



Select Committee on the Licensing Act 2003

Oral evidence: The Licensing Act 2003

Tuesday 6 December 2016

10.30 am

Watch the meeting

Members present: Baroness McIntosh of Pickering (The Chairman); Lord Blair of Boughton; Lord Brooke of Alverthorpe; Lord Davies of Stamford; Baroness Eaton; Lord Foster of Bath; Baroness Greender; Baroness Henig; Lord Mancroft; Baroness Watkins of Tavistock.

Evidence Session No. 19

Heard in Public

Questions 197 - 207

Witnesses

[I](#): Paul Latham, UK Live Music Group; Mark Davyd, Music Venue Trust; Alex Mann, Musicians' Union.

Examination of witnesses

Paul Latham, Mark Davyd and Alex Mann.

Q197 **The Chairman:** My Lords, ladies and gentlemen, good morning. I bid our witnesses a very warm welcome to the Committee. Thank you very much for appearing before us today to give evidence to our inquiry. A list of Members' interests relevant to the inquiry has been sent to you. Copies are available today. The session is open to the public, is broadcast live and will be accessible subsequently via the parliamentary website. A verbatim transcript of the evidence will be taken and put on the parliamentary website. A few days after the session, you will be sent a copy of the transcript to check for accuracy. It would be helpful if you could advise us of any corrections you wish to make as quickly as possible. If after this evidence session you wish to clarify or amplify any points made during your evidence or you have any additional points that you wish to make, you are welcome to submit supplementary evidence to us.

Before we start to put questions to you, I note that it is a matter of great regret to the Committee that we must record the inability or unwillingness of the recently appointed night tsar of London to give evidence to the Committee. We gave her a number of opportunities to do so in person. It is a key appointment, and we regret that she has not made herself available to the Committee.

Could I open the discussion this morning by asking a general question? How do you believe that the Licensing Act 2003 has operated over the last 11 years? Has it operated much as you imagined it would and in the way it was intended?

Paul Latham: Thank you for the opportunity to speak. As the chair of Live Music, I represent most of the interested parties across the piece, so I get to learn of most of the issues that arise. In general, all the changes to licensing tend to be progressive and start with the good intention of making things better. From an operator's point of view, the more standardising and clarification of licences, the better. When you are working on multisite operations, as I do in my real job as chief operating officer for Live Nation, standardisation and the highest standards are the best things. Most licensing changes since that time have tried to do that, but as with all things, there is the law of unintended consequences. It is not intended obfuscation, but interpretation.

There is general appreciation of the work that has been done through the Licensing Act and the various amendments, but there is a lot more that can be done to ensure that it gets down to the lowest common denominator as regards local officers in licensing authorities. One of the things that we strive to do is to have the best standards across our estate. Most operators want that and shared learnings. It is not always the case that that filters down to the local interpretation. We welcome the work that you have done so far, but we believe that there is more work to be done to make sure that there is consistency of application.

Alex Mann: I echo my colleague's comments. Likewise, the MU welcomes the work that has already been done. We feel that when the Licensing Act was brought in it was intended to improve, and effectively create an explosion in, live music. Unfortunately, that was not the case. Despite the fact that there has been some deregulation over time, with the introduction of the Live Music Act and the amendments that followed it to allow venues with a capacity of 500 not to require a live music licence, we have noted some problems that were created by the Licensing Act before it was amended. I would like to cite a couple of those for you, just to give some context.

In November 2009, Kettering Borough Council started legal proceedings against an HMV store for allowing a "Britain's Got Talent" finalist called Faryl Smith to sing during an album signing at one of its stores. The council dropped proceedings after HMV agreed to donate the retrospective costs of the licence, which were a total of £21. A Northampton school was forced to scrap a big musical production after the head teacher was told that he faced a £20,000 fine and possible imprisonment if the production went ahead without a licence. There were clearly issues that could arise, until the Act came in.

The union represents 30,000 musicians who work either full time or part time across the UK. A good number of them work in the area of live performance across all levels, but they all start out in the grass-roots sector, working in smaller venues. There is no doubt more that can be done. We feel that live music should not necessarily be licensed. We are willing and more than happy to work with you to improve that condition, in the interest of live performance. One of the things that we would like to discuss today is the potential provision for a cultural and artistic element to be included as a fifth pillar of the Licensing Act to serve that purpose.

Mark Davyd: Good morning. I would like quickly to make plain which sector we are talking about on behalf the Music Venue Trust. It is a very specific part of the music industry, rather than a general comment on how the Licensing Act may be affecting live music. The Music Venue Trust is a registered charity that seeks to protect, secure and improve the grass-roots music venue sector. There are roughly 450 such music venues in the UK. They play a very specific role in the music industry and in their communities. They are the starter motor of the music industry engine. They present the first concerts by fledgling artists and provide a platform for those artists to develop their skills, build their audiences and begin their careers. They are different from both pubs and other spaces with music and from concert halls or larger music venues generally, with a capacity of over 1,000. Their actions are what we really promote, talk about and want to reference in any evidence we give you about the impact of the Licensing Act.

It is very important to understand that most of them are not profit-making entities. They are not making any profit out of the activity. In fact, a recent study that we did showed that they are investing in the

development of cultural activity; roughly 129% of the cultural ticketing money spent in those venues is spent on delivering the cultural activity, which shows that they must be doing something else in order to be able to deliver that cultural activity. Principally, the other thing they are doing is selling alcohol. The Licensing Act therefore has a very specific impact on their ability to deliver culture in those spaces. That is why it is important to us.

