

REVIEW OF THE MUSIC FESTIVALS ACT 2019

New South Wales, Australia

*** EXECUTIVE SUMMARY ***

The following is submitted by the joint contributors to this document, all of whom are based in the United Kingdom (UK) and have significant experience of working with and for a number of leading UK music festivals, in particular the Glastonbury Festival (licensed capacity 210,000) and Boomtown Fair (licensed capacity 77,000), and at many other festivals and major events. All contributors are specialists in their own fields. They feel privileged to be requested to contribute regarding the Consultation Paper (October 2023).

The contributors main aim is to stimulate thinking as to how the New South Wales (NSW) Government's commitment to review and bring forward real change regarding music festivals can be enlightened by comparing legislation, policy and best practice from a similar environment. The ultimate goal for the contributors is to assist the NSW festival industry to flourish as the UK festival industry has been able to do over the past fifty years.

Through its commitment to review the Music Festivals Act 2019 by way of this consultation process the current NSW Government has demonstrated a proactive approach to address the challenges currently faced by the industry and public service agencies. The contributors are more than willing to further support NSW in their important work to review the Act. They can be utilised as a source to assist delivery on this commitment if required.

The UK has a track record of delivering very safe and secure music festivals that bring joy and entertainment to the public, and a huge number of economic and cultural benefits.

This five decade track record of safe, successful and secure music festivals has been developed primarily due to three key reasons:

1. Pro-Festival Stance from Government - Support for music festivals on a local and federal (national) level
2. Legislative Framework - Laws and regulations designed with an emphasis on a streamlined and supportive, rather than a restrictive and punitive, approach with event organisers fully responsible for delivery of their music festivals
3. Agency Effectiveness, Collaboration and Partnership Working - Clearly defined agency roles and responsibilities, leading to an engaged and collaborative approach, increased efficiency, with less drain on the public service agency time and resources.

At the core of these three factors is a fully enabling culture, one where all stakeholders, whether they be event organisers for festivals, agencies or policy makers, work together on the common goal of producing a safe and vibrant music festival industry.

In the UK, music festivals apply for, and if successful, are granted a premises licence which they hold 'in perpetuity'. So this enabling and supportive culture is the key driver in four key components of the broader UK festival regulatory environment. These are summarised as:

1) LICENSING LEGISLATION

- The UK system does not seek to categorise premises by risk, type, size or style
- The licence application process is extensive and allows input from all the key agencies, government bodies and the community at the outset. A risk assessment based approach is employed by all - the greater the agreed risks associated with the music festival operation then the more conditions, controls, measures, restrictions and oversight is commensurately increased
- Once approved, agencies do not have approval powers over each individual music festival and agencies are engaged in an advisory capacity (see following section)
- Agencies and stakeholders have an ability to apply for a review (and if necessary closure) of the premises licence / event before, during or after the music festival has taken place if there is good reason to do so.

2) FESTIVAL DELIVERY AND MANAGEMENT

- Once the premises licence has been issued, with the necessary conditions, then it becomes the event organisers responsibility to deliver the music festival in accordance with that licence
- The statutory agencies are not responsible for the safe and secure delivery of the music festival. Event organisers and others involved in the delivery and management of the event retain the principal legal duties for ensuring public safety and solely retain full responsibility for that music festival
- The agencies role is initially to ensure that the premises licence application had due scrutiny, with any licence granted being done so on a firm foundation following comprehensive stakeholder consultation
- Safety Advisory Groups (SAGs) - these are usually coordinated by the local authority and made up of representatives from the local authority, emergency services, other relevant bodies, plus the event organiser
- SAGs provide a forum for discussing and advising on public safety at the event. They aim to help and support event organisers with the planning, delivery and management of a music festival and to encourage cooperation and coordination between all relevant agencies. They are non-statutory bodies and so do not have legal powers or responsibilities, and are not empowered to approve or prohibit events from taking place.

3) POLICE CHARGING

Role of Police:

- In the UK, the police have five key roles for events; including preventing crime, preventing breach of the peace, etc. Police may also provide Special Police Services (SPS) if requested by the music festival
- The UK Government has its own law regarding police charges under Section 25 of the Police Act 1996. Then underneath this the police service has published its own

national guidance regarding SPS - 'National Policing Guidelines on Charging for Police Services (2023)'

- If SPS is requested, there are different levels that could be charged and a working understanding on what police services should or should not be charged
- There are many large events in the UK where SPS are not required or requested. This has the effect of minimising in an operational context the impact that any music festival has on the police service and their day-to-day societal role. In many circumstances it is not necessary for the police to attend music festivals at all due to the experience and capability of the private sector who can quite adequately perform similar functions.

4) DRUG STRATEGY

- Over the last fifteen years the drug enforcement approach by the police service and legal system in the UK has changed regarding possession only offences in favour of an educational approach
- 'Back of House' (BOH) drug testing is now more common and entails the provision of scientists and drug testing equipment within the actual festival site but located away from the public domain
- BOH drug testing provision is procured at all major UK music festivals by the event organiser and forms an essential harm reduction tool that is capable of identifying virtually all substances and adulterants in a matter of minutes
- Due to current UK Home Office considerations any Front of House (FOH) drug testing capability undertaken directly with the public is not currently available in the UK. However it should be noted that licensed FOH drug testing is being considered and has also been used in the UK previously by the contributors to this paper. FOH drug testing is successfully used in many countries across Europe, such as the Netherlands, Spain and Switzerland.

RECOMMENDATIONS:

The following recommendations have been prepared in response to the broader request for additional feedback, but include reference to Questions 3, 4, 5, 6 & 9 of the Consultation Paper:

- Complete removal of the 'subject festival' category. The contributors suggest that threats and risks posed should be managed item by item with suitable controls and mitigations put in place
- Frame the new legislation as being permissive and enabling - licences will be issued unless there are substantial grounds to refuse
- Music festival licences to be 'in perpetuity' - giving surety to the event organisers on their music festivals and the wide ranging economic benefits they bring, with the safeguard that the licence can be removed if matters are not attended to correctly
- That the Roundtable plays a greater and more flexible role, and acts in a similar fashion to SAG in the UK - a non-statutory body which can provide advice and guidance to event organisers for music festivals

- Adoption of a state guidance scheme and a forum for all agencies, including the police and event organisers / key operators
- Consideration of approved drug testing regimes on music festivals sites, 'Back of House' and / or 'Front of House', fully utilised as a harm reduction tool.

PURPLE GUIDE

'The Purple Guide to Health, Safety and Welfare at Outdoor Events' (Purple Guide) is published by the Events Industry Forum. It is designed to provide advice and guidance for event organisers, suppliers, local authorities, public services and others involved in the outdoor events industry. The 'Purple Guide' has been written by UK event professionals primarily for the UK.

Importantly the 'Purple Guide' states that outside the UK, while the principles of the guide should still apply, it is advised that account will also need to be taken of local regulations. Therefore the 'Purple Guide', that has been developed over the years by the UK, is already fully in use in NSW for those event organisers and public services who wish to utilise it.

CONTRIBUTORS:

Adrian Coombs

Matthew Phipps

Paul Bunt

Footnote: The term 'local authorities' in the UK means the public service agency that is responsible for services such as education, transport, planning applications, licensing, some public health provisions and waste collection. There are over 300 local authorities in the UK and the meaning of this term may differ in Australia.

