



Department
for Business
Innovation & Skills

**FOCUS ON ENFORCEMENT
REGULATORY REVIEWS**

Volunteer Events Review

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Introduction

Objectives and Scope

1. This paper summarises the evidence collected, and findings, of the third in the series of Focus on Enforcement regulatory reviews examining the barriers that exist to the organisation and running of volunteer-led events. The formal scope of the review is attached at Annex A, but in essence the work has focused on the barriers that exist, or are perceived to exist, that prevent or in some way impact negatively on such events taking place. The review has not been concerned with volunteering per se, but rather on events organised by volunteers, or by volunteer-based organisations. At paragraph 10, this report provides examples of the types of volunteer events that fall within the scope of the review.
2. This review differs in two important regards from most of the other regulatory reviews. First, there is no clear lead Department in Government responsible for policy towards volunteer events, nor is there an obvious single national regulator responsible for enforcement. As far as state enforcement is concerned, most volunteer events of the kind envisaged by this review are regulated by local authorities. Second, the range of influences that events organisers perceive as requiring them to comply with rules - “enforcement” in its broadest sense - are not necessarily carried out by the state, but by other actors such as insurance companies, other businesses or other parts of civil society. Similarly, local authorities can bring influence to bear acting in their wider roles – for example as owners of land – rather than in a strict regulatory sense.

Methodology and focus

3. During the review period, 20 comments were posted publically on the Focus on Enforcement website and 2 were sent in as private submissions. In addition, the review team met or spoke to many interested individuals and organisations including, national charities (or umbrella organisations representing federations), those involved in organising particular events, the insurance industry, local authorities, Government Departments and regulators. This paper summarises the range of views expressed during the review, as well as the review team’s initial findings. In common with the rest of the Focus on Enforcement reviews, this report does not offer recommendations for action since its purpose is to set out those aspects of the enforcement of volunteer events that appear sub-optimal or that are creating unnecessary barriers, as well as

good practice uncovered by the review in order to facilitate a collective discussion about possible solutions / ways forward.

4. While there is a very wide range of volunteer-run events that fall within the scope of this work, the review team has focused on those at the smaller end of the spectrum since these are less likely to have the benefit of financial and other resources – such as professional advice – to address barriers encountered.

Data

5. Little data exists on volunteer-led, non-commercial events. This is in part due to the sheer diversity of the activities typically led by volunteers and volunteer-based organisations, although the Citizenship Survey does provide some basic figures on volunteering generally: 39% adults in England say they volunteered formally in 2010/11; with 25% at least once a month¹ (if these are extrapolated to UK = 19.8 million once a year, 12.7m once a month).
6. Regular formal volunteers support different types of organisations in a range of fields. Data from the Department for Communities and Local Government (DCLG) suggests that by far the most common activities undertaken by regular formal volunteers are '**organising or helping to run an activity or event**' (59%) and 'raising or handling money / taking part in sponsored events' (52%).²

The value of volunteer events

7. At the core of the Government's Big Society agenda – drawing on the skills, energy and capabilities of the whole of society for the common economic and social good - is encouraging people to take an active role in their communities. This includes strong encouragement of volunteering and involvement in social action and philanthropy, and is underpinned by a commitment to move power away from Government to individuals.

¹ Communities and Local Government (2011) [Citizenship Survey: 2010 – 2011 \(April 2010 – March 2011\)](#), England, (pdf)

² Communities and Local Government (2010) [2008-09 Citizenship Survey: Volunteering and Charitable Giving Topic Report](#) (pdf)

8. Our experience in this review has been that local authorities share this commitment to encouraging volunteering. Where poor practice has been reported, it seems usually to flow from misapplication of this approach rather than from a lack of commitment to the principle.

9. In 2011 Lord Hodgson of Astley Abbotts led a task force considering the legislative barriers that prevent people giving their time and money, and that stop charities and voluntary groups and social enterprises growing³. His conclusion was that “a suffocating blanket of red tape and an insidious mythology about being sued are deterring millions of Britons, volunteer organisations and charities from helping out more fully in society”. The subsequent report “Unshackling Good Neighbours” made seventeen recommendations of which three related to charity law and the majority of the remaining fourteen were concerned with what Lord Hodgson referred to as “unevenness of enforcement”. This was an apparent theme throughout the report and in the case studies and the problems faced by those organising volunteer events clearly chime with these findings.

Types of “Volunteer Event”

10. The attached scope at Annex A lists the kinds of events covered by this review. There is clearly great variation possible and there is no standard definition of an event of this type – although as stated earlier the common characteristic, from the perspective of this review, is that the rationale for putting the event on should not be predominantly commercial, and that it should be organised and run principally by volunteers or voluntary organisations. There are perhaps four aspects of volunteer events that might be considered separately as they are likely to involve different compliance and enforcement regimes. These aspects are not mutually exclusive, nor are they collectively exhaustive.

(i) *Purpose of the event.* Some events have the specific purpose of raising money for good causes, either locally (for example a church fete in support of roof repairs) or nationally (such as a cake-bake for a national charity, like Help for Heroes). Others, such as Jubilee celebrations, are organised solely with the purpose of bringing a community together to mark a special occasion.