At face value, there seems to be a lot of good intent behind the streamlining imagined by the Licensing Act. The Act would appear to provide a level playing field for premises licences. Subsequent work to deliver the Live Music Act 2012 reinforced that intent, specifically to recognise the value of live music. That contributes to a picture where we think that, generally speaking, the Licensing Act is very positive. Both Acts together should be achieving a clear set of conditions and parameters that create a level playing field for live music venues in comparison with other live music spaces or, specifically for us, other cultural institutions.

Without any intended criticism of who is responsible, that parity of approach across licensed premises, cultural activities and live music venues has definitely not been achieved. Paul and Alex have already brought that up. A grass-roots music venue, where the sale of tickets for cultural events is the main intent of the business, is likely to have a premises licence that contains conditions on its trading specifically designed to limit the provision of live music by control measures. A public house, where the sale of alcohol—the main intent of the business—is intended to be managed and controlled by the premises licence, will not have any such conditions.

More importantly, cultural parity within the licensing regime has not been achieved. A grass-roots music venue will always have tighter controls and restrictions than a local theatre, an arts centre or anywhere else that is doing cultural activity of which the sale of alcohol is a part. I will quickly give five licensing examples to illustrate that.

The Chairman: If you could give just a couple, it would be helpful.

Mark Davyd: Okay. As far as we know, the 100 Club is the oldest music venue in England. It has a 12-page licence, which includes additional conditions that restrict the sale of alcohol specifically related to the live music offer, including a condition that people at the 100 Club must be “decently attired”. It also has a condition about the number of seated patrons and about how much people must have paid to get in before they can be served a drink.

The Marquis of Granby is less than 200 metres from the 100 Club. The main purpose of its business is the sale of alcohol. It has a 10-page licence, with no additional restrictions. As a result of the Live Music Act, the Marquis of Granby can stage a live music concert at any time, without recourse to its licence. The Vaudeville Theatre, whose main business is the sale of tickets for cultural activities, has a 10-page licence that has no

restrictions on the performance of live music and no additional restrictions on the sale of alcohol. You can see that, within those three premises, there is a ladder of risk being considered. Grass-roots music venues are at the bottom.

Q198 **The Chairman:** That is very helpful. Mr Mann, are you requesting a fifth objective for cultural activities?

Alex Mann: It is certainly something that we hope the Government can consider. It is very important to us to create a balance between the four pillars that already exist. It speaks to live music and allows it the opportunity to exist in itself and not be subjected so rigorously to the licensing conditions that local authorities put on music venues. As Mark said, the scenario for live music venues is quite different from that for some public houses.

The Chairman: Do you agree, Mr Latham?

Paul Latham: Absolutely. It is something that we discuss regularly.

The Chairman: It should be happening at the moment, but you are saying that it is not being achieved.

Paul Latham: Not quickly enough. It has been debated, but the inequities in licensing are a constant thorn in our side. We believe that music is equal in cultural reference to all other forms. Some of the licensing requirements seem punitive.

The Chairman: Do you agree, Mr Davyd?

Mark Davyd: Yes. It is about local interpretation and the driving reasons behind that, which are not always very clear, and how that results in conditions on a premises licence that may not provide the clarity that enables somebody to comply with them. As Paul mentioned, we see very disproportionate aspects of just some licences. It may happen in the same authority, frankly.

Baroness Greender: Is changing objectives the only way of achieving your aim? Is there another way?

Mark Davyd: There are two ways that we can see of doing it. For the specific sector we talk about, there could be the calling in and review of licences. We did some work on what music venues think about their ability to have a licence review and to get the provisions in the Live Music Act 2012 in compliance with their own licence, where there should not really be conditions. We managed to get 51 responses in 24 hours; 76% of those venues have conditions on their licence that relate to controlling live music, but 96% of them said that they would not dream of going for a review to have those conditions reviewed. There were very definite reasons why they would not do that.

Lord Mancroft: What were they?

Mark Davyd: I need to find my notes.

Paul Latham: Fear of more draconian—

Mark Davyd: Yes. No expectation of success was mentioned many times, as was fear of additional conditions being put in place, no confidence that the local licensing authority understands the Live Music Act and poor relationships with the local council.

Lord Mancroft: Are there examples of people who appealed and then had further conditions put on their licences?

Mark Davyd: No, I cannot find any. It is a perception thing. It relates to something else we should be very honest about—the possibility that it will look like criticism of the local authority. In fact, what we are finding is that it is the law of unintended consequences, to repeat Paul's phrase. Environmental health officer hours have been cut in local authorities. Quite often, because the music is late at night, there is no environmental health officer who can review the case and bring expertise to it.

The Chairman: Can I clarify that, when you say review, you mean variation?

Mark Davyd: Yes.

The Chairman: That is helpful.

Baroness Grender: In evidence that we have had, the overwhelming majority of witnesses are highly resistant to any change in the overall objectives. If there is a different mechanism by which you can help in your particular 100 Club example, which I love, surely that is a more practical way forward for you than asking for an objective, simply because it goes against the prevailing wind of every other objective.

Mark Davyd: You are probably right; I am certainly aware of a lot of resistance to it. It is very important that messages go out from Committees such as this one that this is a very serious issue that has an impact on some of our most vital live music spaces. Whether that could then be translated into, effectively, a campaign of information and better guidance for local authorities—

The Chairman: We will probably work through some of those points. That has been very helpful.

Baroness Grender: Finally, if you think there is a different mechanism by which you can achieve those needs, will you undertake to write to us with that?

Mark Davyd: Yes.

The Chairman: That would be helpful.