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1) INTRODUCTION

The following is put forward by the joint contributors based on their significant experience of working with and for a number of leading UK festivals. This commentary is not intended to suggest nor imply that the British model of licensing, regulating, delivering and managing large scale music festival gatherings is a model that could and / or should be adopted by the NSW Government. It is however hoped that it will be informative to understand how a different jurisdiction, with very significant if not world-leading experience and history with events of this type, gained over fifty years, may offer some legitimate considerations within the context of this consultation phase and exercise.

It is important to note that the UK system does not seek to categorise premises by risk, type or style. All events are licensed under the auspices of a premises licence but the conditionality, imposed upon the event organiser (licence holder) is bespoke to the individual operation. In essence this is a risk assessment-based approach where it's reasonable to presume that the greater the risks associated with the operation the more significant the conditions, controls, measures, restrictions and oversight. This system has much to commend it.

Whilst the Scottish licensing legislation provides for public health as a licensing objective the England and Welsh system does not. Safety is addressed, self-evidently, but is defined within the licensing guidance as concerning itself with "the safety of people using the relevant premises rather than public health which is addressed in other legislation". Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective.

Whilst the position as regards to the Safety Advisory Group (SAG) "oversight" for large music festival planning and management is not analogous to the NSW "Roundtable" model - there are clear synergies and similarities.

2) CONTRIBUTORS

All contributors are based in the UK. They have considerable major event experience in their own specialist areas within the music festival sector. This is underpinned by the roles they have all performed in relation to the two largest independent music festivals in the UK - Glastonbury Festival (licensed capacity 210,000) and Boomtown Fair (licensed capacity 77,000 / operating capacity 66,000), and at many other festivals and major events.

2a) Adrian Coombs - Major Events Boss Limited

Global Major Event Consultant - music festivals, music concerts, professional sports, large scale audience capacity events, Strategic Commander, Tactical Commander, Safety Officer, member of various UK Government and event industry forums.

After 30 years exemplary police service Adrian retired from the Avon and Somerset Constabulary in 2012. For the last 10 years of his police career Adrian was a Superintendent / Chief Superintendent with direct responsibility for planning and commanding major operations of all descriptions, be they police specific or in the multi-agency environment. He was trained and routinely performed in all the challenging roles of uniformed policing at the highest national levels, indeed he authored and contributed to many national policing service standards. For 10 years from 2002 - 2011 inclusive Adrian was the Lead Planner and Overall Tactical Commander for the Glastonbury Festival. [REDACTED]

On retirement from the police service Adrian formed his own company - Major Events Boss Limited. From late 2012 he immediately commenced a new event consultancy role as the Security Director for the Glastonbury Festival, a role he undertook for 4 consecutive years. Then for 6 years from 2016 - 2021 he was appointed as the Operations Director, this being the most senior strategic position with the direct responsibility for licensing and managing the safe, secure and coordinated delivery of the entire Glastonbury Festival - licensed for 210,000 people.

Accordingly Adrian worked at the Glastonbury Festival for 20 years from 2002 - 2021 inclusive. He is unique in having performed both the lead policing role and the lead festival role for 10 years each from 'both sides of the fortress fence'. During this 20 year tenure reported crime dropped by 92.5%, thus evidencing outstanding leadership abilities regarding improving public safety and security in this high profile partnership arena whilst delivering substantial problem solving solutions.

Adrian has undertaken many other noteworthy roles; such as from March - July 2020, at the request of the UK Government (National Health Service) and in response to the global COVID-19 pandemic, he performed the Programme Director role as a volunteer for the commissioning, building and functioning of the NHS Nightingale Hospital in Bristol. This 301 bed intensive care facility was built in 24 days [REDACTED]

Then since May 2020 he has been a founding member of the UK Government 'Entertainment and Events Group', 'Festivals Group' and other national event forums. As a member of the 'Festivals Group' Adrian authored the 'UK Festivals COVID-19 Guidance' which was published in October 2020 as a supplement to 'The Purple Guide to Health, Safety and Welfare at Music and other Events' - the Purple Guide is the 'bible' for outdoor events and is published in the UK by The Events Industry Forum - it has worldwide use. Adrian's experience and knowledge is further dispensed when performing major roles at a range of other large scale events where he generally performs the strategic role of being the Event Consultant or Strategic Commander, or the tactical role of being the Tactical Commander, Event Controller or Safety Officer. In the UK and globally these events are at music festivals, music concerts, large scale audience capacity events and professional sports - including Ryder Cup golf, international cricket and national rugby union.

Most noteworthy amongst these is his current role since 2013 in developing and growing the Boomtown Fair, a music festival held in southern England, that he has nurtured from 15,000 attendees to become the second largest attended independent music festival in the UK today with a licensed capacity of 77,000 [REDACTED]

2b) Matthew Phipps - TLT Solicitors

TLT is a UK Law firm headquartered in Bristol with offices throughout the UK. It was named Law Firm of the Year at the Lawyer Awards 2021, named Law Firm of the Year at the Legal Business Awards in 2023 and named Law Firm of the Year at the British Legal Awards in 2022.

TLT have been asked to assist in the production of this response, providing the legal context of licensing of festivals in England and Wales.

TLT's Licensing Team is one of the leading practices across the UK. It is the only practice with lawyers in each of the three jurisdictions (England and Wales, Scotland and Northern Ireland). It acts for a wide range of licence holders across a variety of sectors including pubs and bars, hotels, restaurants, sports stadia, music arenas. TLT has a recognised specialism in large scale event (festival) licensing having acted for a number of the most significant festivals in the UK across many years. These festivals include Glastonbury, Boomtown, Boardmasters, We Out Here, Sequences, Elrow, Shambala, In It Together, Sundown, Strummerville, Krank Brother and HowTheLightGetsIn amongst others.

In the context of large scale event licensing TLT acted for the London Organising Committee of the Olympic Games in 2012 obtained licences for all the 'off park' activities, such as the beach volleyball at Horse Guards Parade. In 2022 TLT acted for the Government in securing licences across the Royal Parks to help celebrate the Queens Platinum Jubilee and in 2023 did similar in support of the Kings Coronation.

TLT have also acted for Leeds City of Culture and Coventry City of Culture as well as assisting sports stadia in hosting large scale music events (Murrayfield, home of Scotland Rugby and Ashton Gate in Bristol, home to Bristol City FC and Bristol Bears Rugby).

TLT are members of the Association of Independent Festivals and host their premises licence helpline.

2c) Paul Bunt - Casterton Event Solutions Limited

UK Drug Strategy Consultant - music festivals, music concerts, Drug Expert Witness

Paul retired from his police role in the rank of Inspector after a successful career which saw him recognised nationally for his innovation in reducing crime and problem solving. In 2006, due to these attributes, Paul was asked to undertake the role of Drug Strategy Manager to address the serious problems being experienced both locally and nationally involving drug use and supply. In 2007 Paul was invited onto national drug working groups governed by the then Association of Chief Police Officers and then later by the National Police Chiefs Council. He was a member until his retirement from the police in 2017.