³ <http://www.cabinetoffice.gov.uk/resource-library/unshackling-good-neighbours>

(ii) *Promotion, advertising and invitation.* Certain types of event, such as street parties for residents only, or those held by charities for their local members and families, are not open to the general public or advertised beyond these groups. They therefore have the characteristic of a private gathering. Whether or not fees for entry are charged, or food and drink sold (as opposed to collectively provided) is also a significant point of distinction. If food or goods are not sold, the expectations of the enforcement regime are different (even if strictly, liability of those providing these products is not).

(iii) *Location.* Many events take place on publicly-owned land (for example, on / in council-owned property, at a school, or in the street). These range from street parties and school fetes, to national Patron Saint Day parades, sponsored cycle races, or music festivals in town parks. The response of local public authorities to such events will clearly form a significant part of the overall “enforcement” regime, since the local authority will have statutory obligations in respect of the law, but also as landlord, with the discretion to make decisions about rental and insurance cover. Events that take place in purely private spaces, such as in individuals’ gardens are likely to encounter aspects of enforcement less directly than larger events e.g. those in a hired conference room in a hotel. Issues could include concerns over trip hazards if a marquee is involved (and questions of personal liability, and the need for insurance) through to having to comply with any public venue’s own health and safety rules, which may go beyond those required by law.

(iv) *Degree of risk involved.* Some events – possibly the majority – are inherently low-risk. Provision of some foods such as cakes, and activities such as tombolas, are likely to be considered by environmental health and health and safety officials as posing low risk. Higher risk events may include a low-risk hazard such as crowds, bouncy castles and fairground rides, and could additionally involve the use of safety control measures such as barriers, marshals or the police.

11. The section that follows sets out the principal aspects of both statutory and non-statutory enforcement at events; in theory the interventions described should all be proportionate to the degree of risk.

What aspects of “enforcement” impact directly on the organisers of such events?

12. As mentioned above, there is a mix of drivers, both statutory and non-statutory, that impact on the organising and running of volunteer events. Given the vast range of types of events, their risk profile and numbers of people involved, it is not possible to provide an exhaustive account in a paper such as this; however at Annex B we provide a summary of the enforcement “landscape” that applies in many cases. Although we start the analysis with the formal or state enforcement activities that act as drivers, it is often the other drivers analysed later that directly influence behaviour.
13. Many local authorities bring together the various relevant Departments and agencies involved in considering applications for events – whether voluntary or commercial – to ensure that consideration is given to all relevant factors.⁴ They often involve licensing and highways officers, the police, fire and ambulance services, and can include others such as the property owner, voluntary groups and private stewards and marshals.
14. Enforcement of statutory requirements covers: food safety; issuing of permits and licences; health and safety; trading standards; and public order and nuisance. However, there is a range of requirements imposed on those organising volunteer events by third parties. These include, for example, the need for certain types of insurance; various forms or information obligations imposed by parties other than statutory authorities such as venue owners; and a general civil law duty of care to others.
15. Guidance produced by central and local Government tends to stress the details of statutory enforcement of volunteer events. There is a significant amount of guidance of varying degrees of detail, written in widely differing tones of enthusiasm for enabling events to take place, and each focusing on different types of activity. The summary included in Annex C – Guidance - is not exhaustive, but is intended to give a flavour of the guidance available to events organisers.

⁴ These are non-statutory groups called LA Safety Advisory Groups. See Annex C.

Feedback - What we heard

The “Jubilee Effect”

16. The royal wedding in 2011 and the Diamond Jubilee celebrations of 2012 have inevitably focused attention on street parties, and there has been a concerted effort by DCLG to lead a drive across Government and with external partners to simplify the process for organising small street parties and dispel the myths about what’s required.⁵ During the review there emerged a clear consensus, at least among national civil society organisations and businesses that local authorities and others have actively encouraged street parties. The most recent guidance from DCLG and the Local Government Association (LGA) have strongly encouraged proportionate, flexible enforcement, and have emphasised the responsibility of local authorities as land owners and regulators to remove as many barriers to their successful organisation as possible. However, we also heard worries that this new approach from local authorities would not be sustained, and that there would be a return to business as usual once memories of the Jubilee had faded. It should be noted that the review team found some examples where, anecdotally at least, there is evidence that arranging Jubilee events was unusually difficult. The “Jubilee effect”, therefore, was not necessarily experienced in all quarters.

17. Local authorities in general told us they want to respond reasonably and flexibly, but that equally they have to balance this desire against their statutory responsibilities. In conversation there was a general acceptance that the state should not stand in the way of volunteers running successful events; however it was pointed out that an occurrence such as food poisoning at a school fete is capable of being just as serious, and of having an impact no less great, than if it occurs in a busy restaurant. Indeed, it could even be argued that when people do things that they don't do regularly – such as provide hot food at a community event once a year - risks are increased, rather than decreased. This, it was suggested, might point not to a less interventionist response from the public authorities, but rather to one that placed more emphasis on advice and support to pre-empt and avoid problems.

⁵Additional HSE information on Jubilee celebrations listed in Annex C

Recent examples of innovative thinking by local authorities.