Q199 **Lord Foster of Bath:** Can I move us on a little? As you are well aware, in April this year changes to permitted development regulations introduced a requirement to take into account the impact of noise from existing commercial premises, such as licensed premises, on the intended

occupiers of permitted developments, where previous office buildings have been converted into residential use. I know that all three of the organisations that you represent welcomed that “agent of change” being introduced. Do you think that we can go further with it? Is there anything else that we could do to protect the interests of live music?

Alex Mann: I entirely agree. The industry has been extremely welcoming of the measures that agent of change has been able to bring in so far. There is certainly more that can be done. At the moment, the partial measures that agent of change created affect conversions—existing buildings that are converted into domestic residences. There is a lot of development still going on in the UK. A lot of new properties are being built, and a lot of people are looking to move into new homes. The venues that exist in the spaces already are at a bit of a disadvantage. If you build a block of flats next to a venue that already exists, the first thing a tenant might consider doing is complaining about noise.

To bring in an example that is offset from music, recently I read that the Tate Modern had some problems when a new housing development was built next to it. It is made almost entirely of glass, so it as if you are living inside a very expensive fishbowl. Residents were concerned that people in the members’ bar of the Tate would be able to see directly into their living rooms. That analogy shows you how problems can arise. It is the same for music venues. I am sure Mark and Paul will agree that, if you are developing a new building, the amendments that can be made to allow for protection and insulation against noise are very straightforward. It is a very simple budget line and not a huge, significant cost to a developer. Agent of change could go further in making sure that developers and existing venues collaborate, work and exist side by side.

Paul Latham: We have three very live issues. In Bristol and Birmingham, properties have been converted above and around venues that have existed for 30-odd years. One of them is student accommodation, so they assumed that it would be great for us, because it would be our target market. However, students have only 12 hours of study and 100 hours of sleeping. Sometimes their sleep patterns do not exactly fit with our rehearsals and the like. At the very famous Manchester Apollo, they are just about to build a new residential block across the road. We are already considering issues of noise objections to a building that has been doing shows for over 50 years. The agent of change provisions were very welcome, but they can go a lot further. Property developers are not quite as scrupulous as they might be in their material—

Lord Foster of Bath: I am confused. If we stick with agent of change in relation to noise—I accept the visual impact issue—what are you saying should be done further?

Paul Latham: We already know that developers are not taking it as seriously as they should. Not many of them are making provision. We are already challenging these things. It is not just the noise; it is also the ambient issues. Because of the venues that we operate, we get those on

a fairly regular basis. It is good when you bring in agent of change provisions, because you recognise the issues that are coming through. The issue is whether they go far enough and you are able to enforce them. When it comes to the rest of the provision of the music venue stock, it is important to push on with those changes.

The Chairman: Mr Davyd, do you agree?

Mark Davyd: Yes. On what specifically could be done, we recommend explicitly using the phrase “agent of change”, because although the Act was amended it was amended without that phraseology; informing local authorities about the intent of national policy and guidance, which picks up what we mentioned before; and explicitly describing grass-roots music venues as a sector within cultural planning and licensing policy, as was successfully done with small adjustments to supplementary guidance in London, so it is very achievable. We recommend eliminating opaque language, such as “cultural spaces”, which is very subjective and open to interpretation, and replacing it with specific descriptions of what is meant, so that people are empowered to protect their music venues.

Finally, the big one would be to expand the requirement to include new build, as well as permitted development rights. To be clear, sound is a manageable factor in new builds. As Alex said, it is a line in the budget for a development that is either there or not. If we ask for it, developers are ahead of us on this. We have regular meetings with developers now, and we present to groups of developers. They would be very happy to comply with reasonable measures that encouraged them to do things, but it is a business. They will not do it out of the kindness of their hearts; they will do it because it is part of the process of building the flats.

The Chairman: Would you use the Australian model?

Mark Davyd: Yes, I would. Specifically, one of the measures in the Australian agent of change strategy that was not very widely understood was that it was a region-wide overlay, with local interpretation. That meant that people could create music zones within towns and cities and designate specific streets on which agent of change would be applied. They could even designate specific buildings. An overall agent of change, bluntly applied as an instrument to the legal framework, would not work. It would have the other effect: if somebody wanted to build a music venue, people would be able to say, “Well, there was no music venue here before”. These are things that need to be done carefully, but as an overlay concept it could definitely be expanded.

Q200 **Lord Blair of Boughton:** Some local authorities have argued that the Live Music Act 2012 has created confusion, as it is not always clear which music-related activities now require a licence and which do not. Do you believe that is the case? If so, are there ways of remedying it?

Paul Latham: This goes to those who are actively engaged in discourse over things changing. Organisations like ours and Mark’s disseminate the information to our members. The flip-side is that I am not sure whether

that happens for the enacting officers, and that tends to be where the confusion is, in our experience. It is not those who have to trade through these things and look to work with them. I encourage all my venue managers to have a good working relationship with their local authority and to be good neighbours. It is a little disconcerting when we know the legislation better than they do, which is difficult.

Lord Blair of Boughton: Would you see the Kettering example that you gave, of the headmaster being threatened with a huge fine, as an example of the local authority not understanding its own legislation?

Paul Latham: Indeed.

Alex Mann: I entirely agree with Paul's comments. The intention of the Live Music Act was to create exemptions to regulation of live music, and clarity on how the Licensing Act worked when delivering live music. The problem is that there is not enough awareness and reach within local authorities as you get further away from London. Mark will be able to give you examples of one or two local authorities that have said that the Live Music Act does not apply as a licence condition. We are concerned that, again, this appears to be a communication issue.