His influence in the role as Drug Strategy Manager with Avon and Somerset Constabulary saw him progress to become the force lead on drugs. During his 10 years in the role Paul:

1. Produced the Drug Strategy at major music festivals such as Glastonbury, NASS, BLOC and Slammin Vinyl
2. Acted as a commissioner for drug treatment in all five of Avon and Somerset's Drug Alcohol Action Teams (DAATS) whose annual budgets ranged from £2.5 to £12 million
3. Was responsible for nationally acclaimed initiatives in the areas of cannabis cultivation, NPS, drug intervention in police custody and drug possession
4. Qualified as a Police Drug Expert Witness.

Paul retired from his role at Avon and Somerset Constabulary in 2017 and set up his own business - Casterton Event Solutions Limited. This delivers expert advice on drugs and drug related harm reduction to major music festivals. [REDACTED]

1. [REDACTED]
2. [REDACTED]

3) LICENSING LEGISLATION

3a) Licensing Act 2003 (England and Wales) - An Introduction

The Licensing Act 2003 (LA03) came into law in November 2005. The purpose of the new legislation was:

1. To update the previous legislation legislating sales of alcohol - the Licensing Act 1964
2. To consolidate public entertainment licensing with alcohol licensing
3. To include the sale of hot food and hot drink between 11pm and 5am within the licensing regime.
4. To remove licensing from the remit of the Magistrates court system , so that it is (now) considered by Local Government (Local Authorities).

This devolution of power to local authorities ("the Licensing Authority"), of which there are approximately 350 across England Wales, allows for local considerations by local officers and politicians, considering local issues and impacts.

A local licensing policy addressing itself to licensing concerns is embedded within the legislation, such that every Licensing Authority (e.g. Cornwall, Newcastle, Birmingham etc) is published every 5 years.

The genesis of the change came from a recognition that the disparate and restrictive processes in place at the time were out of date in that:

1. They set arbitrary closing times for premises that led to significant problems of dispersal of customers at closing time (11pm for pubs and 2am for nightclubs)
2. Applicants were forced to engage in separate applications for licences to sell alcohol and provide entertainment, which was both unwieldy and expensive
3. There was a lack of meaningful local engagement in the processes, in particular where there may be legitimate concerns about premises operating poorly
4. There was no consistency of rules, costs, or expected timeframes for applications
5. The system 'siloed' premises and prevented innovation and development of the hospitality sector as a whole.

In 2005, a backlash led by certain segments of the media predicted 'carnage on the streets' due to operators opening 24 hours a day and young people in particular staying out all night. These fears have largely been proven false. If anything, local community and officer engagement in the process, both in relation to new applications and where there are 'problem premises', has improved standards of operation, led to a diversity of types of premises and precipitated a diminution in the number of premises that solely sell alcohol. The increase in choice for the general public has had profound and positive outcomes for local economies of areas, particularly in towns and cities where retail has been 'hollowed out'.

3b) Licensing Act 2003 - How it Works

Effectively, the LA03 has localised the process, requiring applicants to apply to their local authorities for a single licence for any or all of the following:

- Sale / supply of alcohol
- Provision of regulated entertainment, including
 - Live / recorded music
 - Plays
 - Films
 - Indoor sporting events
- Provision of Late Night Refreshment (hot food / drink between 11pm and 5am).

It is for applicants to ultimately determine what activities they apply for, the hours they wish to operate and the conditions they wish to propose as a means of moderating their applications. Local authorities set policy guidelines, articulating their expectations for applicants in terms of hours and conditions that they may consider more favourably. National guidance ensures that all parties understand what is expected of them as a part of the process from a national perspective to ensure consistency. Police, environmental protection and other council officers then get to have their say on the application, as do residents, local businesses and politicians.

Ultimately, the legislation is permissive, in that if no-one objects to the application, then it must be granted, irrespective of whether the application is contrary to local policy or not. However, by permitting local engagement, officers and local communities can have a significant say on what is and is not ultimately granted by way of a new licence.

3c) Licensing Objectives

The only factors relevant to any licensing application are known as the four licensing objectives. These are:

1. Prevention of crime and disorder
2. Prevention of public nuisance
3. Public safety
4. Protection of children from harm.

All applicants are expected to consider these objectives in deciding what to apply for. Any party concerned by an application in their area and making objections to it likewise need to link their objections to the objectives.

3d) Applications

The application system is the same, no matter what an applicant is applying for, be it a:

- Restaurant
- Takeaway
- New bar
- Nightclub
- Theatre or cinema
- Music venue
- Music festival.

Only the level of fees and the amount of scrutiny an applicant can expect differs. Applications are advertised in the local area to ensure there is an opportunity for proper community engagement.

To that end, applicants are expected to give consideration to the four licensing objectives in designing their applications. As part of the process, applicants produce an operating schedule, setting out activities, hours and conditions of operation that they intend to operate by. Police and other authorities are expected to play their part through engagement with applicants. The larger the application, the more engagement an applicant can expect. Likewise, the larger the application, the more an applicant can expect to have to create a detailed operating schedule to try to persuade officers and the local community that the application will not undermine the licensing objectives.

Where an agreement cannot be reached with all parties, then it is for the Licensing Authority to hold a hearing to determine whether the application promotes the licensing objectives and can therefore be granted. If the application undermines the objectives, the authority must determine whether it can be modified or must be refused.

3e) Licence Conditions

Licences granted to premises have contained within them an operating schedule setting out all of the conditions under which the premises must operate. These conditions focus on the four licensing objectives.

However premises licensing in England and Wales obliges a premises licence to be obtained by those wishing to conduct licensable activities, whatever the nature, type and style of premises. Put simply a public house, hotel, restaurant, music arena, sports stadia

and music festivals, perhaps for many thousands of people, all conduct licensable activities under a premises licence issued under the LA03.

Each premises licence is therefore individual to the nature, type and style of the operations being conducted. Whilst a number of licence conditions may be similar within different types and styles of operation (requirement to have an Incident Book, requirement to have an underage alcohol refusals book, requirement to risk assess for security personnel etc common for a pub) the different, arguably unique, nature of large scale music festivals mean that these licences tend to operate slightly differently. Across the eighteen years since the introduction of this legislation there has been a gradual movement away, for premises of this type, from granular particular conditions attending to all of the various elements within a licensed operation to what is colloquially called an Event Safety Management Plan (ESMP) approach.

3f) Event Safety Management Plan (ESMP) - licensing phase

The ESMP is the document that contains all of the policies and procedures that will be employed at the premises so as to ensure that the licensing objectives are promoted, essentially that the event passes off successfully.

These policies and procedures are by their very nature dynamic and subject to change. Weather and perhaps Covid-19 being two obvious examples of how matters may come to be impacted and effected through the course of the planning and preparation stage, as well as the event itself. One can quickly see the significance and reach of such an approach.

