

**il**

**Licensing Act 2003  
Prosecutions**

**JG&P**  
John Gaunt  
& Partners

Luke Eford  
Partner  
John Gaunt & Partners

Promoting Excellence in Licensing  
@instotlicensing  
#NTC2022

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**Moi**

**TOWER HAMLETS**

**JG&P**  
John Gaunt  
& Partners

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**Me, again**

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**John Gaunt & Partners**

God Tier National Licensing Firm

7 Partners, supported by an army of ~~magic elves~~ solicitors and paralegals

Act for some of the biggest names in hospitality

Operate the BII legal advice helpline

Training arm



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**Here's what I'm hoping to cover**

1. For us to look at what offences exist under the Licensing Act 2003
2. To have a look at how a case goes from investigation to court to conviction
3. A few ancillary bits and bobs
4. **Nothing whatsoever about taxis**

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**Caveats**


Wouldn't be a good lawyer if I didn't come armed with a few get out clauses

Introductory

Right (he says) at the time the presentation was prepared

Deliberately light-hearted

Will communicate via pictures



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**Key Aims**

- To remind ourselves that the Licensing Act 2003 contains a LOT of offences
- To understand more about the process by which a case moves from investigation to prosecution to conviction
- If you are involved in Licensing Act 2003 prosecutions, to refresh your memory
- If you aren't involved in Licensing Act 2003 prosecutions, to hopefully pique some interest
- To achieve a 95% not asleep rate

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**Offences**

Boatloads

340

Whole part just for offences (Part 7)

Categories of offences




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**The Standard Scale**

**9. Maximum fines**

A fine must not exceed the statutory limit. Where this is expressed in terms of a 'level', the maxima are:

Level 1	£200
Level 2	£500
Level 3	£1,000
Level 4	£2,500
Level 5	Unlimited (for offences committed after 13 March 2015)*

\*For offences committed before 13 March 2015 the level 5 maximum is £5,000

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**Notification/failure to notify offences**

Section 33 - Notification of change of name or address  
Level 2 - £500

Section 39 – Failure to notify an outgoing DPS  
Level 3 - £1000

Section 41 – Failure to return licence where the DPS has asked to be removed  
Level 3 - £1000

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**Notification offences (2)**

Section 46 – Failure to notify a DPS of a transfer  
Level 3 - £1000

Section 49 – Failure to notify a DPS of an interim authority notice  
Level 3 - £1000

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**Keeping Offences**

Section 57 – Not keeping licence summary and custody notice  
Level 2 - £500

Section 109 – Not keeping a TEN  
Level 2 - £500

Section 999 – Not keeping up with the Jones’s

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**Inspection Offences**

Section 59 – Inspections before grant (intentionally obstructing)  
Level 2 - £500

Section 135 – Licence Holder’s Duty to Produce Licence  
Level 2 - £500



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**Club Offences**




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**Personal Licence Offences**

Section 127 – Change of name or address

Section 128 – Duty to Notify the Court of a Personal Licence  
First appearance  
Produce Personal Licence  
Level 2 - £500  
Court attitude to Personal Licences

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**Offences (proper)**

Section 136 – Unauthorised Licensable Activities  
6 months in prison, or a fine, or both

Section 137 – Exposing Alcohol for Unauthorised Sale  
6 months in prison, or a fine, or both  
Forfeiture

Section 138 – Keeping Alcohol for Unauthorised Sale  
Level 2 - £500  
Forfeiture




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**Offences – More Categories**

Drunkenness

Smuggling

Kids

False Statements...



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**Companies**

Body corporate

Officer (as well as)

Consent, connivance, or neglect




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**Due Diligence**

Full defence – sections 136, 137, and 138

... it is a defence that

- (a) his act was due to a mistake, or to reliance on information given to him, or to an act or omission by another person, or to some other cause beyond his control, **and**
- (b) he took all reasonable precautions and exercised all due diligence to avoid committing the offence

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**Due Diligence (2)**

Burden of proof – Defendant

Standard of proof – Balance of probabilities

Circumstances of the case – What does that mean?

Language (Timothy) – London Borough of Croydon v Pinch A Pound (UK) Ltd [2010] EWHC 3283 (Admin)

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**Process**

Who can bring proceedings?

Section 186

Licensing Authority

DPP

Weights & Measures Authority (s146)

Time Limits

12 months – don't take liberties

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**Process (2)**


Information (sometimes arrest/charge)

First hearing in the Magistrates' Court

Organised chaos

Guilty – facts, mitigation, sentence

Not Guilty – PET form, trial, outcome



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**Process (3)**


**Sentencing process**

Sentencing Guidelines – Alcohol Sale Offences

General Sentencing Guideline

Both Sentencing Council website

Previous convictions / TICs



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**Bits and Bobs**

**False Statements**

Knowingly or recklessly making a false statement in or in connection with an application

Producing, furnishing, signing, or otherwise making use of a document that contains a false statement

Unlimited fine



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**Bits & Bobs (2)**

**Personal Licences**  
 Courts duty to notify Licensing Authority of convictions  
 Does this happen?

**Section 132A – Powers of a Licensing Authority in relation to Convictions etc. of a Licence Holder**  
May Suspend for up to 6 months; or  
 Revoke

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**Bits & Bobs (3)**

Criminal proceedings and licensing proceedings

Separate things

No need to wait for one or vice-versa

Beware jumping of the gun – summary reviews



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**Would you like a flake with that?**

If I've done my job properly (never a given)

**You'll be:**



- Thinking about all the different types of offences that there are under the LA03
- Thinking about designing enforcement strategies around the LA03
- Making lots of successful prosecutions

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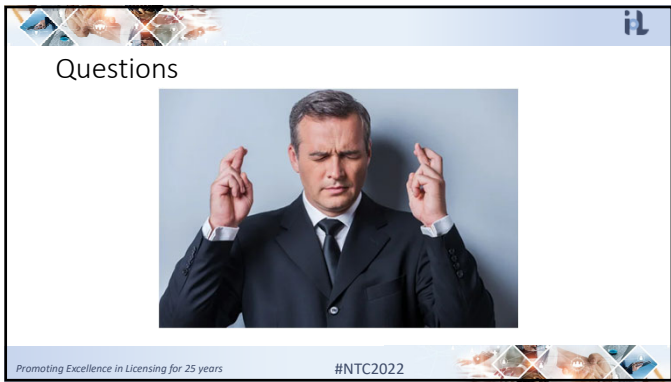
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