A potential remedy is that the bringing in of city mayors might form a useful layer of communication to help to share that information, so that local authorities can understand better not only how their own licensing works but how their own venues operate within their cities and boroughs. It may help to foster that relationship, share that understanding and show how the Live Music Act and any subsequent amendments can be correctly and appropriately implemented.

Mark Davyd: To pick up on what Alex mentioned, when we did a very quick survey in preparation for this session, there were three music venues that had a condition on their premises licence that exempted them from the Live Music Act, which is actually imagined within the Live Music Act. Two of those were the result of a call for the licence to be reviewed. Both resulted in the effective dismissal of the complaint, as there was not enough evidence that there was noise, but conditions were still put on the licence. The other one was for a new licence. Before they would grant a premises licence, exemption from the Act was brought in.

I can illustrate the point with another example. There is an ongoing case involving a venue that should be covered by the Live Music Act. It has a capacity of 120. The local authority has had quite serious issues with the person running the business, which is understandable—there are issues around the business. However, the recommendation from the local council and from the police officer, both quoted in the local media, is that it needs to apply for a live music licence.

Paul Latham: This is one of the consistency issues that are brought to Live Music on a regular basis.

Q201 **Baroness Eaton:** The Committee has heard from local residents and

their representative groups about the nuisance and distress that can be caused by nearby music venues, with many believing that the licensing system as it stands is fundamentally biased in favour of licensed premises and against local residents. What is your perspective? How can the interests of the live music industry be best reconciled with the legitimate concerns of local residents concerning disruption and, in particular, noise?

Paul Latham: My thought on that is that it works the other way in practice. Residents now have a voice that they did not have previously. In many instances, lone wolf appeals and complaints tend to stymie what was a good relationship with local residents' committees and the like. We work very actively with residents' committees, because the long-term future of our businesses relies on working with the local community. The issue is the mavericks. Someone may move in who is a night worker and wants to sleep during the day when the get-ins are coming in. We have found that it has got worse, from our point of view, rather than that it favours us. We deal with those issues very seriously and work very proactively. It is a little frustrating that there is a new voice that shouts very loudly in the wilderness, I am afraid.

Alex Mann: The live performance sector is looking for a degree of proportionality in the power of the voice that those residents have. Obviously, they are more than entitled to share their views on what is happening in their local area, but we are concerned that a single complaint can generate a full-scale review and put an entire live music venue in jeopardy. That is a concern. Maybe that is something that agent of change will help to balance.

To give an example of where that has become problematic, there was a noise complaint from a new resident who said that they could hear drumming from a venue at 8 pm on Tuesday evenings. It was not fully investigated by licensing officials. Their office was 30 miles away from the venue and they went home at half past 5, so it was not possible to conduct a proper and full investigation, but they were still able to issue notifications to the venue threatening fines of £20,000 and loss of licence. In fact, the venue located the source of the noise—a samba band that had been rehearsing there out of its performance of music hours, between 6 pm and 8 pm on a Tuesday night. That was the source of the noise. The venue did the right thing and wrote to them to explain the problem. It turned out that the licensing authority eventually declined to issue a formal instruction. So there are other ways.

Mark Davyd: I will pick up on Alex's word "proportionality", which goes back to what I said at the beginning. There is a perfectly reasonable expectation that residents have the right to be able to enjoy their premises quietly and everything else. However, as Alex said, quite often there is one resident, and that can result in a full review. The letter that goes out from local authorities to notify you that you have a noise complaint is terrifying to those venues. It contains references to fines of up to £20,000 or £35,000, almost as an instruction that "this may be your liability if you do not deal with the issue". That is slightly out of proportion. I want to be quite plain; it may all be dealt with locally, so

that there is never a review, but that may cost the venue up to £5,000 in legal fees. Quite often acoustic fees are requested. That all falls on a venue that, as I have already described, is not profit making in any way and is often sitting in its community as a cultural space. We are placing those venues under a disproportionate weight in enforcing this provision, compared with their ability to respond. That is not very well understood.

Q202 Baroness Grender: I want to ask you about things like late night levies, temporary event notices and early morning restriction orders and their suitability for purpose. Let me be quite specific, following the examples that you have just used. We have had witnesses from Camden market. I accept that not all of it is live music, but clubland has encroached and moved out towards residents. They have lived in the area for a very long time, but temporary event notices are being used by one club, then another and then another. They are all in a cluster. What happens is that the neighbourhood is massively disrupted on a daily or biweekly basis. I want to ask particularly about the use of temporary event notices in that kind of context, especially for high commercial gain. Is there merit in any kind of change? Do you come across late night levies and early morning restriction orders at all? Do you believe that they are fit for purpose?

Paul Latham: We have a different portfolio of venues. We run live music and clubs, so we get involved in this on a regular basis. In some circumstances, we are encouraged to use TENs as a means of trading.

Baroness Grender: Do you think that that is the right thing to do?

Paul Latham: Again, it is about the way they are interpreted. For every event that we do, we do a risk assessment. We do all the things that will impact on licensing, because that is the best way to operate. We are happy to fulfil the criteria. If that is what gets you to a position where you can operate the event safely, properly and taking full cognisance of the environs, so be it. However, it is the combination of the different licensing terms, where it becomes a multiple issue, as opposed to anything else. I am not averse to TENs, if used properly. I do not see them as a means of escaping licensing and controls—quite the opposite. If they are used properly, there is good dialogue and liaison with the local authority and good liaison with local residents. That is what we strive for.