By way of illustration, an example condition attached to a premises licence is given here below highlighting first the use of an ESMP:

- *The premise licence holder shall provide at least 6 months prior notice in writing of the event date to the Licensing Authority and Police.*
- *A bespoke ESMP will be produced and provided to the Licensing Authority, Constabulary and Fire and Rescue Service no less than three months prior to the event.*
- *The ESMP will be circulated to the SAG a minimum of three months prior to the event. Each and every event would be presented individually to the SAG.*
- *A final version of the ESMP and appendices shall be submitted to the SAG no less than 30 days prior to the event taking place. For operational delivery and safety of the event and subject to any last minute intelligence or other information, any last minute changes will be accepted and the ESMP updated and circulated to the SAG without delay. Any changes must be version controlled. The premises will be managed in accordance with the ESMP submitted.*
- *The ESMP will include (but not be limited) to the following:*
 - *Fire Safety Plan;*
 - *Major Incident pPlan;*
 - *Emergency Procedures Plan;*
 - *Alcohol Management Plan;*
 - *Noise Management Plan;*
 - *Security Management Plan - search policy and eviction policy;*
 - *Staff Schedule;*
 - *Drug Policy;*
 - *Bar Briefing (to staff)*
 - *Site Plan;*
 - *Medical Resources Plan;*

- *Traffic Management Plan; and*
- *Safeguarding Policy*
- *Event Risk Assessment*
- *Crowd Management Plan*
- *Ingress and Egress Plan*
- *Counter Terrorism Policy*
- *Litter Collection Plan.*

3g) Safety Advisory Group (SAG) - licensing phase

Whilst the licence application engages with the responsible authorities designated by Parliament to be the formal consultees (see above) a SAG expands the consultees within the context of the planning and preparation for the event to other engaged officers such as Highways, Ambulance Service, and so on.

The SAG does not in and of itself “approve” the proposals being made by the operator (Premises Licence Holder) but comes together (historically in person but increasingly remotely on video call) to ensure that preparations are being made correctly and in an appropriately timely fashion.

This approach is increasingly recognised by licensing authorities as the way in which preparations for significant events may have appropriate oversight and consideration.

Conditions embedding this secondary lock step into a premises licence are commonplace. An example of wording within the licence here:

- *The licence holder will invite relevant officers to attend a SAG meeting(s), with representatives from, but not limited to, Council, Police, Fire and Rescue and other appropriate organisations and agencies.*
- *Details of the music programme will be given to the SAG no less than three months in advance of the event. Any content that involves particular risk for participants or audience will be detailed in the ESMP.*
- *A site plan will be drawn up and draft circulated to the SAG at least three months prior to the event.*
- *A professional security and crowd management company will be employed to produce a crowd management strategy and provide the appropriate experienced team of SIA trained security and stewards. Numbers of security to be submitted to the SAG.*

3h) Police

Whilst the Police are a significant contributor to the licensing process they are only one of nine Responsible Authorities / consultees.

Their remit is not restricted but usually the Police are engaged in matters of crime and disorder (rather than public nuisance or public safety or the protection of children from harm). Other Responsible Authorities generally take a lead in respect of those three latter matters, unless there are particular issues or concerns around the operational proposals.

3i) Duration of Licence

Under the LA03, save for a small number of exceptions and the payment of an annual fee, a premises licence lasts in perpetuity.

A premises licence lapses where the licence holder:

- Dies
- Becomes a person who lacks capacity (within the meaning of the Mental Capacity Act 2005) to hold the licence
- Becomes insolvent
- Is dissolved.

There are mechanisms within the LA03 where, in the event of one of the above, the licence can be brought back into force, albeit that such steps must be taken within 28 days failing which the licence is lost.

3j) Enforcement

During the life of a premises licence, there are a significant range of powers within the LA03 that enable the operation of a premises licence to be revoked or suspended, and for the premises licence to be brought back before the Licensing Authority by way of a review as a consequence of matters arising at the premises in connection with any of the four licensing objectives.

- Review of Premises Licence:

A review of a premises licence can be brought by one of the responsible authorities or by any other person (a local resident for example).

An application for review is publicly advertised and enabling any others, over and above the party who has brought the review, to make representations supporting the Review (representations can also be made by anyone supporting the premises licence holder).

The Licensing Authority has a range of powers at its disposal which include revocation, suspension, adding or varying conditions attached to the licence (which may include changing hours for the provision of licensable activities), removal of the Designated Premises Supervisor (the person with day-to-day responsibility for running the business). The Licensing Authority can also take no further action.

The decision of the Licensing Authority on a review can be appealed. Any decision is suspended until the appeal is disposed of (the withdrawal of the appeal, a hearing or agreement reached between the parties).

- Summary Review:

Where the chief officer of police considers that premises are associated with serious crime and disorder (or both) they can commence summary review proceedings.

The application must be accompanied by a certificate issued by a senior police officer that in his / her opinion the premises are associated with serious crime, serious disorder or both.

Within 48 hours of receipt of the chief officer's application, the Licensing Authority must give the premises licence holder and responsible authorities a notice of the

review. They must also consider whether it is necessary to take interim steps (which can include the suspension of the licence, modification of conditions, exclusion of the sale of alcohol).

The premises licence holder may make representations against the interim steps. On receipt of these representations, the Licensing Authority must hold a hearing within 48 hours.

The Licensing Authority must then also hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application for summary review.

Any interim steps taken by the licensing authority remain in force up to the disposal of any appeal.

- Closure Notice:

The police and the Licensing Authority have the ability to shut premises instantly and for a period of up to 48 hours if they believe that the premise is a source of anti-social behaviour, disorder or nuisance.

An application can subsequently be made to the court for the Closure Notice to be confirmed as a "Closure Order".

- Closure Order - specific premises:

Where a closure notice is issued the police or Licensing Authority can make an application to the Court for a Closure Order. The application must be heard no later than 48 hours after the service of the closure notice.

On the bearing of an application for a closure order the court can require a premises to remain closed for a period of up to 3 months.

A further application to extend the effect of a closure order can be made. The closure order cannot be extended so that it lasts for a period for more than 6 months.

- Closure Notices for persistently selling alcohol to children:

If, on two or more different occasions in a period of three consecutive months, alcohol is unlawfully sold on the same premises to a person aged under 18 a closure notice may be served on the holder of the premises licence proposing a prohibition on the sale of alcohol for a period of no less than 48 hours and no more than 14 days.

The premises licence holder will have 14 days to decide whether or not to accept the proposed prohibition or to elect to be tried for the offence.

- Closure Orders - in an identified area:

On application by the police the Magistrates Court where there is or is expected to be disorder the court can make an order requiring all licensed premises which are situated at, or near, the place of the disorder to be closed for a period not exceeding 24 hours.

3k) Conclusion

The LA03 created a permissive system that has allowed applicants to apply for a diverse range of licence type through a single process. This has stimulated a significant change in the hospitality sector, with more premises offering a wider range of activities, which in turn has improved standards due to new operators innovating and developing best practice. Local engagement allows the community to have a say in what is granted and where necessary hold poor operators accountable. Likewise, the permissive nature of the legislation means that local authority departments and other public service agencies engage more proactively in the process to ensure that where licences are granted, the operators adhere to best practice and promote the licensing objectives.

Making operators accountable for what they apply for and how they operate allows for targeted enforcement against poor operators, with a range of measures available to ensure that where mistakes are made, best practice is implemented. Where that fails the powers of local communities and officers to review licences allows the Licensing Authority to remove permissions if needed to promote the objectives.

4) FESTIVAL DELIVERY AND MANAGEMENT

4a) Festival Delivery

So the LA03 has a permissive approach. Once the premises licence has been issued, with conditions, then it becomes the event organisers responsibility to deliver the music festival in accordance with that licence. The event organisers next main aim is then delivering the four objectives contained within the LA03. The statutory agencies are not responsible for the safe and secure delivery of the music festival. The agencies role was initially to ensure that the premises licence application had due scrutiny and that the licence issued had due consideration of all the proportionate measures that were necessary in accordance with the event risk assessment from each agencies perspective.

