phones, which even then are often reports of loss rather than theft.<sup>10</sup> This underlines the need for a common approach to statistical compilation.

### *Unproven crime*

In some cases, Police will provide the underlying crime report. This may show that further investigation was not pursued. This does not necessarily mean that the crime did not occur. It may just mean that the

<sup>10</sup>Insurance claimants are often required to file crime reports. Even then, the insurance industry reports that a high percentage of mobile phone loss claims are bogus.

victim did not want to pursue it. But in some cases the report shows that the reported crime did not occur. Such crimes should not be held against the venue, but sometimes are due to crude compilations of data. Similarly, the way the police initially record a crime (e.g. GBH) may vary from how it is later analysed (e.g. common assault). Yet the case may be presented to the Licensing Sub-Committee as a GBH.

### *Venue as landmark*

Sometimes, crimes are attributed to the venue when analysis shows that it was simply a nearby landmark used in the crime report. Again, such incidents should be but sometimes are not filtered out before they are used in a review of the venue's licence.

A licensee lucky enough to afford proper representation will ask to see the underlying crime reports. These, even when heavily redacted, frequently reveal that the police had concluded that the offence committed was less serious than that first reported, e.g. a minor assault rather than grievous bodily harm. They might even have concluded that there was no offence at all, or none worth pursuing or supported by the evidence. Yet the allegation founding the review is often the more serious one first made.

### *Call-outs*

Good venue operators report crime. But some operators are scared of reporting crime, due to fear of closure based on a blunt approach to crime data. That means that venues with the worst police statistics may be the best venues, but are rarely regarded as such. Those with the best statistics may be the ones which have failed to report crime, or even concealed it, out of fear for the livelihoods of the owner and their staff.

A similar problem arises with drugs. A venue's approach to drugs may fall into one of four categories:

- 1) search, confiscate and report to the Police,
- 2) search, confiscate and turn the customer away;
- 3) search, find and turn the customer away;
- 4) fail to search or search ineffectively.

Venues in the first category are the most likely to be reviewed, while those in the fourth are the least. The opposite should be the case. Venues which train their staff to search carefully and report offences should be praised.

### *Displacement*

The philosophy underpinning much enforcement work is that by closing the venue, there will be less crime.

This is rarely the case.



Usually, the crime will simply transfer to other venues. Closing one night-time venue will not reduce the number of pickpockets or drug dealers or those with propensity to assault others. The offenders will just go somewhere else. The problem is therefore just shifted around. Closing the venue may be treated as a statistical success for the police force involved, but it may be a societal failure. More pertinently, it will not have assisted in promoting the licensing objectives.

Sometimes, closing a venue will make things even worse. For example, large music venues do their best to keep drugs out, but take precautions in case drugs come in, which may include employing paramedics and welfare marshals, and maintaining life-saving equipment in their treatment rooms. If a venue is closed, the demand for it will not go away, it is likely to be moved to other places, including unlicensed places, operated by people who might lack the resources, will or expertise to save lives. Shutting the licensed venue is therefore counter-productive and endangers lives.

Licensing Sub-Committees may be asked to shut the venue to reduce harm, but are not asked to consider whether the alternative may be a rave without basic medical protection. Taking the risk of displacement into account, it is often better to leave open a venue which is responsibly run even if, despite the best efforts of the operator, crime happens there.

### *Crime generator*

When there is a significant amount of crime associated with a venue, it is sometimes described as a crime generator. The expression is routinely expressed as a value judgment, and used as a criticism to support draconian measures against the venue, including revocation of its licence.

This, however, is a misuse of the term. The classical academic definition of the term is a place where a large number of people are attracted for reasons having nothing to do with criminal propensity, sometimes mixed in with people who did not attend for malign purposes but take the opportunity to commit crime and those who go there to commit crime. This includes nearly every public place: shopping malls, football stadia, railway concourses and, of course, night-time venues. Saying that a place is a “crime generator” tells one nothing about its management of the risk of crime.

In licensing hearings, the term is used as a pejorative. But, in truth, its use almost always signals a crude use of statistics coated with a veneer of scientific authority.

