

- ● ●
- ● ● cornerstone
- ● ● barristers

Lessons from the Fabric case: Preventing crime, preventing death

Philip Kolvin QC



The licensing objectives

- In England, licences can be refused, or conditions imposed, only if they promote one or more of the licensing objectives
- These are:
 - Preventing crime
 - Public safety
 - Preventing harm to children
 - Preventing nuisance (eg disturbance to residents)

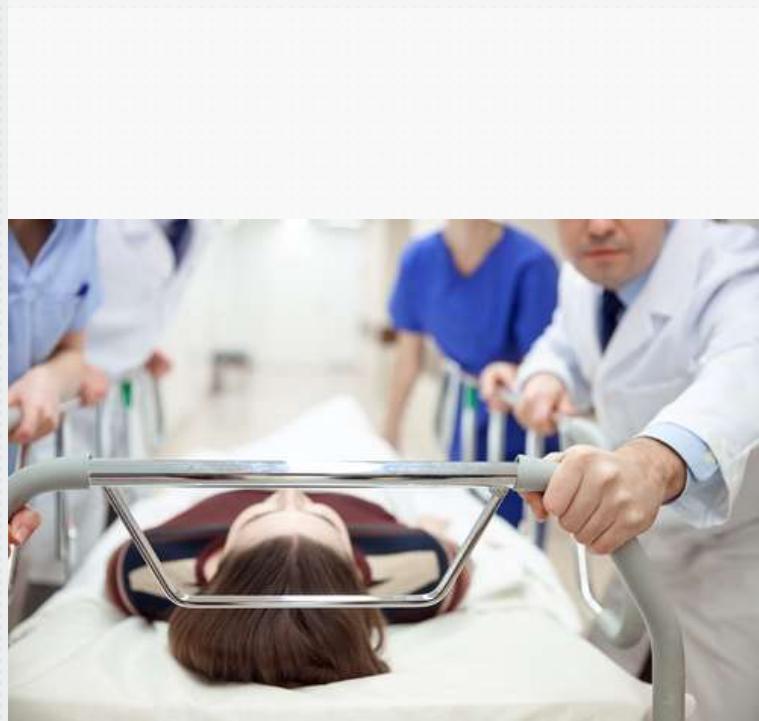


- If someone dies of a drug overdose:
 - The crime prevention objective has been harmed, because they were sold or possessed an illegal drug
 - The public safety objective has been harmed
- BUT those two objectives can sometimes be in conflict.



**“We must stop
drugs getting into
clubs”**

**“We must arrest
and punish those
who possess or
supply drugs”**



“Illegal drugs are harmful”

“Our job is to keep people alive”

An example of conflict



- A club has a welfare room to help customers who feel unwell - **Good for public safety.**
- If someone comes to the welfare room with a suspected drugs overdose they are helped, but then banned from the club and reported to the police - **Good for preventing and deterring crime.**
- **Result:** people who are unwell are afraid to go to the welfare room - **Bad for public safety.**



Another example

- People are invasively searched on the way in - **Good for preventing crime.**
- They are then subject to random search by uniformed guards once inside - **Good for preventing crime.**
- People stop going to the club.
- They go to underground raves where there is no search and no welfare - **Bad for preventing crime and public safety.**

And so...



- We are looking for the right balance between public health and preventing crime.
- But the issue of drugs is political, emotive, cultural and intergenerational.
- And:
 - What works is not always politically possible to do.
 - What is possible to do is not necessarily what works.



Why this matters?

- MDMA use is very common in UK dance venues.
- The rate of death has increased from about 10 to 60 MDMA deaths each year.
- This is probably due to:
 - Increasing purity
 - Increasing contaminants
 - Reducing public information
 - Possibly, easier access by uneducated users.

Fabric Club - London





- Open 1999.
- Leading electronic music venue in UK.
- Generally accepted to have high standard of management:
 - Intensive search
 - CCTV
 - Medical facilities
- Of 160 staff, 57 were occupied in health, safety or crime prevention.

2011-2014



- 2011-14: 4 deaths.
- Application for review of licence by Police.
- New conditions agreed, e.g. re customer/door staff ratios and provision of welfare.
- But no agreement re use of drug dogs and ID scan.
- These were then imposed as conditions by the licensing authority.
- Fabric appealed.



- Fabric's case was that the conditions are:
 - Good for crime prevention
 - Bad for public health
- **Why?** Because their use will encourage people to double-drop and increase the risk to their health.
- The Court agreed, said that Fabric was a good operator and refused to impose the conditions.