In the planning phase for a music festival there will usually be one or more SAG meetings where the event organiser presents the various drafts of their ESMP as the timeline of the music festival closes in. The agencies can offer advice and guidance and the event organiser is expected to consider this and then where appropriate take any proportionate steps that are necessary.

During the actual music festival it is common to not have any agencies on the music festival site whatsoever. Only if a higher threat and risk exists, derived from the event risk assessment process, should any agency be on site and if they are then this should be agreed beforehand with the event organiser.

One of the aims of the event organiser should be to minimise the impact in terms of time and resources on any public service agency. They all have their respective roles to play in society and the event organiser is expected, and will, procure similar capabilities and services that are necessary from the private sector. There is very little in terms of capability and functionality that an event organiser cannot procure in this manner. Therefore a happy medium exists whereby the agencies receive reassurance during the planning and show phases that the services delivered by the music festival will safeguard and protect the public in a similar manner to what they do on a daily basis in their normal societal roles.

There is sometimes an operational role for agencies to perform at music festivals. These are not event delivery roles, they are audit and inspection type functions. A good example of this would be licensing staff from the licensing authority and the police coming onto the music festival site to visit bars to ensure those services are being provided in accordance with the legislation and standing regulations that govern the sale and supply of alcohol. Other examples would be a local authority environmental health officer coming onto the site to undertake food hygiene inspections for the food traders serving refreshment to the public or local authority building inspectors reviewing structural builds for items such as stages and so on.

4b) Safety Advisory Group (SAG) - post licensing phase

SAGs are usually coordinated by a local authority and made up of representatives from the local authority, emergency services, other relevant bodies plus the event organiser. They may be event or location specific but otherwise tend to be based on local authority boundaries.

4c) Purpose and scope of a SAG

SAGs provide a forum for discussing and advising on public safety at an event. They aim to help organisers with the planning and management of an event and to encourage cooperation and coordination between all relevant agencies. They are non-statutory bodies and so do not have legal powers or responsibilities, and are not empowered to approve or prohibit events from taking place. Event organisers and others involved in the running of an event, retain the principal legal duties for ensuring public safety.

4d) SAG Process

Event organisers should determine whether there is a SAG, or similar arrangements, in the relevant area and if appropriate, submit their event proposal for discussion and advice. Attendance of the event organiser at SAG meetings may be voluntary. There is however benefits to be gained from engagement in the SAG process from the outset. Local authorities may of course require events organiser's attendance, for example as a condition of using their land.

Discussions may extend beyond an organiser's duty to comply with workplace health and safety law and even the boundaries of an event site, to include considering the impact on the local transport network and civil contingencies in the event of an emergency. The advice provided by the SAG and any decisions taken should be proportionate to the risk profile of the event.

The SAG should advise the event organiser about public safety matters that they think need further consideration, explaining their reasons. It is the event organiser's responsibility to take any appropriate action. On the rare occasion where there is disagreement between a SAG and the event organiser, and there remains a genuine risk to the public, individual organisations on the SAG such as the police, may decide to act to resolve the issue. Decisions on the use of these powers are matters for the relevant authorities to consider, not the SAG, and should be discharged separately.

When SAGs consider events where local authorities have responsibilities, for example as an organiser / co-organiser or landowner, the SAG should make the relevant local authority department aware of any concerns so that they can act accordingly. A local authority cannot

rely on the SAG process to discharge its own legal duties. This is the responsibility of the local authority. This will include decisions regarding the granting of public entertainment licenses and road closures.

4e) When to hold a SAG

The guiding principle is that events presenting a significant public safety risk (whether in terms of numbers and profile of people attending, or the nature of the event activity and / or the challenge of the environment) should be considered. However, lower risk events like community village fetes and funfairs are unlikely to require a SAG.

Some event organisers will already have established effective liaison arrangements with external bodies or organisations like the local authority and emergency services, because they will be involved in the wider management of the event, such as crowd management to and from a venue and emergency arrangements. To facilitate this, some events establish additional planning sub-groups. In these circumstances, it is often unnecessary to set-up a separate SAG.

4f) National Guidance

The Emergency Planning College has published national guidance by way of 'The UK Good Practice Guide to Working in Safety Advisory Groups'. This publication is used by many as the standard on how to operate SAGs and is a very informative document.

4g) Event Safety Management Plan (ESMP)

An ESMP is a document consisting of various chapters that details how an event organiser will deliver the music festival in accordance with the premises licence, conditions, SAG advice and guidance and in line with the LA03 four objectives, which are the:

- i) Prevention of crime and disorder
- ii) Public safety
- iii) Prevention of public nuisance
- iv) Protection of children from harm.

An ESMP can vary in terms of layout, presentation and depth of detail as they should to be commensurate with the size, scale and duration of different events. A template of 21 chapters that a music festival ESMP could contain is **attached**. The bullet points under each chapter heading highlight the strategic, tactical and operational detail that could be included to populate each chapter according to the requirements of the music festival.

It is usually generally accepted that the human resources, any specialist or technical equipment and general kit will be supplied to deliver the aims and objectives of each chapter. Sometimes verification may be required, and where this is so such detail can be supplied as part of the relevant chapter or more usually outside the ESMP in supporting event documentation.

4h) Command, Control, Communication and Coordination (C4)

Like any agency, music festivals will have their own command, control, communication and coordination structure. This is commonly known as C4. Working within a C4 framework ensures that there are clear roles, lines of responsibility, decision making, sharing of information and joint situational awareness within the event management team, and if

necessary other stakeholders. The beauty of music festivals operating within a C4 framework and accompanying command and control principles is that this mirrors how the public service agencies function. Therefore if there is an emergency or major incident scenario then the mobilisation of any public service agencies to the event site means that partnership working is enhanced because the C4 operating model is in the same format.

4i) C4 Structure and Hierarchy

The C4 structure operates at three hierarchical levels, being:

- 1) Strategic (Gold)
- 2) Tactical (Silver)
- 3) Operational (Bronze).

The following provides an outline summary of the different roles and responsibilities at each of these levels:

1) Strategic (Gold)

- * Take responsibility
- * Set strategy, aims and objectives
- * Support tactical / silver tier
- * Manage media and crisis comms
- * Manage stakeholders
- * Provide resources
- * Provide finance
- * Consider legal implications
- * Consider insurance issues
- * Consider resilience
- * Forward plan

2) Tactical (Silver)

- * Oversee and manage event
- * Command, control and direct resources
- * Implement rapid and effective actions
- * Maintain situational awareness

- * Provide timely information
- * Communicate and coordinate resources
- * Understand changing threats and risks
- * Ensure legal responsibilities are delivered
- * Ensure decisions are logged, with rationale
- * Facilitate briefings and debriefings
- * Consider staff welfare requirements

3) Operational (Bronze)

- * Manage resources for function
- * Deliver rapid and effective actions
- * Conduct dynamic and initial scene assessments
- * Manage and coordinate scenes
- * Conduct briefings
- * Communicate information and intelligence
- * Identify urgent escalation triggers
- * Identify changing threats and risks
- * Share decisions with Event Control Centre
- * Constantly update tactical / silver tier
- * Manage staff welfare, flexibility and resilience.