### *Treatment of statistics at hearings*

The inconsistent use of statistics presents difficulties for advocates, particularly when their submissions are time-limited in review hearings. Unpick the data, they are pettifogging. Leave the data unchallenged and the venue may be sanctioned for its criminal record. The best solution involves a common approach to the presentation of statistics to avoid issues of the sort described above.

### *A proper approach*

The goal of licensing is not and cannot be to obviate crime. That is because crime happens where people gather. The Licensing Act does not require crime to be obviated. Nor does it require the closure of venues which fail to obviate it.

Rather, the Licensing Act requires licensing authorities to carry out their functions with a view to promoting the licensing objectives.

In practice that means ensuring that venues are taking reasonable steps to prevent, detect and report crime in their premises. If they are doing so, they should not be closed but praised. If they aren't, they should have conditions added to their licence to ensure they do.

### *Conclusion*

The presentation of statistics will always be useful as part of an overall view of the performance of the premises. However, when used in an inconsistent or uninformed way, statistics are apt to mislead.

We therefore advise that:

1. DCMS should work with NPCC and trade associations to develop a protocol on the fair use of statistics in licensing.
2. National Guidance should include a proper approach to criminal data which recognises that crime occurs wherever people gather.
3. Guidance should make it clear that the objective of the system is not, and cannot be, to obviate crime, but to promote good practice in crime prevention.
4. Training of police and licensing officers should emphasise an informed approach to criminal data, which recognises and seeks to eliminate the deficiencies in approach listed above.

## **Recommendation 20: Parliament should legislate for remote licensing hearings**

The ability to hold hearings remotely can be of benefit to all parties. Licensees save the costs of instructing lawyers and experts to travel to hearings. Local residents can join from work or home without having to take the day off to attend. Councillors and officers can incorporate hearings into their working day. However, although there is a District Judge decision that such hearings are lawful, no provision has been made for this by Parliament and there remains some debate on the topic. Nor are there rules for when authorities should hold hearings remotely. This should be resolved by amendments to the Licensing Act 2003 (Hearings Regulations) 2005.

## **Recommendation 21: The Government should take action to reduce the cost and increase the speed of appeal proceedings**

The use of appeal procedures is extremely low. This is partly because of the cost of appeals, which routinely run into 5 figures per party. It is also because of the time taken to hear appeals, which can be up to 9 months. As a matter of access to justice, appeals should be quick, short and cheap to provide an effective check and balance on decisions of licensing authorities.

This could be achieved by assigning DJs as licensing judges, with automatic directions leading to short, early hearings principally on the papers but with limited oral evidence and argument. Provision for this could be made through amendments to the Magistrates' Court Rules.

Alternatively, the First Tier Tribunal could be considered as an alternative appeal tribunal. Tribunals already deal with gambling appeals from the Gambling Commission and also caravan site licensing. The directions are standard, hearings are quick, the judges are professional and specialise in regulation and no costs are payable.

## **Recommendation 22: There should be an exemption from licensing for small night cafes.**

The UK is a 24 hour economy, with hospitality, health, emergency service, transportation and shift workers all using town and city centres at night. Provision should be freely available for their rest and refreshment.

Nighttime convenience stores which sell cold drinks and food to passers-by do not need a licence, but if they install a coffee machine or a hot samosa they do. This lacks a logical basis. Night cafes below a certain capacity (e.g. 50), which provide for seated accommodation and WCs should not require a premises licence under the Licensing Act 2003. This can be achieved through a Deregulation Order.

A woman with her hair tied back, wearing a light blue apron over a white shirt, is smiling and looking down at a small object she is holding in her hands. The background is a kitchen with wooden cabinets. The image is dimmed with a dark overlay.

**CHAPTER 6:**  
**PEOPLE**

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## **Chapter 6: People**

### **Recommendation 23: There should be mandatory training for Licensing Sub-Committee members**

Many licensing authorities conduct or commission training for Licensing Sub-Committee members, and most members have a great deal of experience in considering applications and reviews. Nevertheless, there is no national minimum training requirement, and training varies in content and quality. Licensing Sub-Committee members exercise important functions, having power to decide whether a business should be permitted to open or conversely whether it should be compulsorily closed.

