Sanderson Weatherall

SINTONS

The **Leisure Industry** 2023

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"But as always, this industry we love has been resilient and found a way forward."

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Brighter Times On The Horizon

Well nobody saw that coming! This may seem an unusual way to start an article, but if you cast your mind back to this article 12 months ago, we thought that the industry had turned the corner, the dark days of Covid-19 were behind us, and there was plenty of opportunity to bounce back to profitability.

But how could we foresee the troubles that have hit the industry in the last 12 months?

With utility prices sky high, product prices rising as a result of suppliers carrying increased costs of production, the high rate of inflation hitting the pound in the pocket of many punters, and the chaos that followed September's mini-budget, it became another increasingly tough year for many in the industry. With hindsight, it seems like the sector had walked out of a dark tunnel into the light, but that light was just the lightning flashes of the approaching storm!

But as always, this industry we love has been resilient and found a way forward. New outlets have popped up all over, from smaller microbusinesses (pubs and street food outlets), through to high end fine dining establishments, indeed it can easily be argued there has never been a better time to be a foodie in the region. Other areas of the industry have also continued to thrive, such as the holiday and caravan park market, where demand for sites is higher than ever and prices being paid are at all-time highs.

There has also been a strong uptick in the conversion of former retail space to leisure uses, so much so that statistics indicate the number of bars, large venues and high street units increased by 0.5%. Whist Pubs sit within a Sui Generis planning class, the introduction of Class E has allowed food focused operators to benefit from this relaxation in planning laws, and we've been pleased to see the opening of outlets such as NQ64 on Pilgrim Street and Four Quarters on Dean Street in Newcastle City Centre, which both build on the competitive socialising scene.

Licensing however remains tight in many city centre locations and as licensing authorities begin to review the pavement licences granted during Covid-19, there are no doubt some more changes to come.

That is not to say that there have not been closures of businesses, but the severity of closures was not as severe as many feared. The CGA/Alix Partners Report for October 2022 confirmed that total pub numbers in England & Wales declined by just 0.6% in the preceding 12 months (the increase in city centre venues, being offset by closures in the traditional wet led sector). This means that the total number of pubs would sit just short of 46,000 for the start of the year. These numbers, however, strongly suggest a distinct slowing in the rate of decline over the last 5 years.

Now whilst last year was undoubtedly hard work, there are still lots of positive things coming up. Once again, the RFL Magic Weekend returns to Newcastle, for an unprecedented 7th time, and the continued performance of Newcastle United, Middlesbrough and Sunderland will continue to ensure the hostelries of their respective town centres are full on match days. Music, Comedy and Theatre performances are back, audiences are growing and Sam Fender's two nights at St James' Park and Beyonce at the Stadium of Light will be the biggest shows the cities have seen for some time. Hopefully, the recent Business Rates Revaluation will result in reduced liabilities for operators, but even if your Rateable Value has not fallen, there are still ways to make sure that you are making the most of the savings available.

Whilst 2022 didn't prove to be the year we all hoped, there's every reason to think 2023 looks like it's going to be another interesting year and hopefully, this isn't another false dawn.

"Only by really thinking through the risks can you properly come to the solutions and ensure you are promoting the licensing objectives."

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The Importance of **Risk Assessments** and **Best Practices** in Licensed Venues

As an operator of a licensed venue, you have a responsibility to keep your staff and customers safe. One of the most important ways to do this is by conducting regular Risk Assessments and implementing Best Practices. In this article, we will explain why these concepts are integral to every licensed business and provide practical guidance on how to implement them.

What are Best Practices?

Best Practices refers to the most effective ways to do things. These practices are based on past experience, research, and industry standards. By adopting best practices in your licensed venue, you are using what has proven to be the most effective methods to promote the licensing objectives. You don't need to reinvent the wheel by writing policies from scratch. You simply need to adopt the best-established practices and adapt them to the specific needs of your venue.

What are Risk Assessments?

A Risk Assessment is a documented evaluation of potential hazards and associated risks in a particular environment. The risk assessment will typically include information on the hazards, the people who may be affected, and the steps that will be taken to control the risks.

Why are Risk Assessments and Best Practices Important?

Many operators see Risk Assessments and Best Practices as a "tick box" exercise, simply creating a neat file of paperwork to gather dust pending their next licensing inspection. However, it is important to remember that these concepts are not just about compliance. They are about keeping your staff and customers safe and preventing incidents that could harm your business.

By identifying risks associated with your premises and applying Best Practices in how you address those risks, you will not only ensure that you are keeping staff and customers safe but will provide evidence that you are doing so. This will not only save you money in insurance premiums and claims if incidents do occur but will also promote compliance with licensing objectives.

How to Implement Risk Assessments and Best Practices in your venue:

- Conduct a Risk Assessment - The first step in implementing best practices is to conduct a Risk Assessment. Identify potential hazards and associated risks in your venue and develop a plan to control those risks.
- Adopt Best Practices - Once you have identified the risks, adopt Best Practices that have been proven to be effective in addressing those risks. This could include policies relating to spiking of drinks and people, safeguarding and vulnerable people, dispersal, and drug and weapon policies.
- Keep practices under review - Best Practices have to evolve all the time to incorporate changes in risks relating to licensed premises. Keep your practices under constant review and adapt them as necessary.
- Train your staff - Train your staff regularly to consider Best Practice and encourage them to highlight potential issues with best practice and offer better solutions to improve how the venue operates.

In these difficult trading times, the need to apply Best Practice and keep it under regular review is more important than ever. By conducting regular Risk Assessments and adopting Best Practices, you can promote compliance with licensing objectives, keep your staff and customers safe, and prevent incidents that could harm your business. Remember, Risk Assessments and Best Practices are not just about compliance. They are about keeping people safe and promoting a safe and well-managed venue.

Please get in touch if you would like us to help you prepare or review your risk assessments and policies.

“Looking at that platter of restaurants, I think it’s safe to say, we’ve never been better served!”

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A Fine (**Dining**) Spread of Restaurants

Has there ever been a better time to be a foodie in the North East? I don’t know about you, but I’m pretty sure the eating out landscape has never been better.