18. The LGA highlighted a number of examples of recent innovative practice by local authorities in reducing the barriers to community events that they hoped others might learn from.
19. For example, where the council owns the land on which an event is to take place, they can consider whether they will require insurance or not, and if they do at which level to set it. Basingstoke and Dean Council concluded that public liability insurance was still essential for street parties during the Jubilee, but took out a general insurance policy itself that covered all organisers and participants whose parties took place on council land or on the highway, at no further cost. Others - such as Oxford City Council - formally exempt all street parties that conformed to certain conditions (such as not advertising the event to a wider area) from the need for any form of insurance. It is not clear, however, whether this policy was a one-off for the Jubilee, or whether it will still be available for other subsequent events.
20. There is also evidence of some local authorities making changes to the way they enforce temporary road closures for volunteer events. A charity we spoke to argued that any fees in excess of £30 for administering road closures are a significant disincentive to small events. Other costs, such as street signage and barriers can be significant. While some local authorities have waived their fees for temporary road closures completely, others (such as Coventry) have themselves covered the costs of providing barriers, and have stopped the practice of advertising road closures in local newspapers, but instead on their website, thus cutting costs further. Again, however, we heard from several organisations the concern that these flexibilities and innovations, while a welcome and important part of making easier the Jubilee celebrations would not be sustained.

Misunderstandings and misconceptions about the law.

21. While we heard anecdotal accounts of what were felt to be disproportionate interventions by enforcement officers, it was also clear that myths and misapprehensions about the legal requirements involved in organising an event also play a role. As the 2011 report, "Unshackling Good Neighbours" found, it is often not the case that such misconceptions are based on first-hand experience of poor

enforcement, but on a range of other influences, such as the rumour-mill, by the media, and by those who have a commercial interest. HSE have established two internal panels in the attempt to eliminate the misconception and myths of health and safety law; one panel looking at public complaints of HSE or LA inspectors who have given health and safety advice⁶ and another to scrutinise decisions which have prevented activities going ahead⁷. Although these weren't referenced by those we spoke to so may be indicative of public unawareness.

22. A very direct consequence can be worries about cost, which can quickly lead to decisions not to embark on particular types of event. For example, we heard of a branch of the scouts who presumed that in order to use the kitchen in a scout-hut to make tea for those attending an event, they would have to invest resources in bringing it up to the standards of a commercial kitchen in a restaurant.
23. Similarly, advice on re-use of jam jars provided by an individual FSA official – which FSA state was quoted out of context - was taken to mean that a ban existed on re-use of jars for selling jams at fetes, and guidance to this effect was circulated to Church of England volunteers. No regulation (EU or otherwise) exists that specifically bans re-use of jam jars.
24. The European Commission issued a statement in response to this media coverage:
- This is all completely untrue. There are no EU laws, new or old, which ban re-using old jam jars for fetes. The EU also has no powers to fine people. There is indeed a body of EU food safety and hygiene legislation – notably so that the UK and other countries can be confident that food imported from or bought elsewhere in the EU is safe and of high quality. But these rules apply only to business operators and not to those preparing food for charity events such as church fetes or school bazaars. What is more, the rules do not anyway ban re-using clean jam jars: the European Commission is not aware of any risk from chemicals related to this re-use.*
25. Nonetheless, the incident demonstrates the potential for rumours of this kind to drive behaviour.

⁶ <http://www.hse.gov.uk/contact/challenge-panel.htm>

⁷ <http://www.hse.gov.uk/contact/myth-busting.htm>

Inconsistent application of the law

26. We heard anecdotal examples of inconsistent application of the law, both within and between local authorities, including the police. While there is no evidence that these are common, there is a risk that they fuel misunderstanding.
27. An example of the former would appear to be inconsistency from one year to the next in the application and approval for temporary road closures. We heard from several sources that whereas in previous years local police officers had been prepared to help plan the event and provide assistance on the day with traffic redirection, recently they had been less prepared to provide such assistance and had required events organisers to incur additional expense in providing their own marshalling and signage.
28. The organiser of a Jubilee event reported that despite having run five major events in recent years without significant difficulties, and with generally good working relationships with the local authority, a new environmental health officer's "particularly officious" behaviour has forced him to withdraw from organising any further events. He commented:
- "All [5 previous events] involved closing streets, stalls, bands etc, and some with much larger crowds than were expected for the Diamond Jubilee. The paperwork for the Diamond Jubilee is more than the other 5 added together"*
29. Inconsistency between local authorities is arguably less obvious to the organiser of small events. However, national bodies to whom local membership organisations look for advice are clear that significant variation exists. This can partly be explained by the fact that rarely are two events completely identical and the risk profile and proportionality of the response from regulators will reflect that. It is also the case that it is for local authorities to set their own processes, in order to reflect local circumstances (which will include factors such as budgets and the frequency of such events). However, it is at the very least confusing for anyone taking a national perspective to see the range in fees and charges for granting approvals for road closures, and the differing rules on whether or not insurance is required.