This involves several skills, such as listening, weighing evidence, understanding and applying concepts of proportionality, applying the law to the facts of the case, the process of collective decision-making and giving reasons for decisions. It also involves an understanding of the industry they are regulating. Such skills are not necessarily innate; they should be taught.

### **Recommendation 24: There should be continuing professional development for night time economy workers**

Working in the night time economy should provide a career path. Those wishing to hold a personal licence have to attain a set qualification. Others need no qualification. While large operators run their own training schemes, there is a need for those not employed by large operators to develop their professional skills. Such training is sporadically available, including Welfare and Vulnerability Engagement Training provided by the Police. There should be universal provision of vocational training through Awarding Bodies, with qualifications appropriate to the learner's needs, which may vary whether they wish to work, for example, in pubs, clubs and festivals.

Training could include EDI, neurodiversity, mental health well-being, public health approaches, safety initiatives, guidance for management of larger venues and crowd management, leading to a competent, knowledgeable and responsible domestic workforce. The NTIA has established the Safeguarding Nightlife Training Hub which ought to be a model for more universal training initiatives.

### **Recommendation 25: Government should promote the establishment of Nite Schools**

A well-functioning night time economy depends on partnership and mutual understanding between stakeholders, including operators, police, other authorities, councillors and residents. Each has access to their own source of information and training. This can create a disconnect in their evidence base and outlook.

The purpose of a Nite School is to bridge that gap. Bringing stakeholders together would help to build cohesion and understanding. A Nite School could include a wide range of topics, including regulatory principles, operating night time venues, Equality, Diversity and Inclusion, good practice schemes, policing the night time economy and mitigating nuisance etc. Materials could be developed nationally and delivered locally. Qualifications could be accredited.

The concept of a Nite School was developed in New York. It has an exciting potential in the UK to help to professionalise all stakeholders and ensure they speak in a common language.

### **Recommendation 26: National Guidance should recommend the appointment of a night time economy Ombudsman, performing an advisory and mediation function**

A new investor or young entrepreneur needs to find a site, deal with the bureaucracy of planning consent and premises licensing, together with other consents such as pavement licensing, table and chairs licensing and gaming machine permits. It is suggested that local authorities appoint an Ombudsman to help applicants as they seek to navigate the system. The Ombudsman may be seen as an investment and growth facilitator, earning the authority the reputation as a helpful partner to aspiring businesses.

The Ombudsman may also be a point of contact for residents with concerns about existing licensed premises.

The Ombudsman may also take on responsibility for mediating disputes regarding licensed premises, to avoid their escalating into costly litigation.

### **Recommendation 27: National Guidance should promote the use of street ambassadors**

There are many examples of street ambassadors in the UK, including street pastors and city angels. Ambassadors were successfully used in the London Olympics in 2012. They serve important functions of providing a welcome, acting as a reassuring safety presence, giving directions, providing liaison as necessary with the emergency services, providing assistance to people in need of it, e.g. because of intoxication, being separated from their friends or finding themselves without a bus fare home. Funding is often charitable, but also can come from Business Improvement Districts and public sector contributions. They should be encouraged in every town and city.

## **Recommendation 28: Security providers should be licensed**

It is an anomaly that whereas security operatives such as door staff need to be licensed by the Security Industry Authority ("SIA"), businesses supplying such staff do not themselves require to be licensed. This enables anybody to set up and supply security staff to the night time economy, without any knowledge, experience or commitment to the security industry or standards.

The SIA's Approved Contractor Scheme is a gold standard scheme for businesses, provided for by statute. However, this only serves to improve standards at the top, whereas good standards should be universal. Security staff play a critical role both inside and outside venues and will play a still greater role when the Protect Duty comes into force. Those who supply security operatives should themselves be licensed to do so.