With a panoply of Michelin starred restaurants from the two star Raby Hunt just outside Darlington, House of Tides and Solstice in Newcastle, to Restaurant Hjem (who recently featured in the BBC2 series the Hairy Bikers Go Local) and Pine (whose Cal Byerly recently competed in the Great British Menu) in rural Northumberland, those seeking a high end fine dining experience are spoilt for choice. This is without even mentioning the numerous other restaurants in the region included in the guide, such as Coarse in Durham, Haveli in Ponteland, Trakol on Gateshead riverside and Terry Laybourne’s evergreen 21.

It’s not just about the Michelin Guide though, where sometimes the experience and ‘theatre’ of the food can be enough to bamboozle a diner before even considering the quality. There are many great restaurants who are delivering great food at what many would consider ‘more realistic’ prices. Andy Hook’s Blackfriars and Dobson & Parnell have been serving great food for many years and in the last few years have added Hinnies out at the coast to the portfolio. Mark Lagan’s Earl of Pitt Street for many is a hidden gem in the Newcastle food scene and Dave Coulson’s Peace & Loaf in Cradlewell remains a favourite.

There’s also a thriving street food scene in the North East, with high quality food being delivered at pocket friendly prices. Outlets like Scream for Pizza and My Delhi (who both featured on BBC2’s Britain’s Top Takeaways) are perhaps the best known, but Acropolis, Redheads Mac N Cheese, Dumpling & Bun, Feds Fried Chicken and La Casa Delicatessen tapas bar, are all staking their claim, with busy stalls in Newcastle’s Grainger Market, which is rapidly becoming somewhat of a street food hub for hungry diners who want a tasty and filling lunch.

There’s also a busy scene developing in Heaton, in the east end of Newcastle. Well known as a student location, over the last few years a number of great outlets have opened up including Fork in the Rose, Sobramesa, Flint, L’Ulvio, and Bocquerones. To complement this cosmopolitan offering of local, artisan, independent restaurants, Heaton has also seen several MicroPubs established, such as the Heaton Tap, and the Elder Beer Café. I just wish that when my wife was a student living in Heaton, there had been as many great venues’ to eat in, rather than just the now long gone Café Picasso and its famous Dime Bar Cake.

It’s not just about Tyneside though, the redevelopment and regeneration of the Stables in the Sheepfolds area of Sunderland is attracting exiting occupiers, with Hairy Biker Si King announcing the opening of his first restaurant venture, alongside Zinc, a new casual bistro from John Calton, the chef patron of Route in Newcastle. There are of course a number of obvious well established foodie flags in the map in Sunderland, such as Angelo’s in Sunniside and Mexico 70, the brilliant taqueria on High Street West, close to both the Sunderland Empire and The Fire Station, so handy for a quick pre-show meal (if you can get in!). Durham will also soon see the opening of Faru, by former House of Tides Head Chef Jake Siddle and his wife Laura, who are bringing a fine dining experience to the centre of the city.

Another area of strength in the region is the quality of ‘Gastro Pubs’ we have (I know it’s a horrible term), with venues such as The Broad Chare in Newcastle, The Feathers at Heddon and the The Rat at Annick regularly featuring in The Estrella Damm list, as well as the Michelin Guide. And living in a coastal location, it would be remiss to overlook the great seafood restaurants we have including The Old Boat House, Amble, the Potted Lobster in Bamburgh and The Jolly Fisherman in Craster.

Looking at that platter of restaurants, I think it’s safe to say, we’ve never been better served!

“The ‘Drone Code’ was issued to address the use of drones by operators and provides guidance that operators should follow.”

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Privacy and the **Trouble with Drones**

There has been much made in the press relating to drones over the last few years, particularly in the context of those disrupting holiday makers with their invasion at Heathrow Airport.

This airport has now installed an anti-drone system designed to block drones entering its airspace to counter this problem by using holographic radar technology to detect not only the drones, but their operators as well. However, unless the interference is one of health and safety or of national security, or a company has the financial resources to employ such technologies as this, then there has been an absence of remedies available to businesses to address this problem.

The Civil Aviation Authority recently updated its code of practice in this area. The ‘Drone Code’ was issued to address the use of drones by operators and provides guidance that operators should follow, including adherence to rules such as not flying closer than 50m from a person, and not flying closer than 100m from a group of people. It’s also incumbent on an operator to make themselves visible to people while flying (no covert piloting) and always having a direct line of sight to their drone, amongst other things. Further details of this can be found at **(hiips://www.caa.co.uk/drones/rules-and-categories-of-drone-flying/introduction-to-drone-flying-and-the-uk-rules/)**

The enforcement of these rules is carried out by the police. As this updated guidance is new, (revised in January 2023) it’s unclear how the police will respond to this, and how seriously they take such reports generally. Nevertheless, the guidance suggests that if you suspect someone is in breach of these new drone rules, it is the local police force who should be contacted to deal with it.

In terms of privacy, the Information Commissioner’s Office (ICO), the UK Regulator who oversees the collection and use of personal data, has issued some guidance on the use of drones, or “unmanned aircraft systems” (UAS’s). This is in the absence of any data protection legislation specific to the use of drones contained in the UK GDPR. The ICO guidance distinguishes between those who collect personal information for personal reasons, who they call “hobbyists”, and those who collect it for professional or commercial purposes. It may be that those who fall into the former category may rely upon the domestic exemption if they use the drones and any data collected from them for personal use only, and the ICO maintains even then that operators should be aware of wider privacy considerations when recording and sharing images with others.

The ICO does recognise that the use of drones can be highly intrusive and those who collect images of individuals for professional or commercial purposes without that individuals consent, must demonstrate their compliance with the legislation and codes of practice governing this activity. Particularly, operators should notify those individuals who would likely be caught by any recordings or make such information available through an accessible privacy notice and prepare a Data Protection Impact Assessment (DPIA) to demonstrate that it has considered the privacy rights of the individual(s) concerned.

This leaves businesses seeking to protect their brand and the privacy of their customers against drone activity with the following options:

- where the operator (or wider company who employ them) can be identified, report the operator and company to the police;
- place clear signage around property boundaries stating the prohibition of drone activity in its airspace;
- where recordings are made by a drone (this may only become apparent when uploaded to social media sites), report this to the ICO; and
- consider legal action for misuse of private information where the individual(s) concerned had a reasonable expectation of privacy.