- 2 more deaths of young people in club.
- In one case, a young, irregular user could not get a “hit”, took three pills and could not then be saved.
- Police mounted an undercover operation which said that a lot of people were openly taking drugs in the club.
- The licence was revoked.



- Fabric appealed.
- A petition of nearly 200,000 signatures was raised.
- A fighting fund of over £300,000 was collected.
- Eventually, a new agreement was reached with the licensing authority and Police.

Agreement: main points



1. A new 120 page operating manual, setting out every task of every worker in the club.
2. Fabric achieved the international standard accreditation for its working systems, ISO 9001, the first UK club to do so.
3. An extensive new list of licence conditions.

Main conditions (1)



1. Over 19s only.
2. All staff and security to be trained periodically, including in drug awareness and intervention.
3. Full entry search including pockets, search arch, wands.
4. Use of body cams.
5. Use of biometric club scan.
6. CCTV controller.

Main conditions (2)



7. Interior lighting specified.
8. Security staff on raised positions in club.
9. Staff and security to be readily identifiable, except covert staff.
10. Staff in WCs.
11. No double-use of cubicles.
12. No drug-friendly surfaces in WCs.

Medical facilities



- Observation equipment:
 - pulseoximeters which measure pulse rate and oxygen saturation
 - temperature probes to measure core body temperature (via the ear)
 - manual blood pressure cuffs
- Valve masks to administer pure oxygen.
- Defibrillators.
- Body cooling equipment.
- Nasal and oral airway tubes.
- Electrolyte tablets dissolved in water if they have been sweating a lot.
- **NB free water is dispensed from the bars.**

Fabric staffing ratios



- Customers: 1510.
- Staff: 130, all trained on welfare, including:
 - 33 security (undercover, CCTV controller, roving)
 - 25 marshalls
 - 4 medics
 - 4 welfare
 - 1 compliance auditor
 - 1 mystery shopper



- Fabric is an extreme case.
- There is no club in the UK with a similar level of welfare, supervision and medical care.
- But there have been no further deaths there since it re-opened in January 2017.



London policy

- In London, the prevention of crime agenda means that other protective measures are generally not discussed:
 - Drug testing: front of house, back of house.
 - Waste water and hair testing.
 - Comprehensive public information programmes.



The Met Police Are Blocking Clubs from Keeping Drug Users Safe

They're refusing to back the introduction of a scheme that's been shown to work.

SHARE



TWEET



A Met Police officer holding a bag of confiscated drugs. Photo: Tom Johnson

This article is part of "Safe Sesh", a VICE harm reduction campaign produced in collaboration with The Loop and the Royal Society for Public Health. Read more from the editorial series [here](#).

Taking drugs is inherently risky, but there are ways to reduce that risk. Front of house testing is one of them. It's an initiative that's being rolled out across the UK festival scene by The Loop, a harm reduction social enterprise and VICE's

2017 Metropolitan Police statement



“Aside from the fact that illicit drug taking is illegal; it is also important to highlight that no drug taking can be assumed to be safe – even when the substance has been tested.

As such the Met believes that by supporting such testing we would be condoning the possession and use of controlled drugs. The concept of 'front-of-house' drug testing is new and as such has very limited academic evidence on the outcomes and effectiveness in terms of changing behaviour and reducing harm.

We must also consider that the testing regime could be used as a quality assurance mechanism, assisting users and dealers to consume or promote pills and powders. Whilst we appreciate and support the harm reduction advice issued by drug workers, we cannot, at this time, support front-of-house drug testing for the reasons outlined above.”

Night Lives



- Joint report by The Loop, All Party Parliamentary Group on Drug Police Reform, recommendations:
 1. Drug safety testing services available to the general public in night life districts
 2. An independent information campaign to reduce drug-related harm
 3. Training for night life staff in how to respond effectively to drug use in the NTE
 4. The adoption of the UK festival drug policy of '**3Ps: Prevent, Pursue, Protect**' in licensed venues

Conclusion



- The usual job of licensing is to find a balance between:
 - What the regulator wants
 - What the club wants
 - What the customer will tolerate
- In the case of drugs, there are extra dimensions:
 - What the political situation will allow
 - What the right trade off is between crime prevention and saving lives



- UK has not resolved the tension between preventing crime and saving lives.
- Saving lives should be a non-negotiable bottom line.
- If science and research show ways to save lives which are evidence-based and objective, these should have precedence.



cornerstone
barristers

Thank you

@ philipk@cornerstonebarristers.com

in <http://bit.ly/2Q0xcqD>

Philip Kolvin QC