Baroness Grender: A TEN does not have liaison with local residents, unless it becomes a fait accompli at the end of the year: “There were TENs and nobody objected, so now we can extend our licence”.

Paul Latham: That is certainly not our experience, and it is not the way we trade. It would be a shame if that was how they were used.

Baroness Grender: It is, in some cases.

The Chairman: Does anybody else wish to comment?

Alex Mann: The union was concerned to note that temporary event notices are being put in place perhaps because the licence that the venue already has does not serve its requirements. To put that into context, one

of the issues that venues regularly cite to us is that they have only a very small window of time in which to operate and earn the money that they require to run their business. Having to take out a temporary event notice suggests that there is a bit of a problem already.

With all the caveats about local residents and operating as a cultural space within your community, which means being part of your community, we think that it would be helpful if a venue were given the opportunity to remain open for longer, to allow it to operate its business properly and to make money within the short time that it has. To cite a brief example, the Jamboree club in north London has a closing time of 11 pm from Sunday to Thursday. On Friday and Saturday, it is allowed to open until midnight. It challenged that decision unsuccessfully, despite having no noise complaints in the seven years in which it had been operating. Apparently, the reason was that a residential block of flats was due to be erected opposite its building. It turned out that it was never built, but the condition on the club's licence remained. The club says that it needs more trading hours to be able to survive. Having a licence until 1 am would make a huge difference.

The Chairman: I think we got that. Thank you.

Mark Davyd: This is not a thing that is widely used in the grass-roots music venue sector, where people would be very happy just to run live music concerts, if we could make it economically sustainable. The late night levy is one of the things we have burdened venues with that are making it economically not sustainable. We have also created disparity in the marketplace, frankly. Venues do not pay the late night levy if they sit on one side of the border, but venues on the other side do, and because they have those other costs, it affects their ability to pay musicians.

On TENs, I do not have a lot to say. There are over 260 venue members in the Music Venues Alliance. Some of them feel obliged to have temporary event notices because of the economic model. That points towards what I would really like to push forward, which is that we need an overall solution to the problems that face grass-roots music venues. We cannot simply rely on the fact that, if we come up with one solution on something in the Licensing Act, it will solve all the other problems. If we can make it economically and culturally sustainable and give it parity with other theatre spaces, they will not use temporary event notices. It is a circle of behaviour.

Lord Foster of Bath: Do you mean that you simply think that there should be longer hours allowed in licences?

Mark Davyd: No. I would like the entire legal, licensing and planning framework around these venues and the music industry itself to be addressed. We are part of the music industry, but we are a very specific sector. We have lost 40% of those venues in the last 10 years. We need to stop that decline. The way to do that is to address all the problems that face them. I will pick one specific example, if I may—

The Chairman: Could I put a very quick question? Would it help you if licensing became part of the planning process? Is that what you are saying? We will come back to this at the end.

Q203 **Baroness Watkins of Tavistock:** My question may well link to that. Is complete deregulation under the Licensing Act desirable or achievable for music performance?

Paul Latham: We are all responsible operators. When we got involved in the last amendment, there was a suggestion about no capacity. We said, "Hang on. We have all run events. We have seen other people run events that may not be as professional as our operation. We have to legislate for that". This is the music business. It is a responsible business. It is not the wild west, where you just take the shackles off us and let us get on with it. You have to legislate for the worst, as well as the best. It is not just a question of taking all the shackles off. We want to work responsibly and we want everybody in our industry to work responsibly. We are not so cavalier as to say, "Just take it all away". It is about simplifying it and equalising all the cultural elements across the piece. That is what we push for most.

Baroness Watkins of Tavistock: Is there big variation across the country?

Paul Latham: Big variation in interpretation?

Baroness Watkins of Tavistock: Yes.

Paul Latham: Absolutely, even within local authorities. There are different officers, and they all have different specialities and experience. We understand that in certain cities there have been things that have challenged them in the past. Where there have been known disasters, people start to get more fraught, because they do not want that to happen again. For companies that trade across the piece—Mark represents the whole country—when you know what best practice is because you operate it, it is frustrating when you are not able to do that elsewhere because a local authority does not particularly want you to.

The Chairman: Mr Davyd, would you like to comment?

Mark Davyd: Yes. Again, I will use a very specific example. The Village Underground has 74 conditions on its licence, including how it will run the cloakroom. That expresses a measure of control.

Baroness Watkins of Tavistock: Is that historical, or has it happened recently?

Mark Davyd: It has been there since it was set up, which was fairly recently—about eight years ago.

Lord Davies of Stamford: It would not happen now, under the present Act, would it?

Mark Davyd: Technically, it would. You asked a question about capacity. In fact, it has a capacity of over 500.

Lord Davies of Stamford: Cloakroom management?

Mark Davyd: Cloakroom management should not really be on it. This is the question. It goes to what Paul said about the standards of best practice that we have in the industry. It is an incredibly well-run venue. The local authority, the police and everybody else would agree with that. It is an example.

Baroness Watkins of Tavistock: You say that it was eight years ago. I thought that this particular Act came in in 2012. Would the club, if it is a club—I am sorry, but I am not quite certain what it is—be able to take its current licence back and ask for it to be reviewed, to reduce some of the restrictions? It might choose not to, because it might feel that it would get more, but there is a process that it could use.

Mark Davyd: There is a process that it could use. It is reluctant to use it.

Baroness Watkins of Tavistock: I can understand that. Mr Mann, is there anything you want to add?