As tempting as it might be, businesses should not engage in action to shoot down drones as this could constitute criminal damage to property.

If you have any questions regarding this article, please feel free to contact Louise Weatherhead, a data protection lawyer, by email or via Twitter @ LNWdataprotect

"Fan zones have been such a success, that national operators are now actively seeking sites for this use"

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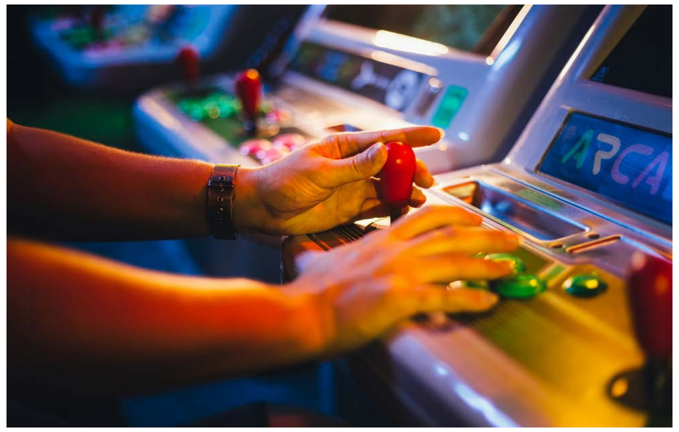
Changing Places – The Continued Reinvention of Leisure

I'm sure that many of the readers of this article, like me and my colleagues, were expecting 2022 to be a year of recovery, and notwithstanding the Omicron variant of Covid-19 that raised its head in the early part of the year, on the most part, it still was, as many businesses enjoyed a revival in trading fortunes as the final pandemic restrictions faded away.



However, none of us could have anticipated what was to come next, with war in Ukraine and an energy crisis dominating headlines and ultimately leading to increasing cost of living pressures for us all, as inflation hit a 40 year high of 11.1% in November.

So how did the leisure industry cope with this?
Well, it did what it always does, it changed and evolved. Some businesses took measures to restrict opening hours, others changed the way they delivered their service to reduce costs and whilst some businesses faded away and failed, others poked their head above the parapet and opened new venues or saw the opportunity to expand their portfolios by acquiring assets and giving them a new lease of life.

Exiting new openings that we have seen in the last 12 months or so have included The WC Gin Closet (perhaps Newcastle's smallest bar), NQ64 and Four Quarters, both of whom are bars with a retro arcade and video game focus, and will no doubt bring pangs of nostalgia and perhaps Déjà Vu for many punters, who will remember games like Pac-Man, Out Run and Street Fighter from the first time around.

The closure of many high street retailers has also led to opportunities for many leisure operators, with empty retail units (especially in shopping centres) being ripe for conversion to alternative leisure uses such as escape rooms, indoor climbing, padel tennis, children's soft play, or even, so called 'rage rooms'. Venues where stress filled adults can cut loose and take out their frustrations by smashing crockery, redundant appliances and other items with a sledgehammer.

Another interesting development over the last few years has been the development of 'fan parks', often large open plan indoor or outdoor spaces, where fans who are unable to get tickets to see their beloved team, or perhaps cannot afford to travel overseas, can congregate to watch the game on the big screen and enjoy at least some of the camaraderie they would experience in the ground. Newcastle's International Centre for Life has capitalised on this by using the large open space of Times Square in this way. Clearly these fan zones have been such a success, that national operators are now actively seeking sites for this use, sites of in excess of 10,000 sq ft, with a minimum of 5,000 sq ft of outdoor space, mean that these venues will be mega sites in most towns and cities.

Of course, bringing leisure uses to these properties is not without its problems. Changing planning use has been simplified to a certain extent with the introduction of Use Class E, which incorporates Shops, Cafes & Restaurants and allows easy conversion between the uses. But other activities such as public houses, which require sui generis planning, or sports activities, which generally require D2, may require a more detailed change of use application. There's also the issue of gaining appropriate licensing for what you want to do, but I think I'll leave the lawyers to talk to you about that….

"Martyn's Law will seek to improve the safety and security of citizens so they can enjoy public premises without fear of terrorism"

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Protect Duty (Martyn's Law) **Bill Update**

On 19 December 2022, the Secretary of State for the Home Department Suella Braverman, made a statement announcing the foundational policy elements that will form the basis of the upcoming Protect Duty Bill (also known as Martyn's Law).

The proposed Martyn's Law will seek to improve the safety and security of citizens so they can enjoy public premises without fear of terrorism by improving protective security and organisational preparedness at a wide range of locations across the UK, including visiting venues, retail areas, and other publicly accessible venues. Those responsible will be required to consider the threat from terrorism and implement appropriate, proportionate mitigation measures. The two primary objectives for Martyn's Law will be to **i)** clarify who is responsible for security activity at locations in scope, thereby increasing accountability; and **ii)** improve outcomes UK-wide so that security activity is delivered to a consistent level. An inspection and enforcement regime will seek to educate, advise, and ensure compliance with Martyn's Law.

Legislation will establish a tiered model, introducing a requirements framework that is linked to the type of activity that takes place at eligible locations and the number of people (occupancy) that the location can safely accommodate at any time. The requirements for each tier are:

- Standard- locations with a maximum occupancy of greater than 100 people at any time will be required to undertake low-cost, simple yet effective activities to improve protective security and preparedness. This will be achieved by accessing free awareness raising materials and development of a basic preparedness plan considering how best a location can respond to a terrorist event in their area.
- Enhanced- locations with an occupancy of 800+ at any time will additionally be required to take forward a risk assessment and subsequently develop and implement a security plan. Enhanced Duty Holders will be required to meet a reasonably practicable test.

Locations with a maximum occupancy at any time of less than 100 will fall out of scope but will be encouraged to adopt good security practices on a voluntary basis. This will be supported by free guidance and training materials.

Premises will fall within scope of Martyn's Law where "qualifying activities" take place. This will include activities such as entertainment and leisure, retail, food and drink, museums and galleries, sports grounds, public areas of local and central Government buildings (e.g., town halls), visitor attractions, temporary events, Places of Worship, health, and education. It is proposed that Martyn's Law will apply to eligible locations which are either: a building (including collections of buildings used for the same purposes, e.g., a campus); or location/event (including a temporary event) that has a defined boundary, allowing capacity to be known. Eligible locations whose maximum occupancy meets the above specified thresholds will be then drawn into the relevant tier.