## **Recommendation 29: National strategy should focus on perpetrators**

Those who commit crime in the night time economy - whether at a high or low level, and whether inside or outside venues endanger others, harm the amenity of local residents, create fear in local communities and deter some from visiting the night time economy at all. Their conduct can lead to the closure of venues even when the venue itself is not at fault. Often, they face no consequences for their behaviour, e.g. because their conduct is not reported, or if reported is not acted on, or if acted on is not prosecuted. No new offences are required, but (i) the Sentencing Council should ensure that the fact that the crime is committed in a licensed environment, where people are entitled to feel safe, is a seriously aggravating factor; (ii) charging decisions should reflect the public interest in bringing those who offend in licensed premises to justice; (iii) diversionary remedies consisting of brief interventions should be instituted following further research if necessary, including alcohol / anger management courses; (iv) judicial training and refresher training should include training in dealing with offences in the night time economy, including sentencing guidelines and more routine use of Drink Banning Orders.

# CHAPTER 7: BEST PRACTICE

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## **Chapter 7: Best Practice**

Over the last 20 years, there has been greater focus on good practice in the night time economy, going beyond measures by individual venues. Good practice should be highlighted and promoted in national guidance and in the national strategy.

### **Recommendation 30: Good practice schemes should be promoted by Government**

There are several good practice schemes operating in the night time economy, including Purple Flag (which accredits safe, welcoming and diverse night time economies,) Best Bar None (which accredits safe bars), Business Improvement Districts (which collect a supplement to rates and utilise the fund for marketing and safety and environmental improvements) and Pubwatch (which helps bars share information relevant to crime and disorder). These are all worthy of encouragement, subject to local cost benefit analysis and need.

### **Recommendation 31: Local authorities should accredit night safety champions**

Those who do most to ensure that the public is safe in night time venues are often volunteers such as street angels or venue staff acting beyond the call of duty. Local authorities should recognise and reward these contributions through a system of local awards.

### **Recommendation 32: Local authorities should plan their local cultural ecology**

The vibrancy of a local cultural ecology based in the night time economy is dependent on early nurturing, starting with music and arts education in schools, performance opportunities in a hierarchy of venues, and vocational learning in allied fields, e.g. sound engineering, DJing, event production, marketing and social media. The national strategy should encourage local authorities to plan for their local ecology through their culture and education strategies and budgets, in partnership with arts funding bodies and industry representatives.

### **Recommendation 33: National strategy should promote late night transport initiatives**

Late night transport is crucial for night workers, including musicians, helps the Night Time Economy by improving transportation for customers and is key to women's safety. Free schemes operate in many cities including Austin Texas, Tallinn Estonia, Berlin and Montreal.

Such schemes may provide free transport for local residents, or with hotel stays or with a city culture pass, or for young people travelling with adults or on celebratory days. Authorities should be encouraged to pilot free transportation at night to assess usage, local views and the benefit to the night time economy. Authorities should also investigate the opportunities for sponsorship of night transport. Conversely, late night venue should be particularly encouraged around late night transport hubs.

### **Recommendation 34: National strategy should promote diversity in the night time economy**

The Night Time Economy should be enjoyed by persons of all ages, ethnicities, genders, sexualities, means and abilities. Key current and future issues include women's safety, LGBTQIA+ use of the night time economy, accessibility, neurodiversity, affordability and the potential of the Night Time Economy to combat loneliness in elderly people. These are all topics which should be included in the national strategy.

### **Recommendation 35: National strategy should promote sustainability in the night time economy**

Sustainability is a key theme for society, and therefore for users of the night time economy. The night time economy should lead on sustainability practices, e.g. local food and beverage production and supply lines, green transportation initiatives, renewable energy/waste to energy, recycling, avoiding disposable plastics and encouraging public transport usage.

The national strategy should advise on and promote practices and schemes to ensure that the night time economy plays a full role in achieving the UK's sustainability and net zero objectives.

### **Recommendation 36: Drug testing should be piloted and tested in town and city centres**

Home Office-licensed drug testing facilities analyse drugs to find out what they contain, including dangerous contaminants. The testing may be back of house (analysing drugs seized by the Police) or front of house (analysing drugs presented by members of the public). In either case, a picture is developed of what drugs are circulating locally and the risks they carry, so that appropriate messaging can be disseminated. Research shows that such facilities can play a strong role in reducing drug-related harm. Importantly, drug testing organisations comprise health professionals and chemists: they do not promote the use of drugs.