Bewildering array of formal guidance; no clear channels for advice

30. Annex C sets out the principal sources of guidance. The differences between them are clear and are in part differences of substance. For example, the earlier Home Office guidance urges organisers of small events to take out public liability insurance with no exceptions identified, whereas the DCLG guidance and local authority guidance that follows makes clear that organisers should push back if asked for insurance for street parties, on the grounds that it is often unnecessary. There is also a difference in tone: the later guidance makes it clear that the Government wishes to make it as easy as possible to organise events – in other words that they are something the Government supports, whereas guidance produced by some local authorities (and the Home Office guidance) tend to stress the full array of rules and procedures, and can appear more negatively framed.
31. Comments from organisers tended to focus more on the absence of any one source of authoritative advice, and the lack of any clear channels in order to inform people of the basics. There is no clear, sign-posted starting point for organisers. Some, if members of national organisations or charities, may speak to head office or consult that organisation's guidance; others may contact the local authority, or consult the web. In some cases they received the right advice, but in others not. Several organisers commented that it would be very helpful to have a clear starting point, and for some sort of "system" to act as a guide – akin to an online "wizard" that helps consumers make choices about the product they want to buy, based on their circumstances and preferences.
32. Similar models do exist in the public sector; for example on GOV.UK when businesses are looking for official guidance on, say, employment law, that filters out guidance not appropriate to the person making the search. It should be noted that GOV.UK does indeed bring together some clear signposting covering small street parties and licences / permits for community events⁸ and also has a search engine where users can enter their postcode and are re-directed to guidance on individual local authority websites. Although, this was not something that any of those we consulted mentioned so may indicate awareness may be low.

⁸ [Organising a street party - GOV.UK](#)

Heavy-handed, bureaucratic processes

33. During the review process several examples came to light that illustrated that individual enforcement decisions can sometimes be disproportionate to the risk. For example, the organiser of a charity event in a private garden was apparently informed that they would need a full kitchen inspection in order to sell cup-cakes, on that one occasion. Another story, appearing in the media in the run-up to the Jubilee, was of a local authority preventing the hanging of bunting in the high street in case it obscured street signage. (It was so well reported that the authority did not proceed with this restriction).
34. Such barriers to events are not only caused by statutory enforcement bodies. The review heard examples of charities being unable to serve particular kinds of food in conference halls (the reason given being non-specific “health and safety” considerations). Similarly, public spaces such as church halls were reported as requiring the provision of written documentation to show that electrical PAT-testing had been carried out (not required by the law) or entertainment licences held for music to be played.
35. Requirements for insurance cover can come from non-statutory sources too. Some national charities provide blanket insurance as a condition of membership. Whilst in many cases this can remove worries about the consequences of litigation if organisers are found liable for any unforeseen event, it does seem to be fostering a general feeling that insurance is somehow always necessary, regardless of the actual risks involved.

Findings

36. The evidence gathered during the review period suggests that enforcement barriers to organising and running volunteer-led events fall into three main categories: (i) variations in approach; (ii) fear and perceptions; and (iii) confused guidance.

37. A common feature, cutting across all three, is the tone that Government sets in articulating the benefits of voluntary activity of this sort. While a significant amount of effort has been put into making the case for the Big Society the range of practical obstacles placed in the way of those who want to organise events to raise money for good causes or simply bring the community together, does not reflect this level of ambition.

Variation in approach

38. Overall there is little consensus – nationally, between Departments, between local authorities, civil society organisations, or between individuals – in the way public risk is understood and managed at volunteer events. It should, however, be recognised that local application of proportionality in the enforcement of the law at volunteer events (as indeed with other areas) can sometimes give the appearance of inconsistency. Anecdotal evidence needs to be considered with this in mind. In certain specific sectors – for example, health and safety in hairdressing salons, or in hygiene standards in catering establishments – frameworks exist, such as statutory or voluntary codes, that provide at least some rule of thumb as to appraising and managing risk, no such template exists in the case of events run by volunteers. This is clearly one of the root causes of inconsistent enforcement of the law at such events.

39. Formal statutory enforcement nearly always falls to local authorities (and very occasionally police forces). There is therefore a potential for variation in approach to become costly through inconsistency at various levels.

40. *Within local authorities:* events organisers have complained of local authorities making very different judgments about whether or not to allow events that on the face of it appear to pose very similar levels of risk. Similarly, organisations have pointed to inconsistent levels of advice and help from the police, from one year to the next, when

planning identical street closures (a reason for this, it was suggested, was downward pressure on police budgets).

41. *Between local authorities*: the principle that local authorities should set their own procedures in delivering national policy is clearly an important cornerstone of localism. However, the extent of the differences between local authorities – for example in the range of charges made for considering applications, or requirements in relation to public liability insurance – can be bewildering to those involved in events that straddle local authority boundaries, or who operate across areas that differ from those of local government.

42. Where guidance appears to be at odds with practice, the event organiser will feel a direct impact. The organiser of a small event may well take considerable comfort in respect of the need for expensive insurance and payments for street closures from a reading of the LGA guidance on community events, or the CLG guidance on street parties, only to find that the local authority is fully within its rights to insist on both. At worst, the events planner may have invested time and expense in organising an event on a false premise by the time they discover the true cost; at the very least they are likely to be irritated by the inconsistency.

Fear and perceptions

43. Public perception of risk – on which, as discussed above, little consensus exists, is driven by several different actors (what the Risk and Regulation Advisory Committee⁹ called risk-actors in its 2008 report to Government), some of whom are state actors and others who are not. It is often unclear even to those who are being driven to take certain actions (for example to purchase £10m cover of public liability insurance when the risks involved point to a very much lower level of cover, or none at all) why they are doing so. Distorted perceptions of risk, coupled with concerns over potential personal liability and finite financial resources to meet all possible contingencies, clearly drive behaviour and the burden they create can be easily as great as those imposed by the bureaucracy of the local authority's licensing regime.