Alex Mann: Only very briefly. The union has maintained that live music does not need to be licensed. We remain of that view. The Licensing Act, the introduction of the Live Music Act in 2012 and the subsequent changes that have happened, all of which have been moves to relax regulation, have presented no ill effects and no negative consequences that we have been able to see. In that case, we see little reason why that process should not be continued, in the interests of supporting live music.

Lord Davies of Stamford: I detect—correctly, I think—a difference between Mr Mann and Mr Latham. Mr Latham is saying, “We need some regulation. We are the good guys. We are happy to have set high standards. We do not mind the conditions on the licence that remain and we want to make sure that we do not have too many cowboys in our industry, giving us a bad reputation, so regulation is good”. I think that is a fair summary. Mr Mann is saying, “This Act is better than the previous regime. We are going in the right direction. We should go further. Ideally, we would have complete deregulation”. That would mean that someone could come into my next-door neighbour’s garden and have a live concert at 5 in the morning, and I could do nothing about it, except perhaps through the environmental protection mechanism. I could do nothing at all through licensing. I am told that south Australia has gone down that route. Have you examined the consequences in south Australia of doing that, and do you have any conclusions to draw from that particular regime?

Alex Mann: I have to admit that I do not have any specific examples from south Australia. We talk about deregulation within the realm of venues operating on the basis that they are running as a business. They work within a commercial framework, so they would behave sensibly. As

you said, there is existing regulation that ensures that venues operate properly and safely. You mentioned the example of somebody coming into your garden to perform—

Lord Davies of Stamford: The next-door neighbour's garden, not my garden.

Alex Mann: You would expect that there would be an existing framework of regulation to prevent that happening. That should operate effectively.

Lord Brooke of Alverthorpe: You would get a TEN for that.

Mark Davyd: I will try to harmonise the two positions.

Lord Davies of Stamford: I have distinguished fairly between the two positions, have I not?

Mark Davyd: I think so. Essentially, the question is: is the Licensing Act the correct way of regulating that? Other Acts of Parliament provide a basis for regulating events and festivals. The Environmental Protection Act 1990 makes provision for noise abatement notices. The Control of Pollution Act 1974 sets restrictions on the timing of loudspeakers. The Regulatory Reform (Fire Safety) Order 2005 ensures fire safety. There is the Health and Safety at Work etc. Act 1974, because they are workplaces. There is the Anti-social Behaviour Act 2003. We already have regulations that are applicable in all the circumstances where we require them. Again, this goes to the core of our point. Is there anything specifically dangerous about somebody who wants to dance to live music? Is there anything about their doing that that is a danger to society? I do not believe there is. It is a great activity. It is exercise, it is cultural and it is socially engaging. We have plenty of provisions to support best practice in our industry. Do we need any more?

Lord Davies of Stamford: Your argument is also for complete deregulation.

Mark Davyd: Certainly in the spaces we represent. A space that was not compliant with all the other Acts that I listed would not be running—

Lord Davies of Stamford: The protections are there in other contexts anyway. What about south Australia? Have you looked at that?

Mark Davyd: Yes. A number of things are being done all around the world. San Francisco is a good example. Toronto is just bringing in an ordinance. Austin is working on some statutes that it is going to bring in. In all cases, deregulation of live music and reference to other Acts and control measures are being used.

Lord Davies of Stamford: Could you send us some material on that?

Mark Davyd: I certainly can.

The Chairman: Lord Mancroft has a question.

Q204 **Lord Mancroft:** I think we have covered my question, which was whether there are countries where regulation is done in a slightly better way. Can I add a bit of my own? The primary bit of protection we need—putting aside fire and safety and goodness knows what else—is neighbours not being disturbed by what your customers would describe as lovely music and what they might describe as a bloody awful noise. That is what you have to protect against. Who does it better than us?

Paul Latham: I do not think there are many. We trade internationally. The UK standard of operation is second to none in my experience, and I have worked all over the world. That is why we should be proud of what we do and continue doing it. The only clarification is that, because the legislation is in different formats, there should be one page of dos and one page of don'ts, from all the best bits of the legislation, to say, "That is it. Just adhere to those and do not do those. Do not mess about". We are there. We have the legislation at our disposal. It does not have to be compounded by the Licensing Acts as they currently are, because that is gilding the lily somewhat.

The Chairman: Do the other witnesses wish to comment?

Mark Davyd: We probably have the best practice in the world. Consequently, we have the ability to deliver the best result to local residents. I question whether we have the best legislative framework to support people in doing that. It is very complex. There is a lot of subjectivity in it. When you are talking about commercial businesses and their ability to trade within the law, subjectivity is very unhelpful.

Lord Mancroft: I accept what you say. I also accept what you said earlier about intrinsic good; dancing is excellent and does not really need to be regulated. The reality is that the businesses you are talking about cannot keep their heads above water on music alone, which is why they sell alcohol. That is where there is an interest in public health and public safety. Indeed, if people come to your venue, enjoy their dancing and take drugs, that too becomes an issue of public health and public safety. There are also things like fire and crowding. There are issues that go beyond the actual music, are there not?

Paul Latham: But to take drink in particular, ultimately you can get a can of Stella for 40p around the corner at the supermarket. When you are paying £5 for the same thing at one of our venues, you are not going to our venues to get drunk, unless you take out a mortgage.

Mark Davyd: Statistically, the numbers are in. Audiences spend an average of £6.80 per head on alcohol in one of the grass-roots music venues that we represent. According to the *Morning Advertiser*, they spend £17 on alcohol in a pub. You could argue that we should open more music venues to cut alcohol intake.