To deliver clarity of responsibility and accountability, Martyn's Law will define parties obliged to meet its requirements. This will be a simple formulation to establish persons in control of premises. Where there are multiple parties at a location, Martyn's Law will primarily place obligations on a lead party whilst placing requirements on others to co-operate with that party, such as in the development of risk assessments and security plans. Martyn's Law Guidance will detail how and where it would be envisaged that parties will need to co-ordinate on assessments and plans and provide examples of good practice.

Enforcement will mainly be delivered through a civil sanctions regime. In all but the most serious cases a civil monetary penalty is likely to be issued. For cases of serious breaches, a limited number of criminal offences will be available. A maximum penalty of up to £18m or 5% of worldwide turnover will be available for Enhanced locations. Standard locations will be subject to a maximum £10,000 penalty.

The government continues to engage with a range of stakeholders and other government departments to further develop the legislation, which will be introduced to Parliament at the earliest opportunity.

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"Under current obligations, an EPC must achieve a minimum requirement of an E rating and will be valid for 10 years"

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"Rapidly transforming, Sunderland is a city of surprises."

STEPHEN SAVAGE

STEPHEN SAVAGE
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Fit for the Future: New Energy Efficiency Requirements on Commercial Buildings

From 1st April 2023 a revision to the current energy performance regulations came into force. It's anticipated to be the start of a number of changes to Energy Performance Certificates (EPC), which will create more onerous obligations on both landlords and property owners with regard to the Minimum Energy Efficiency Standards (MEES).

Here's what you need to know:

What is a commercial EPC?

An EPC is a rating scheme which identifies the energy efficiency of a building.

Commercial properties currently require an EPC when they are let, an existing lease is renewed or extended, or if there have been alterations to the property.

Under current obligations, an EPC must achieve a minimum requirement of an E rating and will be valid for 10 years, unless one or more of the events above takes place.

The deadline to achieve a minimum E rating on a leased building is 1st April 2023.

What are the proposed changes?

The Government is consulting on the following:

2025: All leased properties will need a valid EPC if there is an existing lease that has an expired EPC, a new one will be required.

2027: Current projections suggest that all lodged EPCs will be required to achieve a minimum C rating.

2030: Further changes are anticipated aimed at targeting a minimum B rating.

It is anticipated that the changes required to achieve a B rating are likely to be phased, between the 2027 and 2030 requirement timescales.

What happens if the property is not compliant with new regulations?

A fine system is currently in place based on the rateable value of the property, up to a maximum level of £150,000.

Landlords should also take into consideration the ease with which a property can be let at the end of a tenancy, and also the potential impact on a dilapidations claim, if the property is found to be below the required band level.

From a landlord's perspective, there is also the potential impact on empty rates recovery, if a property is MEES non-compliant at the end of the lease and therefore cannot be let. The down time during which work is undertaken to ensure that the property can be brought up to the relevant band rating may have a significant impact on rental income, potentially adding to the level of empty properties currently identified on the high street.

What can I do to improve the EPC Rating of my property?

Improvements that can make the greatest impact to the rating are:

- improving the lighting efficiency
- making alterations to the heating system to provide a more efficient source
- upgrading roof void insulation

Given design parameters of licensed premises and brand limitations of some operators, it is essential that architectural or interior design teams consider how the energy efficiency of a property is likely to be affected by refurbishment work.

Sunderland - city of surprises

Rapidly transforming, Sunderland is a city of surprises. A treasure trove of stunning hidden gems – from its lush parkland to the silver shores of Roker and Seaburn – and, with more venues springing up, as investment flows into its coast and riverside, it's easy to see why more visitors than ever flock to this up-and-coming city by the sea.

City centre

The Bridges is the beating heart of the city centre, home to over 60 high street retailers. Surrounding streets like High Street West are being revived with new independent retailers, and Park Lane boasts high end clothing stores Aphrodite and Designer Childrenswear.

The city centre is home to the spectacular Empire Theatre, the jewel in the crown of the Cultural Quarter, with West End shows that delight people of all ages. And next door, stands The Fire Station and Auditorium, where you can enjoy food, drinks, music and performance of all kinds. With The Botanist on its way and destination leisure venue, The Sheepfolds' Stables set to open its doors later this year, there's so much more to come.

Roker and Seaburn

For an invigorating walk along the beach with friends, sandcastle building with the family or a mouth-watering portion of fish and chips from one of the independent "chippies" that pepper the coastline, head over to Roker and Seaburn. If you're looking for somewhere to grab food or drinks, you'll be spoilt for choice. For locally sourced charcuterie, there's SIX at Pier Point; gin fans will delight at Tin of Sardines and Poetic License in Roker; and further up the coast, check out Seaburn's newly opened North, a high-end fish restaurant and bar in the transformed historic bay shelter with views over the beach. Want even more? Try Stack Seaburn, serving up everything from Korean bao buns, Mexican tacos, Greek gyros from an eclectic mix of incredible independent street food vendors. It also transforms into a vibrant venue by night, with quizzes, live music and big screen events delivering something for everyone.

Green spaces

It's too difficult to pick just one. From Mowbray Park in the city centre to Herrington Country Park in the shadow of Penshaw Monument, swathes of green space surround and run through Sunderland... perfect for people to get out and about year-round.

To stay up to date with the latest news, venues and events in Sunderland, visit www.mysunderland.co.uk

"Over just one weekend, the Great North Run generates somewhere in the region of £30M of additional revenue in the region"

KEVIN McGORIE

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H'way The Lads! – The Value of Sport to the NE Economy

If there's one thing that is certain in life, it's that this region loves sport. Whether that's team sports such as Football, Rugby or Cricket, or solo endeavours like running or golf, we love to see our teams competing at the highest level or our friends and colleagues putting their best foot forward. But what many fail to think about is the value of these sporting events to the North East economy and particularly the leisure economy.

