



IN-HOUSE DOOR STAFF **VERSUS** **AGENCY DOOR STAFF**

THE RISKS AND BENEFITS



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IN-HOUSE DOOR STAFF V AGENCY DOOR STAFF

When considering the advantages and disadvantages of employing one's own door staff directly, as opposed to utilizing the services of an agency, the main question to take into account is that of control. In essence, the very nature of 'control' in these situations carries with it both positive and negative connotations for the hospitality venue itself, and, as ever, an assessment of the competing risks and rewards will be necessary for any business in establishing what is the best option for them.

In terms of the legal landscape, the easiest way to think about a business's responsibility for their door staff is to consider a spectrum. At one end are door staff employed by the business directly (ie. they are the venue's own employees); at the other are agency staff over whom the venue has little, if any control aside from (almost literally) telling them where to stand. In these two situations the issue of control is already obvious – one's own employees are under one's direct control; the employees of an agency to whom you provide minimal direction are not (for the most part) under your control.

This question of control starts to become murkier when one moves inwards from the ends of this spectrum. For example, in certain situations a venue might utilize agency door staff, but in the course of their presence on site treat them (effectively) like the venue's own employees – ie. the business dictates their actions and responsibilities, disciplines them, and the door staff have no autonomy to conduct themselves independently of the direction of the venue manager.

In these scenarios, the courts start to ask whether, despite being employed by a separate company, these door staff have a relationship to the venue that is 'akin to employment'. This distinction is important because, if the venue is in a position that is, to all intents and purposes, that of the de facto 'employer' of the door staff, then this places a greater duty of care on the venue for both the safety of these security personnel as well as vicarious responsibility for their actions.

Vicarious responsibility is a legal term which effectively states that, in many situations, the employer is responsible for the actions of their employees, even on occasions when the employer would not necessarily have condoned the actions of that employee. So, for example, if one member of bar staff throws a glass at another member of the bar staff, the business itself will be held 'vicariously liable' for the injury suffered by the innocent employee. Whilst there are occasional deviations from this rule, especially if the employee is doing something so disconnected from their employment that the employer could not possibly have conceived



of it happening, the general principle is that an employer will be held accountable for the actions of their employees during the course of their work.

As you will note, the question of a relationship being 'akin to employment' thus becomes incredibly important when thinking about door staff. Obviously agency staff are employed by an external company and therefore technically some distance removed from the usual contractual employer/employee relationship of the venue's in-house staff. However, the law states that, if the relationship is 'akin to employment', then the actions of the technically 'independent' door staff can still be deemed to be the responsibility of the venue itself, rendering them vicariously liable. As such, were a doorman to injure a customer, even if they were acting completely in opposition to what the venue would have authorized had they known about their behaviour, in a case where the relationship is 'akin to employment', the venue can still be held responsible for the injuries sustained by the customer.

Thus we have a situation wherein the question of 'control' becomes paramount. The venue in question might think that they are not responsible for the agency door staff – however if the buck stops with the venue management for the actions of these door staff then this venue will be deemed to have sufficient control over these agency employees to render the venue liable in the courts for their injuries or damage arising from their actions.

The difficulty is that, as mentioned above, these questions fall on a spectrum, and there can be more or less 'control' that is displayed by the venue itself. In the case of *Hawley v Luminar*

Leisure Ltd [2006] EWCA Civ 18, the venue was found to be responsible for a customer who was injured by an agency doorman because of how closely the venue supervised the security staff. In the words of the judge “when she [the manager] said: ‘Jump!’ the doormen would jump”.

However, in the case of Burger v JD Wetherspoon and Risk Solutions BD Ltd [2025] EWHC 1259 (KB) the opposite was found to be the case because the contract between the two parties asserted the independence of the door staff in their operations and general practice had been to allow broad autonomy to members of security.

As is clear, the spectrum of responsibility depends entirely on the level of control that a venue is deemed to have over the security that they employ, and there is a sliding scale between a ‘light touch’ and a more supervisory role exhibited by the hospitality business. Inherent in this principle is the underlying question of a venue’s capacity for controlling their door staff, whether employed directly or via an agency.

In essence, the law would say that a relationship of actual employment (ie. in-house door staff) or ‘akin to employment’ (ie. agency staff who are closely supervised) means that the venue has greater control over these individuals and can therefore limit their capacity for causing harm to others. By the same turn, if a venue has very limited involvement in directing the security provided by an agency, the law would say that they have limited control over these individuals, thus meaning that any negligence displayed by door staff can not be laid at the door (no pun intended) of the hospitality business.

The above highlights what might be considered to be the pros and cons of employing door staff directly compared with using agency employees. By having in-house security employed by a business directly, that business can exert greater control over the action of these employees and enable the company to take a more bespoke approach to risk assessments, training, monitoring, performance and all other aspects of the job. This, it would be hoped, would reduce the likelihood of a member of the door staff acting negligently – however it would also mean that, were a doorman to injure a customer, there would likely be a direct liability against the business itself.

Obviously if the door staff are supplied by an external agency, one has less control over who they might be – the venue does not know if they are of a particularly aggressive disposition or whether they have had recent personal problems. However this does not allow the venue to 'dodge' questions of liability – instead it will depend on the contractual conditions and 'general practice' in their dealings with these external staff as to whether the hospitality business could be held vicariously liable for an injury sustained to a customer. If the venue exerts a certain level of authority over these door staff, a claim could still be made against the venue on the basis that they had a relationship 'akin to employment' with the agency doormen.



Written by

Stuart Dobbins, Technical Claims Director



0344 488 9205
enquiries@ndml.co.uk

NDML.CO.UK

The Nightlife and Hospitality Insurance Specialist