Rightly or wrongly the fear of becoming involved in litigation is a major preoccupation. We emphasise the use of the word “fear” – ask an individual about

⁹ <http://webarchive.nationalarchives.gov.uk/+http://www.berr.gov.uk/deliverypartners/list/rrac/index.html>

practical examples involving people they know and there are few responses. More often it is about “friends of friends” or “read in the newspapers”.

“Unshackling Good Neighbours”¹⁰

44. Fear of the unknown can be as great a barrier as actual enforcement practice. The anticipation of burdensome requirements – for example in having a temporary food preparation area registered and inspected, even if a conversation with the local environmental health officer would have dispelled the myth – may be enough in itself to prevent a group from providing refreshments at an event.
45. In consideration with this debate, the Government’s reform of health and safety has included a number of reports and reviews being undertaken with the intention to address distorted perceptions of risk, potential personal liability and the ‘compensation culture’. Most notably these have been Lord Young’s ‘Common Sense, Common Safety’ report¹¹ and the ‘Reclaiming health and safety for all’ review by Professor Löfstedt.¹²

Confused guidance

46. While the review found little evidence - that could be substantiated - of incorrect enforcement practice by local authorities, there is a clear and pressing need for both central and local government to improve the guidance, forms, and procedures in use.
47. The guidance provided by central Government, even when it is sensible and proportionate within the narrow confines of its own remit is too piecemeal, and too parochial, to give the organiser of a small, non-commercial event a reliable guide to follow. Some of the guidance described in this paper appears out of step with the more recent advice with its emphasis on making it as easy as possible to organise events, and the need to use proportionality when considering applications.

¹⁰ <http://www.cabinetoffice.gov.uk/resource-library/unshackling-good-neighbours>

¹¹ http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf

¹² <http://www.dwp.gov.uk/docs/lofstedt-report.pdf>

48. The paperwork involved in application processes imposes a significant burden on potential organisers, and can be enough in its own right to act as a barrier. For example, the insistence by some local authorities on completing road closure and Temporary Events Notice applications in triplicate, and sending them in parallel to different public authorities, is clearly an unnecessary burden. Furthermore, while some now allow TENs to be submitted online, some do not.
49. Simple, practical measures that remove irritants could make a significant contribution to reducing barriers. For example, it has been suggested that replacing multiple forms with a single, centrally produced one might help (this need not challenge the principle of localism: decisions would still be made based on local considerations), providing centrally coordinated channels by which advice can be sought, such as an online decision-map to help guide organisers to a clearer understanding of what they do, and just as importantly do not, need to consider. The advantages of reforms of this kind would be a matter for relevant Departments to consider.
50. It is clear that locally and nationally Government wants volunteer events to succeed, and there is therefore an opportunity to set an unambiguous tone that they are something to be supported and encouraged. Government could go further in making clear that there is a strong presumption that the apparatus of the state, at whatever level, should actively seek to avoid placing barriers in the way of such events, without reducing the protections that proportionate, flexible and risk based enforcement provide.

Annex A

Review of Enforcement of Volunteer Events – Scope

In Scope

Regulatory activity by national regulators and / or local authorities of that affects/is perceived to affect the arranging and running of events by volunteer-based organisations, including (this is not exhaustive):

- Preparation and sale of cooked **foods** (e.g. cake-bakes to raise funds for school PTA);
- Sale of second-hand **goods** (e.g. jumble-sales, bring-and-buy sales)
- **Raffles**
- **Sponsored** events (e.g. fun-runs, three-peaks challenge)
- Staging of **performances** involving sale of tickets to raise money, such as choral events, plays, poetry-readings (but not including copyright issues)
- **Street parties**

We would also be interested to learn of issues encountered where third parties are encouraging voluntary groups to undertake unnecessary compliance activity e.g. where regulation does not actually require a group to do something, but they are led to believe it does.

We would also be interested to learn about examples of really good guidance/best practice in enforcement.

Out of Scope

Events arranged principally for the purposes of commercial gain;

- Sales through premises intended permanently for the purposes of raising funds for voluntary or charitable purposes, such as charity shops
- Activities that take place for prolonged periods of time e.g. longer than 2 weeks
- Regulation of the governance, constitution and operating of NGOs (e.g. Charities, Not for Profit businesses etc)
- Regulation of working with children (CRB checks etc)
- Review of the legislation (primary or secondary), rather than the implementation of those regulations, governing volunteer events

Regulatory Activity

“Regulatory Activity” in this context includes action taken by national regulators or officers of local authorities, including:

- Provision of advice on compliance with the law;
- Presence at events, or inspections of locations, equipment or preparations before events, in order to satisfy regulatory authorities of compliance
- Requirements to make formal applications, or provide information, in order to obtain necessary permission to hold events
- Requirements to attend courses / obtain particular qualifications
- Enforcement proceedings taken against individuals or organisations in the event of perceived or actual failure to comply with regulations (we cannot consider comments on specific cases unless all proceedings have finished – but we can consider general evidence in relation to enforcement proceedings)

Annex B

The compliance and enforcement regime for volunteer events

Enforcement of Statutory Requirements:

Food safety

All food businesses meeting the definition below are required by law to register as such with the local authority, and are subject to a range of legislative requirements in order to ensure that food intended for human consumption is being handled, processed, stored and produced safely.