Operating in a C4 structure and hierarchy is common in public service agencies throughout the world and also in the military. For music festivals it also means that the licensing authority can be satisfied that sufficient grip and management is always maintained for such events where it grants such permissions to operate. The C4 structure will also form part of the ESMP - in the sample template attached at '5) Communications Plan'.

4j) Competency of Staff and Contractors

The event organiser can procure operationally (experienced) and occupationally (qualified) contractors and staff to safely and securely deliver their music festivals. Due diligence is applied to such appointments and relevant insurances are checked. These details are retained by the event organiser and would be available for audit and inspection purposes to any authority with a lawful and legitimate purpose to view and access them. In some instances the licensing authority may condition as part of the premises licence certain roles

that must be within the music festivals event management team. This could also stipulate the level of qualification required.

5) POLICE CHARGING

5a) Police Role

In the UK, like elsewhere, the charging for police services (Special Police Services - SPS) at music festivals is often a contentious subject. The police role for events is:

- 1) Preventing and detecting crime
- 2) Preventing or stopping a breach of the peace
- 3) Traffic regulation (only under statutory powers relating to events)
- 4) Activating contingency plans when there is an immediate threat to life
- 5) Coordinating emergency response activities associated with a major incident taking place at the event.

5b) Section 25 of the Police Act 1996

Section 25 of the Police Act 1996 states:

“The chief officer of police of a police force may provide, at the request of any person, special police services at any premises or in any locality in the police area for which the force is maintained, subject to the payment to the police authority of charges on such scales as may be determined by that authority.”

The power to levy charges is discretionary not mandatory. Whilst SPS are not defined in the 1996 Act or elsewhere, it would be expected to be police services that meet some or all of the following criteria:

- * They are not part of the general duty of the police to keep the peace and protect life and property
- * The service to be provided is on private land
- * The service to be provided is for a commercially organised event.

There are several key points to consider within the Act definition ...

5c) Request

For the Act to be triggered a request from the event organiser needs to be made. It is not usually the case that a premises licence will stipulate such a request as a condition of the licence. Usually the policing considerations on security, crime and other related safety issues would be covered in the contents of the ESMP. These may lead rise to a discussion on whether SPS should be requested, but there is no requirement for them to be made by an event organiser. If a difference of opinion occurs then this would usually be discussed privately between the event organiser and the police, and also possibly at the SAG if there is no agreement. If requested the chief officer of police is responsible for agreeing the services to be provided. This should be on a written risk based approach, this is not always the case.

5d) Special Police Services

The police service has published its own national guidance regarding SPS - 'National Policing Guidelines on Charging for Police Services (2023)'.

This guidance was first issued in 2005. Between 2006 and 2018 there have been four main stated cases from various legal challenges in the courts. These cases have tested various parts of the legislation, but the whole Act has never been challenged in full. Therefore, interpretations can still vary in the 43 independent police forces that cover of England and Wales.

5e) Premises and Locality

Usually if SPS is provided it will be on the actual licensed event site. The immediate public area surrounding the event site (commonly known as the 'footprint') is usually managed by the police and other agencies and not subject to SPS. Following the major incident at the Manchester Arena terrorist attack in May 2017 there is an ongoing national consultation process in relation to what the event organisers and agencies responsibilities are regarding the 'footprint'. This is particularly focussed on terrorism protection measures in relation to the draft legislation - the Terrorism (Protection of Premises) Bill. This may affect both the event organisers and police / agencies responsibilities moving forward.

What constitutes the event site should be clear from the premises licence. What is unclear is what is the defined 'footprint' of the event for functions and activities outside the licensed boundary. For example, an event managed car park immediately outside the fence of an event but not within the actual licensed site and managed by the event organiser could attract an SPS charge, but, a public car park 500 meters away that is also open to the public would not. Each event is different and each event needs to be risk assessed on its own merits according to the generic principles and frameworks that exist. What is clear is that the further away from the event site, in terms of time and distance, then any responsibilities that may be held by the event organiser diminish.

5f) Scale of Charges

Many events proceed with event organisers feeling they have no option but to pay whatever the police demand in terms of their resource provision and accompanying costs. The hourly rate for police officers dwarfs the rates of pay to any other person working on a music festival site.

Within the police service mechanism for determining the scale of charges to be imposed there are various components that contribute to the hourly rate charged. Indeed there are four national levels that could be charged. Usually the police service charge the highest rate

which for many events can be cost prohibitive to the event organisers and represents a real threat to being able to operate. This is particularly true where there is no 'real' request for SPS and agreement.

With the power and authority being on the police side many event organisers feel in no position to effectively negotiate with the police. This is a very common theme in the UK and around the world.

Interestingly the Ipswich Town Football Club Limited and The Chief Constable of Suffolk Constabulary court case written judgement on 27/02/2017 states:

Paragraph 92: *"... there was inequality of bargaining power and the inequality strongly favoured the police who are a monopoly supplier. The club did not have any competitive alternative ..."*

Paragraph 93: *"Years of experience suggest that centrally set rates, unconstrained by market forces, rarely reflect rates the might be set in a genuine market"*.

How the police service should approach policing events is covered in their national advice document called 'Event Policing - National Police Chiefs Council Operational Advice Document'.

There are forty three police forces in England and Wales and although there is one Act and one national police policy there are forty three different ways that SPS is delivered.

5g) What could be Chargeable under SPS

As part of the ESMP events should have their own Traffic Management Plan, so it is very rare that any traffic policing will be required (Police Role - 3 above). If an emergency or major incident occurs then it is the police responsibility, along with other agencies, to activate their standing civic emergency and contingency plans for such eventualities and coordinate their response (Police Role - 4 & 5 above). As this is their role in society there is no SPS for these matters.

So SPS can only realistically be required for the prevention and detection of crime and the prevention or stopping of breaches of the peace (Police Role - 1 & 2 above).

As the event, under its ESMP, would have a Security and Stewarding Operational Plan, plus in many cases an additional Crime Prevention and Reduction Plan, then why are the police required? The answer must be where a serious threat and risk is present and the event doesn't have the power, authority or capability to manage that threat or risk, derived from the event risk assessment process.

Event organisers can procure all the functions they require for the safe and secure delivery of their festivals. So the only services that the police can deliver will be where a capability cannot be sourced privately - matters such as a firearms capability, taser capability, use of batons and handcuffs, certain restraint techniques, strip searching powers, and so on.

Event organisers risk assess their music festival using debrief information from previous festivals, crime data, calls for police services, arrest data, eviction data, traffic issues, community feedback, safety considerations and any local - national - international risks concerning terrorism and extremism, and so on. They then incorporate into their plans the tactics and operations to cater for these threat and risks and then procure the capability to deliver these functions from the private sector.

In the vast majority of cases this will more than address the duties of the event organiser to deliver on their premises licence conditions and the objectives of the LA03. If there is a

shortfall or a capability gap that is essential to cover then this is when the event organiser should consider requesting SPS.

If SPS is requested and required then as a general rule the following policing functions are likely to be chargeable (all should be in completely in addition to the regular and routine duties of the police service):

- a) On site policing
- b) In uniform
- c) Public facing roles
- d) On site command functions for the on site policing.