It's hard to put definitive figures on just what the leisure industry gains from these events, but research and analysis for some of the biggest events and clubs have shown some significant numbers. Over just one weekend, the Great North Run generates somewhere in the region of £30M of additional revenue in the region, including increased hotel occupancy at 94% and an increased ARR of £166. The Rugby League Magic Weekend, which returns to Newcastle this year for an unprecedented 7th year, is expected to generate over £8M and has a similar impact on occupancy and ARR for the hotel sector. From the games hosted in the region in last year's Rugby League World Cup, revenue of circa £13M was estimated. Much of this spend is taken by the wider leisure economy from accommodation and food and beverage sales.

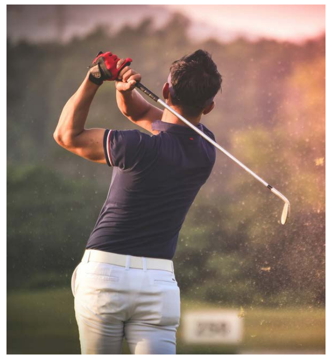
Football is of course the biggest sporting money spinner for the region (after all who doesn't love the beautiful game, C'mon the Toon). A report in 2019 from accountants EY estimated that Newcastle United alone provided £236M of gross value added (GVA) to the region's economy and this number is likely to have increased since the club's recent takeover and success in the Premier League. When you add to this the contributions from Sunderland AFC and Middlesbrough FC, the money generated in the region from football is not insubstantial, and a large slice of that will be matchday revenue for licensed premises around the grounds and in town centres.

Cricket is a much smaller player in this game, but still adds a significant number to the total. Figures collated by Durham County Cricket Club in 2013 suggested that the hosting of ODI games (and at that time Test Matches), together with County games, one day cup games, and Twenty20 Cricket generated about £20M for the regional economy.

Whilst team sports no doubt create a great atmosphere and significant matchday revenue, they're not the only sporting contributors. With over 110 golf courses in the region, including Championship Courses such as Close House and The Northumberland Club and hotel courses such as Matfen, Slaley and Rockliffe Hall, the North East is a great place for golfing holidays and corporate events, which add a significant contribution in terms of hotel nights sold and food and beverage sales.

It's not just about live sport, though. Televised sport plays a huge part in generating revenue for licensed premises. Recent research by app Fanzo (which allows users to find pubs that are showing live sport on TV) indicates that the Six Nations Rugby is the second most popular event (with 44% of respondents saying they planned to watch a match in the pub). Second only to the FIFA World Cup. The survey found that despite football's dominance, the Six Nations is a bigger draw to the pub than the Champions League Final (43%), the FA Cup Final (39%) and the Premier League (33%). The FIFA World Cup is still undoubtedly the biggest player, especially last year's unusual winter World Cup. On the first matchday featuring England and Wales, sales in pubs rocketed by 60%, which was bettered by the figures for England Vs Wales, where sales were up 70%. The biggest payday however was for England's last 16 match against Senegal, where 28.5M pints were sold across the UK, equating to an average additional 166 pints per venue compared to a typical weekend.

So, lets raise a cheer for our sporting heroes and celebrate the revenue they generate for the industry, as well as the medals and trophies they win.



"So, in general, it is permitted to take a photograph or drawing of a building which is in a public place"

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Intellectual Property or Just Clever Buildings?

Some of the iconic buildings and structures in the North East have built up a resonance with the public in a way that makes them very tempting to use for commercial purposes in advertising and promotion. The Angel of the North, the Gateshead Millennium Bridge, Bamburgh Castle to name a few.

Is the use of photographs or other representations of these buildings and structures without risk?

What is protected by Copyright?

Work that is protected by copyright under the Copyright, Designs and Patents Act 1988 (CDPA) includes artistic work which includes a work of architecture being a building or a model for a building; and graphic works which includes diagrams, drawings, maps, charts and plans.

What is permitted?

Copyright in (a) buildings, and (b) sculptures and models for buildings, if permanently situated in a public place or in premises open to the public, is not infringed by making a graphic work representing it, photographing or filming of it, or making a broadcast of a visual image of it (the so called section 62 exception).

So, in general, it is permitted to take a photograph or drawing of a building which is in a public place. If you are the photographer or artist, you will also be the first owner of the copyright in the photographs or drawings and be entitled to commercially exploit your work. However, there are always exceptions and other areas of risk to watch out for. I have set out some tips to help you avoid problems in the future.

TIPS TO AVOID INFRINGEMENT

- You need to ensure you know the building is in a public place, as many areas that you may think are public are in actual fact privately owned. For example, many museums, art galleries, stately homes, public attractions, churches and football grounds are on private land and you would need the permission of the landowner in order to be able to commercialise your photos, or even just take photos, in these places.
- There are also some public places that have byelaws preventing commercial photography without obtaining prior written consent, such as in Trafalgar Square and Parliament Square.
- The Eiffel Tower in Paris falls within the public domain but its lighting and sparkling lights are protected by copyright so professional use of images of the Eiffel Tower at night require prior authorisation.
- Care should also be taken when taking photos of 2D graphical works such as posters, artwork or commissioned murals which are located in public places. Making copies of those works could be an infringement of copyright and therefore you should carry out some due diligence as to ownership and permissions required.
- If the building is still within the term of copyright protection (which normally lasts for the life of the architect plus 70 years) then you will need the permission of the copyright owner to make a physical 3D reproduction of a building.
- Permission may be required to reproduce any trademarks (names and logos) that are visible on a building.
- Although the law in the UK is uncertain regarding privacy, you should be careful when including in your work, pictures of people in a public place.

Legal advice should always be obtained prior to embarking on a business venture that reproduces images of iconic buildings or other artistic or graphical works.

"One consequence of the performance and growth in the sector has been the significant investment it has attracted from overseas investors"

ADAM BURKINSHAW

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The Sky's The Limit for The Holiday Park Market

We think it is fair to say that over the past 18 months the holiday and caravan park sector hit new highs with the prices achieved in many transactions having reached unprecedented levels.

In spite of the seemingly never ending challenges that have hit the UK economy in recent years, the caravan and holiday park market has once again shown its resilience and demonstrated robust performance against wider economic events. Against other asset classes it has been seen as a relatively safe haven for investors' money, providing attractive returns and opportunities for growth. One consequence of the performance and growth in the sector has been the significant investment it has attracted from overseas investors and funds who have been involved with some of the largest corporate transactions.