The purpose of the registration is to provide local authorities with information about the food businesses in their area so they can plan their inspections and target their enforcement resources effectively.

'Food business' means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing and distribution of food; (Article 3.2 of Regulation 178/2002)

Local authority environmental health services are responsible for enforcing these requirements, including at volunteer events. Regulation 852/2004 (from which much of the UK's food hygiene legislation derives) does not specifically exempt the preparation and sale of foods at one off type events from its requirements however Recital 9¹³ states that;

"... (the community rules) should only apply to undertakings the concept of which implies a certain continuity of activities and a certain degree of organisation".

On this basis the law provides officers with the opportunity to interpret activities such as the occasional preparation of food by individuals or groups for gatherings or for sale at charitable events as not meeting the requirements for registration as a food business outlined above, rather than 'exempting' them per se. It should be noted that the provision of food at events are still subject to the general requirements of the General Food Regulations 2004 in respect of placing unsafe food on the market, and they may be subject to prosecution under this regulation if, for example, they poisoned someone who consumed food they had prepared and sold.

¹³ http://ec.europa.eu/food/food/biosafety/hygienelegislation/guidance_doc_852-2004_en.pdf

Permits and Licences

There is a very large range of permits and licenses, some or all of which may be necessary for volunteer events. The challenge for the organiser is knowing which ones are relevant and / or required.

Health and safety law may not apply to the majority of volunteer events – for example where an event is organised by a group of friends or associates - unless there is employment or a work activity as generally it doesn't apply to someone who is not an employer, self-employed or an employee.

The Health and Safety at Work Act 1974 (HSAWA) requires employers (and the self-employed) to protect the health and safety of not only themselves and their employees but also other people, such as members of the public and volunteers, who may be affected by their work activities. The Health and Safety (Enforcing Authority) Regulations 1998 essentially allocate enforcement responsibilities between the Health and Safety Executive and local authorities, based upon the main activity taking place at individual premises. In practice nearly all volunteer events will be enforced by local authorities in respect of health and safety (fairgrounds and cycle races are the kind of events that would be exceptions). However, this is not the defining rule, since the assessment of risk is about the nature of the activity being undertaken, not the commercial model that underpins it.

The Health and Safety Executive provides a health and safety checklist for village and community halls to help organisations comply with health and safety law relating to non-domestic premises, covering the most common areas of risk, for example, car parking, movement around the building, gas and electricity supply, asbestos, fire safety and legionnaires' disease.¹⁴

Temporary Events Notices: where an organiser wishes to put on a temporary event (a relatively small-scale event attracting fewer than 500 people) and to serve or sell alcohol, provide late night refreshment, or put on regulated entertainment, a temporary event notice (TEN) is required under the Licensing Act 2003. This is a form, intended by the legislation to bring a lighter-touch approach to licensing small events, completed by the event organiser and provided to the police and local authority services, letting them know about the planned event. There is a fee of £21 made for a TEN application. Once the police and Environmental Health Department receive the TEN they have three working days to make any objections to it on the grounds of any of the four licensing objectives: prevention of crime and disorder; prevention of public nuisance; public safety; and protection of children from harm. In the event of an objection, the council will organise a hearing to consider the evidence and may decide that the event cannot proceed. Otherwise the event can go ahead as planned. For events larger than 500 people different licensing arrangements apply (not considered here given the focus of the review on smaller events).

DCMS recently consulted on proposals to remove the need for licenses for many entertainment activities and a policy announcement is expected soon. The main activities in question are: live and recorded music events, dance shows, plays, indoor sport events, and showing films

Road Closure Orders: Section 21 of the Town Police Clauses Act 1847 makes provision for the making of Closing Orders to control traffic in connection with parades and events taking place on roads. Road Closure Orders are generally granted in respect of public events such as carnivals, festivals, spring fairs, street parties, marathons and rallies. Applications are submitted to Highways Departments in local authorities (county or unitary councils) who consult with the police and other authorities. In practice, conditions imposed vary; for example many local authorities appear to require evidence of public liability insurance (there is no standard level of cover required – the standard range appears to be between £5m and £10m). Councils may also require applicants to provide evidence of having consulted with affected parties, a risk assessment, stewarding and marshals and a Traffic Management Service (provided by the Council, to erect temporary signage and arrange necessary diversions, etc). There is normally a fee charged for making such an application. There appears to be little consistency in the range of fees charged (sometimes there is no charge, for example in the cases of Mendip, Brent, Cambridgeshire and Camden, whereas many councils appear to levy a fee; evidence seen by the review team suggests these range from around £30 to £100, and in some cases more than £200. There appears to be little transparency over the cost the fee is intended to meet.) There is no statutory requirement to publish a notice of making an Order in a local newspaper – which inevitably carries a cost - although many councils do require this.

Food: under the Licensing Act 2003 a licence is required to provide late night refreshment, defined as hot food or hot drink, to the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11.00pm and 5.00am. Usually included in Temporary Events Notices.