Drug testing services have been operated at festivals for some years and also operate in some cities across Europe. A city centre scheme is in development in Bristol. The national strategy should promote appropriate drug testing in town and city centres, larger venues and festivals.

# CHAPTER 8: **COSTS & FINANCE**

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## Chapter 8 : Costs and finance

The continuing loss of night time venues is a matter of serious concern, reducing cultural opportunities, harming local economies, diminishing the tax base, reducing employment prospects, increasing welfare payments and damaging regional tourism potential. The main reason for loss of venues is the cost of operation.

The range of costs imposed on night time venues is wide. It includes:

- VAT on food and drink
- Alcohol duties
- Business rates
- PAYE
- National insurance
- Premises licence fees
- Late night levy
- Amusement machine licence duty
- PRS and PPL licences for playing of music

Covid and the cost of living crisis have caused revenue to fall across the sector. At the same time, rising energy and commodity costs have loaded often intolerable burdens on venues. There is therefore an urgent need to reduce costs imposed by the state on venues.

The key changes which should be considered are as follows.

### **Recommendation 37: VAT should be reduced**

VAT on food sold by pubs and restaurants is charged at 20%. In supermarkets it is nil. Supermarkets already have significant advantages over hospitality venues because they can loss-lead on alcohol, sell multiple packs at a discount and pay lower business rates than town centre venues. This disparity is inequitable, unjust and punitive. We do not advocate increasing VAT for supermarkets, which will hit the consumer. We advocate removing it for hospitality venues.

VAT on alcohol in hospitality venues is charged at 20%, but it reduced to 5% during the pandemic for soft drinks, food and event tickets, and then 12.5% before returning to 20% in April 2022. But the current scenario is equally serious. Venues are closing. Costs are rising. Customers' ability to pay is reducing. While the temporary change was welcome, the industry is not out of the woods. VAT on hospitality venues should be reduced.

It is also recommended that no VAT should be payable on noise attenuation works in cultural venues.

## **Recommendation 38: The rates burden should be reduced**

Night venues tend to be in town and city centres where there is good public transport and footfall. They are community hubs, and together form part of the cultural offer and identity of the town or city. But the rates burden has become unsustainable. Increasingly, they are in competition for consumer spend with supermarkets, which may locate on the edge of or even outside town and city centres, where rates are lower, or with delivery or streaming services provided from outside the town or city altogether. There is no good reason why the highest rates should be borne by those providing important customer services in town and city centres.

In Germany, nightclubs can be treated as culture venues so paying business rates at the same level as other culture venues such as opera houses. There is no reason why popular culture should be treated as less important, or worthy of national support, than high culture. Popular culture artists contribute to the UK's international standing, generate business and taxation revenues and are enjoyed by millions.

While the entire system of business rates requires reform, more immediate tools are available. For 2022/2023 the Government announced 75% relief for retail, hospitality and leisure venues. This scheme should be made permanent, pending a wider review of the system for business rates.

It is acknowledged that local authorities have a discretion to grant rates relief to particular venues. However, there is no national guidance recommending that such relief be given to pubs or clubs, even though these are often community hubs. Such guidance should be issued, again pending a wider review of the system.

## **Recommendation 39: The system for licence fees should be reviewed**

Fees for licence applications and renewals run from £100 to £1,905 a year, while renewals run from £70 to £1,050.

The main factors in setting fees are: a) the rateable value of the premises and b) whether they are both in one of the highest rates bands and exclusively or primarily for on-sales of alcohol, which attracts a multiplier. The net effect is that a city centre pub with a capacity of 100 people may pay £1905 for its licence, while a rural pub with a capacity for 500 people may pay £100. Further, a city centre supermarket which sells even more alcohol than a pub next door will pay a maximum of £635. There is no sensible reason for these disparities.

As for rateable bands, there is no sensible reason why licence fees should be linked to the rateable band into which the premises fall. The Licensing Act (Fees) Regulations 2005 were not accompanied by an Impact Assessment, so the thinking of government at the time is unclear. It seems reasonable to suppose that the government's reasoning was at least partly that town and city centre pubs and clubs were more likely to be able to afford higher licensing fees. Given the level of closures since, this assumption is no longer true.