The recent spike can be considered in part to be driven by the boom in the domestic UK holiday market, both during and post Covid. At the same time, at the higher end of the market 'aggregators' often funded by private equity, including an increasing number of overseas investors, have alighted upon the sector as one in which economies of scale and brand globalisation are seen to present an opportunity. A trickle-down effect has resulted in a scarcity in the supply of parks throughout the sector. Strong demand, government grants, rates holidays for leisure businesses and temporary VAT reductions along with a period of historically cheap debt finance have driven the value of park opportunities to an all-time high.

Moving forward operators are having to navigate the ongoing challenges posed by inflation impacting on the cost of materials, supply constraints, dramatic utility cost increases, recruitment challenges and increasing wages costs. These challenges have to be balanced against affordability, taking account of the cost of living crisis and its impact on the disposable income of the sector's clientele. Recent interest rate rises are also likely to provide further downward pressure, increasing the cost of borrowing, which whilst still historically low, is considerably more expensive than it was 6 months ago.

We are aware that a number of buyers in the market have chosen to hold back on further acquisitions for a period both to digest recent acquisitions and also to see how the market reacts to the economic challenges including the cost of living and energy crisis and rising interest rates. However, to date there has been little transactional activity to evidence any significant shift in values as a result of these or other external factors, although there does appear to be increasing market sentiment across the sector that the value shifts seen in recent years may not be capable of being sustained.

It is almost impossible to predict what 2023 holds and whilst it appears to be widely accepted by many operators that trading levels are unlikely to match the highs seen in 2021 and 2022, we consider the market for parks is likely to remain robust whilst the supply of parks for sale continues to be constrained.

Please do not hesitate to get in touch with our team if you would like to discuss your park business or should you be looking for new opportunities in 2023. Much of the transactional activity in the market takes place confidentially so it is always good to talk.

"There are clearly growth opportunities if the right staff can be put in place as consumer confidence starts to grow in the industry."

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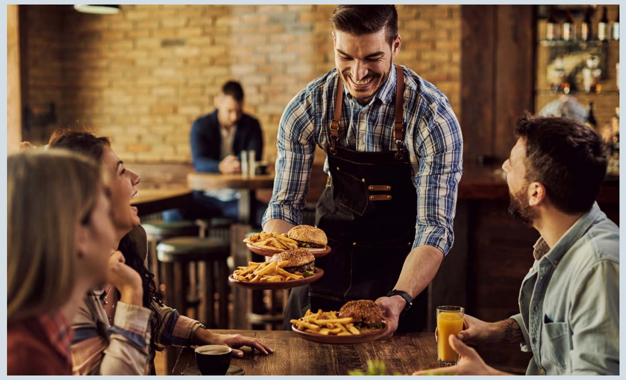
An Employment **Update**

Following the grey clouds of 2020-2021, 2022 seemingly got off to a flying start. We saw the re-opening of entertainment venues, and dancing shoes were removed from the back of the wardrobe. Events such as the World Cup, European Cup, British Grand Prix and the Commonwealth Games drew people together; we slowly started to remember the joys of seeing a face in real life rather than on a screen.

However, as 2022 progressed, the war in Ukraine took hold, supply chain issues magnified and increased energy costs hit the leisure and hospitality industry hard; some businesses have passed the increases on to customers, some could not keep their doors open. Alongside spiralling costs, most businesses are working with a reduced workforce as a result of the pandemic and freedom of movement ceasing, and the Office of National Statistics predicts a drop in the GDP across 2023-2024.

Whilst the Spring budget has not afforded a VAT holiday or a reduction in business rates, the Government has promised additional energy support for eligible UK businesses in England, Scotland and Wales. In addition, it has pledged £63m to support publicly-owned swimming pools and leisure centres as part of a one-year scheme to relieve pressure caused by high fuel bills.

It is widely reported that inbound tourism has picked up thanks to the weaker pound, and new hotels have opened up nationwide. There are clearly growth opportunities if the right staff can be put in place as consumer confidence starts to grow in the industry.



Most in the leisure industry, and particularly those in hospitality, are well aware of staffing shortages and, whilst there is no overnight fix, there is hope that the Government's migration plans will help ease the labour supply pressures. As it stands visa applications for hospitality workers formed just 3% of the overall applications in 2022. In August 2022, the Migration Advisory Committee (MAC) was commissioned to review the Shortage Occupation List (SOL) in the construction and hospitality sectors. Interim findings were published on 15 March 2023 ahead of a final review later this year. Whilst no hospitality roles have been placed on the SOL, there is time and the final outcome will be published later this year. We are hopeful that as a result of the findings, the legal migration system will become quicker and more responsive to the needs of businesses and the economy. Finally, the Government has pledged to extend childcare support with the intention that more working parents may return to the workplace. The industry may well find applications are on the up as working parents re-enter the workplace. Businesses should therefore be mindful of applications for flexible working which will, in the coming months become a 'day one right' rather than a right reserved for employees with more than 26 weeks' service.

Flexible working requests can take many forms. They can, for example, be for a reduction in hours, specific set hours, compressed hours, home working or job sharing, and can only be refused on one of eight prescribed business grounds, which includes the burden of additional costs, the inability to re-organise work and the detrimental effect on ability to meet customer demand among others.

Thought and attention should be given to any flexible working request. They are often, but not always, intrinsically linked to caring responsibilities. If this is the case, and a flexible working request is declined without due consideration, businesses could find themselves on the receiving end of a discrimination claim; something to avoid.

On a final note, keep an eye on the SOL, keep an open mind with hires and here's to a prosperous 2023.

"As with all previous revaluations there are winners and losers."

NICK VINCENT

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Your Rateable Value May Be Reducing, **But Is It Enough?**

From April 2023, the business rates revaluation will result in the majority of pubs and licensed restaurants seeing a reduction in their Rateable Value (RV). The new valuation list has been published and ratepayers can now view their 2023 business rates valuation online. As with all previous revaluations there are winners and losers.

Pubs and licensed restaurants, who have suffered a fall in trade over the last 3 years will, on average, see a fall in their RVs of 20%. Coupled with the promise of further retail/leisure relief in the 2023/24 rates year (75% relief, up to a cash cap of £110,000 per business), leisure operators will generally see decreases in their rates liability from 1 April 2023, but that is not to say that the reduced RV/ liability is correct.