Lord Mancroft: You have just put forward two separate scenarios. One is that you are overregulated. In some ways, I can see why you say that. On the other hand, Mr Latham says that we have the best regulation in

the world. There is an element of truth in the statement that, if you get a new law, it will probably do you more damage than the last one. That is just a fact of life.

Paul Latham: It depends on whether you select the best things and take out the worst. Ultimately, the issue now is that the licensing provisions overcomplicate what is already there elsewhere. Nobody wants to run an unsafe venue. Nobody wants anybody to come to harm. We are investing in all our businesses and buildings, because we are competing for the leisure pound.

Lord Mancroft: How do you balance that with what you previously said, which was that we have the best licensing regime and we had probably better not change it? What you have just said is that it needs some changing.

Paul Latham: That is the clarification I was trying to make about the disparity between Alex and me, where Alex says, "Do not regulate". There are regulations in the different Bills on health and safety, et cetera. Those need to be crystallised. They should be up there above the safe in every venue and ticked off on a show-by-show basis. That is the legislation that keeps us at the forefront of the entertainment industry. The issue is all the little idiosyncrasies like, "You must wear this", "You have to have a cloakroom like this", and, "You have to stand on one leg on a Thursday night when you have an Irish band". That does not help anybody.

The Chairman: Mr Mann, you have been very patient.

Alex Mann: Paul raised a very good point. It speaks to the way the Licensing Act is applied to live venues, which creates some of the confusion. Perhaps the lack of a point in the Act that refers to social and cultural activities gives some indication of where the confusion may arise. Perhaps there is some lack of understanding of what happens in those venues—the sorts of activities and the social and cultural behaviour. Generally, somebody may go to a gig and have one or two drinks. Most of the time, they will be engaging with the performance. In much the same way, if you go to see a production of "Tosca" at the Royal Opera House, you might have a drink before, in the interval and afterwards, but most of the time you will be engaging with the performance. It is extremely rare for one of our members to report to the union that they have been working at a music venue and there has been an incident of drunken behaviour that disrupted a performance, caused a threat to the performers, the staff or the public, or reached the point where one of the existing pillars of licensing was infringed or threatened in any way.

Baroness Grender: Some of the evidence that we have received is about preloading and people being served drunk. From your data, do you have any knowledge of people being turned away because they arrive at the venue drunk or being refused service when they try to buy alcohol?

Mark Davyd: We do not have data on the number of people who are turned away. However, security and entry into venues is very tight. These days it is all SIA registered, so there are control measures in place. I guess that it would be possible to do some sort of survey of that. There are quite a lot of surveys of practice in the industry going on at the moment that could be quite helpful.

Paul Latham: It certainly forms part of our event reports if we turn people away in advance.

The Chairman: Are you saying that it is not on a grand scale?

Paul Latham: No.

Baroness Grender: Has it increased or decreased?

Paul Latham: We are more mindful of it and we manage it better, because that is part of the operation. We do not even let them through the front doors if they are visibly intoxicated.

Lord Mancroft: Do you get a lot of noise complaints at established venues?

Mark Davyd: We recently set up what we call an emergency response service, partly to try to manage that more centrally and to build evidence about what is happening.

The Chairman: We are just about to come to that point. Could we turn to Lord Brooke?

Q205 **Lord Brooke of Alverthorpe:** Can I turn our attention to larger-scale venues and arenas? What has happened since the Act came into force? We are aware that a number of places have closed, but could you tell us whether it extends to the same degree to larger ones? Are there problems that we should address there?

Paul Latham: There are by definition, when there may be 10,000 or 12,000 people in an arena, with bands playing to that number of people. Wembley Arena, for example, had residences built above it. The NEC has had residences built around it. In Cardiff, the profile of events has changed since the retail was there. The arenas, too, are affected. They have the same inhibiting finish times. When you have Madonna or Axl Rose, who do not always turn up on time, there will be mitigation problems. They are not even in the building at 10.30, let alone finishing their set. You cannot ignore the fact that those buildings are impacted as well.

From a noise point of view, with the residential developments that are happening around most of the arenas, there is a constant issue. On the point about how many noise issues you have, there are 12,000 people inside and four or five people complaining outside. That tends to be the ratio at arena level. That is not just my arenas; it is representative of the

National Arenas Association, which is also part of our group. We have those challenges.

The Chairman: Mr Mann?

Alex Mann: I have nothing to add. Mr Latham has summed up my thinking entirely.

Lord Blair of Boughton: I seek a bit of clarification. Where these big venues are getting residential units, it is following on from a pre-existing large venue. In a sense, if the venue is building the things, it must accept that it will have trouble.

Paul Latham: Yes, but it is not the venue that is building them; it is local developers, quite often utilising the fact that they are in the proximity of a very nice conference centre-cum-events centre-cum-concert venue. Then the residents who buy residences on top of Wembley Arena suddenly do not like the noise that is there. Go figure.

Lord Brooke of Alverthorpe: Lots of pop-up raves tend to be outside city centres. Has there been any development of music venues away from centres, given that we can expect probably 1 million new houses to go into city centres, primarily, in the coming years? Is there any evidence of movement outside?

Mark Davyd: Within the grass-roots music sector, that would be fundamentally against the concept of what they are trying to deliver. Essentially, they are trying to bring artists to the doorstep of new audiences who do not currently know them. As soon as you put it on the industrial estate, for example, five miles out of town, you start to ask, "Who is going to travel five miles out of town?"

Lord Brooke of Alverthorpe: Raves prove that thousands travel.