As for the multiplier, premises which sell alcohol will already be paying alcohol duty and VAT on the products they sell. If they do not do so responsibly, so that the licensing objectives are harmed, they may be brought in for a review of their licence. There is no good argument to make them pay a multiple of the fee chargeable to any other premises, including supermarkets and pubs trading outside the town or city centre.

Accordingly, the higher rates of fee for town and city centres should be removed, as should the multiplier. Night time venues already pay a range of taxes and charges. Their location should not be an aggravating factor.

Further, well-run venues impose a lower burden on public authorities and have a lower impact on the public realm. This should be reflected in a lower fee, which will also help to incentivise licensees to join good practice schemes.

## **Recommendation 40: A national fund for the protection of cultural venues should be established**

During the pandemic, the Culture Recovery Fund demonstrated the importance of a financial lifeline, however small, for important cultural venues.

It is recommended that a national fund should be established to assist cultural venues with necessary capital works, including improving accessibility and sound attenuation. An example of such a scheme is in Berlin, where a noise protection fund provided one million euros to help venues with noise reduction works.

## **Recommendation 41: The late night levy should be abolished**

The late night levy is an arbitrary tax imposed on late-operating venues, which are already taxed on their late night trade through alcohol duties, VAT, PAYE and national insurance. The night time economy is an integral part of the economy. It should not be singled out for discriminatory fiscal treatment, but should be treated the same as any other economic entity. The late night levy has only been taken up by a handful of authorities<sup>11</sup>, some of which have subsequently rescinded it. It should now be abolished.

## **Recommendation 42: The government should ensure that there is an equitable business interruption insurance scheme available to all venues**

During COVID, many venues which were forced to close were unable to recover their losses through insurance because of the wording of their policies. Often, the difference between recovery and non-recovery was a subtle difference in wording identified by appellate courts.

Industry efforts continue to try to ensure that such issues do not arise again. Nevertheless, the government should consider a contributory, state-backed business insurance scheme for all businesses to ensure recovery from any future disasters requiring widespread closure.

## **Recommendation 43: The government should enable local authorities to impose a tourism levy**

The tourism economy is important to the UK, yet tourists can impose pressures on town and city centres without paying for them. A tourism levy could be charged per person per night for hotels and other accommodation, including Airbnb. The amount could be a matter of local discretion, even as little as £1. The proceeds could be used to fund public WCs, water fountains, street ambassadors, late night transport, culture funds etc. Tourism levies are commonplace in other countries and are currently under consideration in Wales. Local authorities should have the right to legislate locally to raise a tourism levy to improve facilities and support the hospitality sector.

## **Recommendation 44: The government should promote culture tokens for young people**

Young people are important consumers of culture, yet the cost of living crisis has in many cases put access to culture beyond their reach. The Government should institute a national scheme, if necessary underwritten by corporate advertising, for culture tokens issued to 16-25 year olds, giving them limited access to culture venues, including clubs and performing arts venues. There will be an economic return to the state in the form of increased taxation revenues and the slowing down of venue closures. There will be a cultural return in promoting venues and arts careers and establishing a habit of visiting venues in young people. A pilot scheme could be used to test take-up, cost and economic and other benefits.

<sup>11</sup>In 2022 the late night levy was operated by nine local authorities.

## FURTHER READING

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### **From Good Night to Great Night: a Vision for London as a 24 hour city:**

[https://www.london.gov.uk/sites/default/files/24\\_hour\\_london\\_vision.pdf](https://www.london.gov.uk/sites/default/files/24_hour_london_vision.pdf)

### **Republic Of Užupis:**

<http://www.uzupiorespublika.com/en/home/>

### **San Francisco: Policy basis for formula retail (chain store):**

<https://sfplanning.org/project/policy-basis-formula-retail-chain-stores>

### **Schallschutzfonds: Berlin's funding programme for soundproofing measures in clubs and music venues:**

<https://en.schallschutzfonds.de/>

### **Sheffield Cultural Industries Quarter:**

<https://www.sheffield.gov.uk/planning-development/conservation-areas/cultural-industries-quarter>



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