For licensed and leisure properties, the RV is usually calculated either based on the receipts generated at the property (Fair Maintainable Turnover) or on a comparable rental basis. It is critical that the property is correctly described in the rating list, (Public House, Restaurant, Bar, Café etc) as this dictates the valuation approach, which has a significant effect on the rateable value and how much you will pay every year.

The 2023 business rates valuations are based on an Antecedent Valuation Date (AVD) of 1 April 2021 and should reflect the hypothetical rent a tenant would pay at that date. Initial information published by the Valuation Office Agency (VOA) suggests that, for FMT based valuations, the pre Covid turnover figures are being adopted and a Covid 'allowance' of circa 40% is being applied. At the AVD, people living in England and Wales were in lockdown as a result of the spread of Covid-19 and pubs and restaurants were prohibited from opening by law. As such, there is an argument that a notional 40% discount on pre Covid trading figures does not accurately reflect the tenant's rental bid at AVD and therefore the RV. Challenges to the VOA will be needed to prove that the impact of Covid is not a one size fits all formula.

However, one piece of good news for ratepayers in the 2023 rating list is that there will be no downwards transition. In previous rating lists, properties which saw large decreases in RV, often did not see the actual monetary benefits of the reduction until 3 or 4 years later, due to the floor on reductions imposed by transitional arrangements. This removal of downward phasing means that ratepayers will see the benefit of a reduction in RV immediately. The business rates multiplier has also been frozen at £0.512 (£0.499 for small business). Without this measure being implemented the business rates multiplier would have risen by around 10% in line with the Consumer Price Index (CPI).

For any queries or further information regarding your 2023 Business Rates Valuation, please contact one of SW's experienced business rates team.

"Competition in the leisure sector has never been so fierce."

STEPHEN RICHARDSON

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Reuse of **Forgotten Buildings** for Leisure

With a large number of venues opening their doors over the past year, competition in the leisure sector has never been so fierce. And neither has the demand to come up with new, creative offerings to lure people in and get them to spend their hard-earned cash.

And one increasingly popular way to achieve that unique offering is by using forgotten buildings and spaces to create a really special venue. The majority of the time, this means repurposing a building for a different use than it was originally intended.

It's a popular option for start-ups and established businesses looking for a USP in leisure sector. In the North East over the last few years we've seen operators such as Star and Shadow Cinema, a community led and funded social space, WC Newcastle wine bar, Confidence Coach gym in South Gosforth and Lane 7, a bowling alley, retro bar and eatery, all repurposing forgotten buildings.

From character buildings, churches, farm outbuildings and banks, to industrial units being given a new lease of life and even public convivences with the likes of the former gents public WC in the Bigg Market, these buildings provide amazing spaces for operators in the leisure sector to thrive.

Reusing these buildings can also come with a host of benefits. They're often more sustainable choices, reducing a business's carbon footprint when compared to building and fitting out a new building. They provide instant character, which is often complemented by a contemporary yet sympathetic fit-out, and they're familiar to locals, providing a talking point within the community and generating a great buzz around a business.

Obviously, when reusing older building there a few things an occupier needs to be aware of. It can be difficult to know exactly what condition the building is in until floors, walls and ceiling are opened up, which can quickly add to

costs and eat through any contingency. A listed building may also limit what can be done and would benefit from proactive engagement with the conservation officer at an early stage, to discuss what makes the building important from a conservation perspective. One final point to consider is operating costs. Thermal improvements and upgrades to energy performance on historic buildings can only go so far to offer a reasonable return on investment. This often leads to increased operating costs when compared to modern building stock.

With Newcastle and the wider region being home to so many iconic and distinctive buildings, there's no doubt that they will continue to be a popular choice for leisure operators looking for a unique and creative venue.

"Leisure businesses are, at last, starting to get back on their feet"

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Support remains in place for pandemic rent arrears

Alok Loomba looks at tenant operators' rights under the Commercial Rent (Coronavirus) Act 2022 and the circumstances in which they may be reassured amidst the latest economic crisis.

After suffering what can only be described as the most challenging conditions faced by the leisure sector in a generation, during the COVID-19 pandemic, with enforced closure for much of 2020 and some of 2021, leisure businesses are, at last, starting to get back on their feet.

The return of a thriving leisure scene in the North East is encouraging to see, the leisure and hospitality sector having for decades been integral to the local economy, with operators now able to take full advantage of the growth in confidence within the market - both locally and as a result of tourism - since those tentative steps out of lockdown in 2021.

However, while COVID lockdowns now appear to be a distant memory, leisure operators are now facing a new set of challenges. Recruitment and soaring energy costs are proving to be ongoing and persistent challenges and the cost-of-living crisis looms large over the sector, with soaring costs already biting and these look set to get even worse as the months go on. Whether footfall will be impacted as consumers look to shore up their own finances remains to be seen. Will entertaining and socializing take the hit – as customers struggle to make their disposable income meet the basics? It's possible that these factors may reduce turnover and profit margins for leisure businesses, thereby increasing the financial squeeze.

It's not just the cost-of-living crisis that has leisure operators concerned. Many tenant operators are still under the shadow of arrears owed to their landlords that remain outstanding from the height of the pandemic.

There is potentially one bit of reassurance for leisure businesses amidst the developing economic situation, with regard to outstanding rent arrears incurred during the COVID pandemic.

Amidst closure, or being forced to significantly revise their offering, for the best part of 16 months, many operators incurred sizeable debts around their rents, which remained due to landlords even though the premises were unoccupied or used to a small proportion of their normal capacity.

The Coronavirus Act 2020 afforded protection against eviction to those who were unable to pay their rent, although the total ban on forfeiture of commercial premises ended on 25 March 2022.

In its place has arrived the Commercial Rent (Coronavirus) Act 2022 **("CRCA 2022")**, which ringfences outstanding unpaid rent built up during periods of forced closure of businesses during lockdowns and offers tenants protection for these.

While agreement between landlord and tenant is encouraged over these protected debts - which a specialist advisor can support - if this is not possible, the Act introduces a legally binding arbitration route to achieve resolution, with a supporting Code of Practice. The CRCA 2022 provided a six-month window in which a referral to the statutory arbitration scheme could be made. This ended on 23 September 2022, however the CRCA 2022 will continue to apply where a valid referral was made during the six-month window. Court proceedings to recover debts cannot be issued while arbitration remains an option.