What should not be charged, as it is solely a duty of the police in their role in society to deliver, is:

- a) Investigation of crime functions
- b) Intelligence and Information handling
- c) Technical Communications
- d) Control Room functionality
- e) Custody functions
- f) Media staff and facilities
- g) Post event enquiries
- h) Licensing and SAG representation.

5h) SPS Methodology and Process

Many police forces in England and Wales just simply state they are policing a festival and lay a charge under SPS to an event organiser. This often occurs on an annual basis with no year by year review or new annual agreement. This is not good practice and indeed has been found to be against the meaning in the Act. A sensible method to adopt should be approached from the 'bottom up', such as:

- 1) Event Risk Assessment compiled by the event organiser
- 2) Is there an assessed residual risk that requires police support?
- 3) If so the event organiser requests SPS, if not no SPS request made
- 4) If request made police to provide their own event risk assessment
- 5) This police risk assessment should cover crime and disorder matters
- 6) Police response is then considered by event organiser
- 7) Negotiation and agreement between both parties
- 8) If no agreement then take to SAG
- 9) If appropriate then a renegotiation following SAG

10) If SPS agreed, documentation (incl. costs) provided by the police

11) Both parties sign a 'Statement of Intent' *

12) Agreement reached, to be renewed afresh each festival / each year.

* *A 'Statement of Intent' is a formal statement written in a document detailing the intention of doing something under specified conditions and at a specified time, it is a non legally binding contractual agreement.*

6) DRUG STRATEGY

6a) Status of Illicit Substances in the UK

Despite being over fifty years old the UK still relies on the Misuse of Drugs Act 1971 (MDA) for its primary legislation when dealing with illicit substances. The secondary legislation to MDA is the more recent Psychoactive Substances Act 2015 (PSA), which deals predominantly with illicit substances that fall outside of substance definitions within the MDA, but are considered harmful and psychoactive by the UK Advisory Council on the Misuse of Drugs (ACMD).

Possession of a controlled substance under the MDA is an offence liable to up to 2 years imprisonment for the least dangerous Class C substances and 7 years for Class A. Supply offences can attract a prison sentence of up to 14 years for Class C and B substances and a life sentence for Class A substances. Realistically the sentences are a lot less than these thresholds.

However, over the last fifteen years the drug enforcement approach by the police service in the UK has softened regarding possession only offences in favour of an educational approach to try and change peoples behaviour. That has also been reflected in the courts when possession offences are presented.

6b) Historical Management of Illicit Substances at UK Major Music Festivals

Up until 2015 music festivals provided their own security provision at most small to medium events and on the large scale events, such as Glastonbury Festival and Boomtown Fair, they also relied very heavily for support from the police service resources to manage the event, deal with serious crime, and provide specialist knowledge and skills in relation to the supply and use of illicit substances.

This noticeably began to change around 2014, due primarily to the emerging austerity pressures on police service resources, and also the realisation that some of the areas of work the police service historically provided could be supplied through the private sector and very importantly to a level acceptable to both the police and licensing authorities. One of those areas ripe for substitution to the private sector in order to reduce the burden on the police service was the reduction of harm caused by illicit drugs.

'Back of House' (BOH) drug testing entails the provision of scientists and drug testing equipment within the actual festival site but located away from the public domain. The Glastonbury Festival has had BOH drug testing since 2007. In this era the police were responsible for delivering it but the additional cost of supplying it was borne by the festival. The technology at the time restricted which substances could be positively identified, with others being identified visually by use of a detailed database. Those substances that could be identified were done so within minutes, enhancing public safety.

The provision of BOH drug testing at festivals by private independent suppliers on a more routine basis really began from 2014 onwards. .

Today the BOH drug testing provision is procured at all UK major music festivals by the event organiser and forms an essential harm reduction tool within the ESMP. Capabilities will vary but at both Glastonbury and Boomtown Festivals the BOH is capable of identifying virtually all substances and adulterants in a matter of minutes.

6c) Considerations for Effective Drug Strategies at UK Major Music Festivals

No one can guarantee that there will be no deaths or serious harm as a result of drug use at any music festival, or indeed at any place, in the world. However, the risks associated with drugs can be minimised with a well developed and thoroughly researched drug strategy that has a practical and realistic view of the national, regional and local environment.

The ACMD keeps abreast of the current and emerging drug scene, not only in the UK but also in Europe and the United States of America.

The following points can represent some of the main considerations for an effective UK music festival drug strategy:

- It is a criminal offence to possess a controlled substance in the UK
- Ascertaining the views of the police service and licensing authorities regarding their stance on illicit substances and enforcement (these vary)
- The fact that illicit substances exist, legislation does not prevent their use or harm
- The most recent official Government survey of England and Wales showed that 862,000 people admitted being regular users of illegal substances. This survey is considered to be a good baseline indicator, but being a Government survey the accurate number is likely to be much higher
- Illicit substances are used safely every day across the UK by hundreds of thousands of people in every city, town and rural location plus in many settings
- The types of substances likely to be used at music festivals can accurately be predicted by identifying the genres of music programmed at that festival
- Illegal substances are smuggled into secure establishments, such as through international borders and into prison establishments, every day
- Illegal substances cannot be stopped entering music festivals but this can be restricted by effective tactics articulated within the ESMP and delivered professionally at the festival
- Music festivals generally attract younger adults who can be naive about drug use, its affects and harm
- Music festivals can attract people intent on exploring drug use
- Even a 'sensible adult who should know better' attending music festivals can do so to get some relaxation and relief from daily life, therefore they may do things that they may normally not do, including drug use
- Organised Crime Groups will target some large music festivals

- Some individuals may see music festivals as an opportunity to make personal financial gain from selling substances, sometimes selling anything that looks like drugs (misselling examples being; various substances from vitamins to anti malaria tablets to tablets made of concrete to fish tank oxygenating tablets, and so on), some of these instances can be extremely dangerous
- Most of the drug related harm at music festivals is caused by the misselling of substances on the actual festival site
- The majority of the misselling concerns the demand for MDMA, with substances being used in its place that look similar, but have a completely different impact on the user
- Many of the deaths occurring from drug use at music festivals have come as a result of inexperience in drug use and a complete lack of knowledge about the dangers of polydrug use
- BOH drug testing can identify the vast majority of substances used at music festivals along with any contaminants that are likely to cause harm.

6d) Drug Strategy at UK Major Music Festivals

The risk of drug harms can markedly vary depending on the music genre on show at the music festival and the festival size. But no matter which festival, any drug strategy needs to be constructed using the same basic model.

One reliable model consists of three pillars, with a drug strategy based upon:

Pillar 1 - Reducing the demand for substances

Pillar 2 - Reducing the supply of those substances

Pillar 3 - Reducing the harms caused by those substances.

Next is the application of the 4 x P methodology to each of the three pillars, then applying the necessary actions to achieve that pillar's objective:

Prevent - identifying potential victims, offenders and locations of crime

Protect - implementing measures to protect potential victims and prevent crime

Prepare - identifying crime that is very likely and mitigating the impact of those crimes

Pursue - processes to detect crime and secure the necessary evidence.

This method of implementing an overall drug strategy allows for the development of a set of objectives and actions for each and every music festival, whilst at the same time ensuring it is totally relevant to that festival's threats and risks. There will always be actions that need to be implemented at every music festival but every festival has its own unique circumstances which require a tailored and bespoke response.