Alcohol: District and Borough or Unitary councils are the licensing authorities for their administrative areas under the Licensing Act 2003, and licences are required for the sale of alcohol at temporary events. Usually included in Temporary Events Notices.

Raffles / tombolas: the law governing raffles and tombolas – described as “lotteries” by the legislation, varies according to the size and circumstances of the activity. To be legal a lottery must either be promoted by a registered charitable or philanthropic society or be an “exempt lottery”. In practice many of the activities that take place at small volunteer events will be exempt from having to register: lotteries that require no registration include “incidental non-commercial lotteries” where the draw must take place at the event itself, and where prizes cannot exceed £500 in value.

¹⁴ <http://www.hse.gov.uk/voluntary/assets/docs/village-hall.pdf>

Trading Standards.

Where goods are being sold at an event, consumers are protected by legislation, enforced by local authority trading standards officers, that ensures that they are as described and conform to minimum standards of safety. This could range from the labelling on food products through to the accuracy of weighing equipment.

Public order / nuisance.

While the police are very unlikely to be involved in smaller volunteer events, depending on the nature and number of people attending, and the assessment of the degree of risk of public disorder, they may attend (e.g. in the case of road closures). Noise nuisance – for example from tannoy systems or the playing of loud music – is enforced by environmental health services.

Requirements imposed by others than the state

While nearly all of the guidance and advice produced by central Government and local authorities describes the statutory enforcement arrangements (and what an organiser must do, or not do, to comply), it is clear that a significant part of the burden of enforcement on those organising volunteer-led events has other origins.

Duty of Care

At many events – for example where an event is organised by a group of friends or associates - the HSAWA will not apply. However, voluntary organisations and individual volunteers have a duty of care to each other and others who may be affected by their activities. Where something goes wrong, individuals may, in some cases, sue for damages using the civil law if they are injured as a result of another person's negligence.

Insurance

Motor and Employer's Liability Insurance are statutory requirements in certain circumstances. Other forms of insurance are not required by the law in the same way. However, in much of the guidance provided by local authorities and by insurance companies or the Association of British Insurers themselves to events organisers, the need for Public Liability Insurance (PLI) is stressed. Whilst this may in many circumstances be sensible advice, the fact that it is not a statutory requirement of organising an event can easily be overlooked, as can a sensible appraisal of the amount of cover required (many local authorities suggest anywhere between £5m and £10m of cover) – i.e. whether it is commensurate with the risk of potential harm and the scale of the event.

There are clearly many drivers affecting the insurance cover an events organiser takes out:

- As described above they may be encouraged, or even required, by local authorities to have PLI cover at a certain level, particularly where publicly-owned assets are at risk, or where a road closure is involved;

- Blanket PLI may be provided as a standard component of membership of certain national charities.
- Insurance companies, their representatives, and their brokers often recommend PLI for events;
- Genuine fear of being held liable for unforeseen events, however low or unlikely the risk, even if none of the above occur, is a powerful motivation.
- There may often be terms associated with the insurance policy itself that impose additional burdens on the events organiser, such as the need to carry out a risk assessment.

Record-keeping and paperwork

When events are held in venues owned by third parties such as businesses or on private land, they can face a range of compliance burdens that are not directly requirements of the law, or indeed at all. The same can be true when using land or buildings owned by a local authority. Examples include:

Portable Appliance Testing: a landowner might require stall-holders at an event, or the event organiser themselves, to provide written evidence of compliance with the Electricity at Work Regulations 1989, or to have equipment labelled within a particular time period showing that it has been tested and declared safe. These regulations require that any electrical equipment that has the potential to cause injury is maintained in a safe condition. However, they do not specify what needs to be done, by whom or how frequently (i.e. they don't make inspection or testing of electrical appliances a legal requirement, nor do they make it a legal requirement to undertake this annually). There is no legal requirement to label equipment that has been inspected or tested, nor is there a requirement to keep records of these activities.

Town halls often require hirers to provide written evidence that necessary licenses are held for musical or other performances. This is not a requirement of the law, but rather one part of the “supply chain” seeking reassurance from another that they have the necessary permits.

A range of other conditions are often laid down by venue owners – for example that foodstuffs of a certain kind will not be provided, or that risk assessments have been carried out before certain activities can take place. These may, of course, be required by the venue's own insurers, they may be a “belt and braces” approach to mitigating perceived risk, or there may be commercial motives behind them; but in many cases the rationale can be very unclear and may even be interpreted as, for example, “health and safety”, despite there being no statutory requirement in play.

Annex C

Guidance

Communities and Local Government Guidance on Street Parties¹⁵

This guidance was first published in August 2010 as the result of DCLG leading a drive across government and with external partners to identify and remove barriers or myths which were complicating the process for people planning a street party locally. It is clearly targeted at the organisers of events for, and advertised to, residents and neighbours only, in residential streets, and not for events open to the public more generally. The guidance was re-issued in 2011 ahead of the Diamond Jubilee, and introductory text by the Secretary of State for Communities and Local Government states that “we want to make it easier for you to hold one, without having to plough through mountains of forms or face disproportionate charges”. Among the “myths” addressed are: that the law requires a fee for road closures (“if your Council is making a charge, you have every right to question what those charges are for”); that public liability insurance is required (“many councils do not insist on it so you can challenge those that do”); or that food and entertainment licenses are required for private events where no charge is made.