Furthermore, a landlord cannot use these protected debts that fall within the CRCA 2022 to terminate a lease or enforce an eviction, providing there has been no actionable breach by the tenant - affording further protection to leisure operators who have faced such huge pressures since March 2020.

The route of finding a positive way forward through co-operation, or else arbitration, between landlord and tenant is one which will hopefully bring confidence to leisure businesses with knowledge that they remain safe in their premises, as debts incurred between 21 March 2020 and the date when specific restrictions on the relevant sector were removed, are protected. This is subject to a cut off point of 18 July 2021 in England and 7 August 2021 in Wales. By way of example, in England, the protected period for non-essential retail will be between 21 March 2020 and 12 April 2021; for nightclubs, it will be 21 March 2021 to 18 July 2021.

As the trade looks to the months ahead and considers the impact of the developing cost of living crisis, we hope the Commercial Rent (Coronavirus) Act 2022 will continue to give them breathing space from the legacy of the COVID pandemic.

For any concerns around the implications of the Act, what it means for your business, or support in negotiating with your landlord, our leisure team will be able to assist.

"Taxi drivers need to be aware of falling foul of council's licensing policies."

SHEILA RAMSHAW

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Don't get caught out!

Taxi drivers need to be aware of falling foul of council's licensing policies and breaching the conditions that apply to their hackney carriage and private hire driver licences. Failure to comply can result in the loss of their licence, which can have serious consequences for their livelihood.

Licensing policies and conditions are in place to ensure that taxi drivers operate safely and legally, whilst also protecting passengers and the wider public.

They often include requirements relating to the following:

Reporting Incidents to the Licensing Committee

Policies regularly require drivers to report any incidents to the licensing authority within a certain deadline. This includes accidents, criminal convictions, and any other incidents that could affect their ability to drive safely or professionally, including attendance at a speed awareness course. Failure to report matters often lead to drivers being asked to attend before a licensing committee.

Driver Conduct and Professionalism

Councils licensing policies may have requirements for drivers relating to conduct and professionalism. This includes requirements such as dress code, communication and timeliness. If complaints are received relating to these matters drivers may find themselves being asked to attend an interview with the licensing officer or a hearing before the licensing committee.

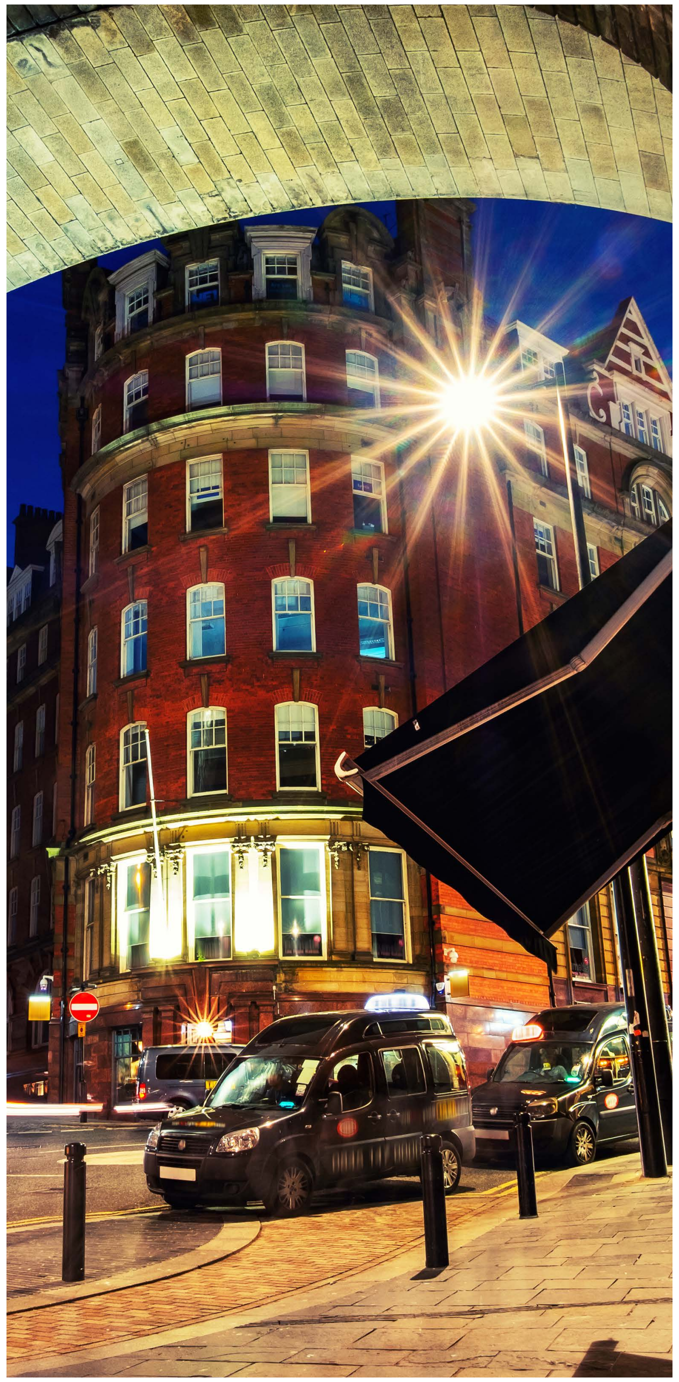
Compliance with Regulations

Taxi drivers must comply with all relevant regulations, including those related to vehicle safety, insurance, and licensing. This includes having a valid hackney carriage or private hire licence, insurance coverage, and a safe and roadworthy vehicle.

The council carry out regular checks and inspections to ensure compliance with these regulations. Failure to comply can result in penalties or the loss of a licence.

Drivers need to be aware of the council's licensing policies and conditions. If in doubt, ask. And if you do find yourself being called before the licensing committee, seek advice. Investing in legal assistance at an early stage can often save time, money and worry in the long run.

Sintons can help and support taxi drivers.



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Talking Leisure

Trust Sintons

We are widely recognised as the leading leisure lawyers in the North East.
For further advice and information, please contact a member of our specialist team.

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