Mark Davyd: They travel for a very specific musical experience, featuring known DJs. I am talking very specifically about the grass-roots music venue sector. Thousands of people do not travel outside their city centre to see an artist they have never heard of.

Paul Latham: My company is not involved in raves, but the club Cream does a lot of large warehouse party events. Every single one of them is licensed. They do not pop up. We do not abuse the local residents in any way, shape or form. It is not good business. Cream, which was there for 30 years, is no longer in existence, so we will have to put it somewhere else and consider the impact of that. Accordingly, we are looking at spaces that will complement where it is so that people can come and go, because it is a late-night business.

The Chairman: Mr Mann, is there anything you wish to add?

Alex Mann: Only that events on the scale you are talking about and that operate in that way—presumably, licensed events—largely have a huge

amount of extensive risk assessment and management of the event itself, to ensure the health and safety of everyone attending it.

- Q206 **Baroness Henig:** Can we turn to security? Since last year's terrorist attacks in Paris, there have been heightened concerns about security at licensed premises, with some people suggesting that some venues are not taking security seriously enough. For example, police in the London area offer a lot of advice on target hardening and bringing premises into schemes such as Project Griffin, but some venues do not take them up on it. Do you think that is a problem? If so, how can you make some of the venues that are not engaging engage?

Paul Latham: It is absolutely not my experience. As a venue manager for 32 years, I had the misfortune to be running venues when the IRA was regularly taking pot-shots at us. There is absolutely no complacency within the industry. The Bataclan was quite personal to us. One of our artists and one of our merchandisers died, so nobody is being complacent.

The public perception may have been that for a while afterwards they were a little concerned about public places. As a point of information, the Bataclan had previously been identified as a viable target because of its ownership and its support for certain factions. The local community had warned the previous owner that they did not want it to carry on doing certain fundraising. Unfortunately, the security services in France and the new owner did not heed those warnings. We have far better relationships. The security services in this country do great work to avert those types of things. It is all part of the regular liaison we have with the security services and local authorities. I assure you that, among responsible venue operators, there is not a single venue that takes these things lightly. I say that as somebody who has a vested interest. We have a security company as part of our company, so we are involved in all the protocols.

Our doors have always been more secure because of the type of artists we have. Every risk assessment we do for every gig identifies the audience profile and how they are likely to act, from a health and safety point of view. Can we go to airport scanners? I do not think so. If you look at the licensed buildings that we have, a lot of them are very antiquated, with very small spaces. Do you do pat-downs, use wands and do bag checks? Absolutely. I suggest that our industry is better served than a lot of others. I ran West End theatres. The Dominion was one of mine, and the IRA targeted Charlie and Di in the royal box. We averted it. We did then, and we will now. We will continue to do that. We are very vigilant. I would be amazed if anybody did not take it seriously. If people do not take advice from the forces that are there to do that job, more fool them. We certainly do.

Mark Davyd: Project Griffin specifically was represented at venues day this year, which was attended by more than 200 venues. It was very heavily engaged, for precisely the reasons that Paul has just outlined. It is more about opportunity than it is about resistance on the part of the

sector to measures like that. It is about getting the message out there. We seem very authoritative when we come to these meetings, but we have been in existence for only two years. Prior to that, there was no mechanism whereby you could contact such a large body of venues. Our existence is helping to solve that problem. That is certainly the feedback that we have had from the counterterrorism department and Project Griffin.

Baroness Henig: I am interested in that. Clearly, it is not the well-regulated end of the venues that will be the problem, but the very small venues—those that may not be in an organisation or chain. If an organisation like yours was able to reach out to them, it would be a very beneficial thing.

Mark Davyd: It was very positively received at venues day; I am waiting to get a fantastic quote from the Met about the experience. They are very open to getting more advice. As Paul outlined, they have best practice on security and entry anyway. We can generate more of that.

Q207 **The Chairman:** Can I ask one last question? Picking up what you said earlier, are you saying that the Licensing Act and the revisions are not necessarily the best way of regulating the live music sector, and that the original pieces of legislation that apply directly would be better? Is that what we can conclude from what we have heard this morning?

Mark Davyd: Overall, our feeling is that as a package of measures that we should take to support grass-roots venues, which are in serious decline, addressing the way they are directly dealt with in the Licensing Act is something we really want to push forward. If that could be done through the fifth pillar that has been discussed, recognising them for the value of their cultural and social activities, we would support that. If it could be done by a review of all the licences, we would support that. However, as my closing remark, this is not the only measure we need to take for grass-roots music venues; we need to consider every aspect of legislation and the economics of the music industry.

Paul Latham: We need to take pride in the work that everybody has done. As the Licensing Act has evolved, it has tried to help. Unfortunately, there is other legislation that sits alongside it. It is about simplifying that. If it is simplified, more people can adhere to it, because they understand it. That goes for the enforcing officers too. It is not about deregulating everything; it is about showing the conditions that are appropriate at this time for responsible businesspeople and making them adhere to those.

Alex Mann: As regards the cultural agenda, we normally think of theatres, cinemas, the opera house and other such spaces as part of a cultural community. I am very pleased that there are now movements within government and within our own music industry infrastructure to bring live music venues into that cultural sphere as well. It would certainly help if more venues were recognised for the culture that they

provide for their community and our society in general. Addressing these issues is a really helpful way of doing that.

The Chairman: On behalf of the Committee, I thank you most warmly for being with us, being so generous with your time and answering all the questions we put. It has been very helpful. In thanking you, could I ask you to leave, so that we can continue with our private business? You have been most welcome and we have benefited greatly. Thank you very much.