2006 Home Office guidance: Good Practice Safety Guide for Small and Sporting Events¹⁶

This is probably the most comprehensive guide to organising small events provided by central Government, covering the basic statutory requirements and procedures likely to be required by local authorities and the police for events taking place on roads, highways and in public places. It provides a brief overview of best practice in event planning; a quick guide to health and safety law; when to involve the police; general event considerations such as crowd profiling, vehicle control, marshalling, barriers, noise and nuisance, food provision, and higher risk activities such as bouncy castles. It “strongly recommends” public liability insurance, adding that the absence of such insurance “would probably” lead to the event not being supported by the relevant public authorities. The guidance, while factual in tone, is not aimed at volunteers and clearly is intended to ensure that events organisers comply with the full range of permits, licenses and other requirements, and are aware of all the public authorities with the formal power to affect the organisation of events.

¹⁵ <http://www.communities.gov.uk/publications/communities/streetpartyguide>

¹⁶ <http://www.homeoffice.gov.uk/publications/police/operational-policing/event-safety-guide?view=Binary>

Health and Safety Executive guidance for voluntary organisations (published October 2011) including a checklist for village and community halls¹⁷.

HSE provides a wide range of tailored guidance on organising events and for voluntary organisations. The guidance stresses that health and safety law is not normally a barrier to voluntary activity, and recommends a sensible, proportionate approach to managing risk. HSE has also recently launched a health and safety “myth buster” website¹⁸ in conjunction with their Myth Buster Challenge Panel, where users can challenge what they perceive to be unfounded actions taken on the grounds of health and safety law.

Health and Safety Executive guidance for Jubilee celebrations (published May 2012) including a Top 10 tips checklist for organising local Jubilee celebrations.¹⁹

HSE released two articles in the press and the media relating to Jubilee celebrations. These were to help people and local communities establish their own events without letting ‘Red Tape’ prevent them going ahead.

DfT / DCLG Secretaries of State letter to local authority leaders and chief executives, February 2011.

Philip Hammond and Eric Pickles wrote to announce the withdrawal of the formal DfT guidance on road closures, given that “*in some instances it appears that it may have been applied inflexibly and inappropriately to events such as street parties...*” It also said that “*it is ultimately for local authorities to decide their processes.... we wish to make clear that [the legislation] does not require any particular procedures to be adopted when closing roads for special events, nor does it impose any specific requirements on events promoters.*”

Local Government Association Guidance on Community Events²⁰ (for Councillors).

The guidance is intended to help Councillors consider “*how their Council has responded to these events [fetes, carnivals, fairs and street parties, as part of the Royal Wedding, Jubilee, and Olympics celebrations] hear about some of the news ways of working, and consider the future*”. The guidance describes the basic statutory requirements for different types of event, and suggests alternative approaches to those commonly used by local authorities in enforcing events. For example, it emphasises the importance of proportionate application of existing processes, such as deadlines imposed by local authorities on receipt of applications and taking a more flexible approach in the case of small events; it points out that there is no legal requirement to charge for road closures or to advertise them in the press in the case of “special events”. It also encourages Councillors to take a more proportionate approach to requirements for public liability

¹⁷ <http://www.hse.gov.uk/voluntary/assets/docs/village-hall.pdf>

¹⁸ <http://www.hse.gov.uk/myth/index.htm>

¹⁹ <http://www.hse.gov.uk/news/jubilee/index.htm> and <http://www.hse.gov.uk/press/2012/hse-jubilee.htm>

²⁰ http://www.local.gov.uk/c/document_library/get_file?uuid=46d5c67f-b5f9-4ffc-a3d4-507287450af9&groupId=10171

insurance, suggesting that in the smallest cases it may not be needed at all, and in other cases if the Council wishes to encourage small events, the events organiser might not need to meet the cost themselves.

Guidance produced by individual local authorities.

Many local authorities provide their own on-line guidance to running events. At its best this type of guidance provides accessible, usable advice written with the local context in view. The best of the local guidance we have seen draws heavily on national guidance to ensure consistency, whilst its accessibility encourages confidence amongst local organisers. Not all local guidance achieves this, but where it is well produced with a clear audience in view its usefulness outweighs any risk of duplication.

Guidance produced by national civil society organisations.

Events organisers, if members of a national charitable body, may well have access to guidance produced by that organisation. For example, some provide limited, central guidance on running events. These appear to be principally concerned with ensuring that members understand any potential liability they may face, and insist on a degree of insurance cover (often provided by the charity itself).

Guidance from the insurance industry.

The Association of British Insurers has produced a leaflet, “Celebrate – an ABI Guide to Planning and Event”²¹ that encourages organisers to think through all the risks of putting on an event. It makes clear that the law does not require insurance for voluntary events, but points out that PLI can provide “peace of mind”, and summarises likely costs for different levels of cover.

Guidance on self regulation schemes.

Schemes exist for self regulation²². Volunteers don’t have any legal duties under criminal law. However they simply ask whether the equipment they are hiring complies with nationally recognised standards of manufacture and inspection may provide reassurance regarding the safety of the equipment and volunteers’ civil law duties.

²¹ <http://www.abi.org.uk/information/consumers/61567.pdf>

²² www.pipa.org.uk and <http://www.adips.co.uk>

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