Experience in the UK has shown that applying this methodology has led to many innovative solutions that improve public safety and security. This includes such things as new gate designs, new methods of approaching mental health crisis, BOH drug testing and deploying expert drug teams at the festival.

6e) Nitrous Oxide

The use of Nitrous Oxide at festivals has presented serious problems for event organisers for the last 8-9 years. It is very popular with the majority of those people using it, believing it not to be harmful. The problems it presents to festivals are the large numbers of cartridges found abandoned in the grounds of the festival and the cost of disposing of them.

Up to November 2023 in the UK, nitrous oxide was legal to possess and use. The only restriction on it came under the PSA which made the supply of it illegal, however the wording of the Act meant that to prove a 'supply' offence was extremely difficult and consequently very few prosecutions have ever been carried out. With no additional evidence a seizure of at least 5,000 cartridges would have to be made for the police to even consider the offence.

From about 2016 festivals in the UK were swamped with nitrous oxide cartridges as the gas became ever more popular. This presented a very real environmental threat as many cartridges would be trampled into the ground which caused huge problems for the farmers on whose fields the festivals were held. Many festivals decided to ban the substance under their terms and conditions of ticket sales but this didn't stop increasing amounts getting into festivals. For instance, at a 5 day music event in 2017 for 60,000 people, over 100,000 cartridges were disposed of by the festival's waste services.

Organised crime had got involved and remain so because of the potential huge mark up of the product and the profits it will lead to. As a result, in 2023 it's not just the small cartridges festivals have to deal with, large 2 litres canisters have become very popular and huge numbers have been seized.

On 8th November 2023 nitrous oxide became a controlled substance under the MDA and was made a Class C drug which now means it is an offence to possess the substance other than for lawful purposes which are extremely limited (inhalation for medical or dental treatments). The Government has acted primarily, not because of the harm caused by the substance, but because of the associated anti-social behaviour connected to its use (litter and the very real problems of disposal). This doesn't necessarily change much for the festival organisers as it has always been banned from their festivals. However the very heavy costs involved in the disposal of nitrous oxide now falls to the police service and not the festival as only the police can dispose of a controlled substance.

6f) Conclusion

With the support of the local police service and licensing authorities, festival management teams are extremely capable of operating safe music festivals which reduce and minimise the threat and risks that illicit substances present.

In the UK there are ample drug experts in the private sector who have had careers working in specialist drug fields; such as within event management teams, enforcement roles, harm reduction roles and health services.

In the UK it is fact that if someone was to suffer harm from drug use which required emergency medical attention then they will likely get a better service at a major music festival than if they were, for example, in a night time economy area in a large city that relies on ambulances and hospitals as their response pathway.

In a major UK music festival paramedics can be in attendance within four minutes of being called and within the same amount of time the person can be transported to the festival

medical centre which is usually equipped and staffed to the same standard as a hospital Accident & Emergency Department.

No-one can guarantee a drug related death will not occur at any music festival but festivals can operate safely, and there is total acceptance in the UK that they can do so.

Finally, one process that can make a further and significant contribution towards keeping people safe and secure at music festivals is Front of House (FOH) drug testing. This is the same as BOH testing but with a public facing side that encourages people to submit substances of concern at the festival for testing. In this FOH scenario the drugs are not returned to the person and anyone collecting their sample results has to submit to a fifteenminute educational talk conducted by drug harm specialists.

In 2016 music festivals started to use this service with the agreement of the police service and licensing authorities. As an example, this innovative approach was introduced at Boomtown Fair in 2017. This service continued to 2019 when the UK Government decided that any such FOH provision had to be a licensed service derived via the UK Home Office.

Since that time and to date only one charitable organisation has applied to be a provider of FOH drug testing services. This application was refused because it was believed granting such a licence could encourage drug use, a view that is still politically maintained by some.

Drug specialists operating in the private sector with experience of working with FOH drug testing in 2017 and 2018 state that they disagree with the current political view and licensed service decision. Their experience and specialist view is that sadly the current approach can deliver the complete opposite by seriously delaying identification of dangerous substances on the festival site, preventing timely harm reduction education to festival goers, preventing the removal of dangerous substances from the site, and slowing down public messaging that could improve public safety and security.

It should be noted that FOH is used in many countries across Europe, for example in the Netherlands, Spain and Switzerland.

7) CONCLUSIONS

The contributors do not presume that they can comment on the full range of questions posed in the Consultation Paper published in October 2023. It is suggested that this commentary is more appropriate to the broader request for additional feedback within that document.

Having said that, in relation to the consolidated list of questions, the contributors feel they should briefly comment on some of these points as follows:

3. Is the 'subject festival' framework, as it is currently presented, the most effective framework for ensuring higher risk festivals are run safely?

Answer - The label 'subject festival' will apply to that festival in its entirety when in actual fact there will only be certain strands that may be deemed by some to be of a higher threat and risk. As detailed in this submission, in the UK all music festivals are risk assessed by the event organiser. After this the focus of the event organiser is to then evidence in the ESMP and the delivery of the festival itself how these matters are addressed so as to achieve the LA03 objectives. Accordingly it is felt that consideration should be given to dispense with such categorisation completely. Threats and risks posed should be managed item by item with suitable controls and mitigations put in place.

4. Is the current regulatory arrangement with the Authority, as the decision maker for determining whether a festival is a subject festival, the most appropriate arrangement for ensuring the objectives of the Act?

Answer - As 3. above plus commentary within this document.

5. Is the existing process for festival organisers to inform the Government about an upcoming festival effective, or could there be a more efficient method?

Answer - Consideration could be given to request event organisers to submit their dates of operating, with an accompanying Site Plan and first draft version of the ESMP, X months in advance of the music festival commencing. This could form part of the requirement on event organisers when the licence to operate is granted. Any notification period would need to be commensurate with the timeframe that complements the governance that supports such matters, such as the Roundtable arrangements.

6. Are the administrative obligations for organisers of subject festivals appropriate?

Answer - As 3. above plus commentary within this document.

9. Are the governance arrangements in the Act - such as the Music Festivals Roundtable - the most appropriate for ensuring an effective relationship between Government and industry?

Answer - The Roundtable appears to be the UK SAG forums near equivalent. If the Roundtable meets quarterly then any systematic and static meeting structure may not be suitable with regard to the submission procedures adopted by event organisers. Hence, it may be worth considering having more standing Roundtable meetings in each calendar year, such as every 2 months, so that these meetings can ensure they assess each licence submission. Alternatively the Roundtable meetings could be more flexible and organised to be more responsive to event organisers licence applications, as is the case in the UK.

Finally, as the Executive Summary states, it is sincerely hoped that this submission can stimulate thinking as to how the NSW Government can bring forward real change regarding music festivals which are an important and vibrant part of the entertainment offering to the population. As this consultation document intends to show, this can be enlightened by comparing legislation, policy and best practice from a similar environment, such as the tried and tested methods from over fifty years in the UK.

All the contributors are more than willing to assist and support NSW in their important work to review of the Music Festivals Act 2019 and they can be utilised as a source to help deliver on this commitment.

The contributors wish NSW all the very best in their efforts to bring forward real change that will benefit all.