

What Next?

Covid-19 Certification Consultation Response

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1. Introduction and summary

What Next? believes that the introduction of Covid-19 certification would have a significant impact on the cultural sector and could impact on our ability to deliver for years to come. Individuals could potentially have to use digital certification to join the workforce, or to participate in, or be an audience for culture. There are no timescales included in the Review, and so these mechanisms could be in place for several years.

The arts and cultural sector is not uniform. For every large building that relies on ticket sales, there is a small community project that works with people for whom a digital certification would be a barrier to their engagement. The economic ecology includes a mix of commercial, philanthropic and public funding in different quantities for different organisations. Similarly, the 're-opening' narrative does not fit everyone, as many providers have continued working through Covid-19 (see appendix 1).

This is a complex issue which does not lend itself to a binary or unified position; what will enable one organisation will actively, negatively affect another. It is essential that those making the decisions on ways forward hear the nuanced views of our sector and understand the different and competing demands of different arts and cultural organisations and individuals: looking through an equality, rights and ethical lens as much as the critical economic one.

The economic need of many in the cultural and creative industries is not in dispute. It has been well documented, and many venues have made, and continue to make staff redundancies and reductions to their offer, which make a return to their previous operating models look extremely uncertain.

This economic lens cannot be under-weighted in making plans for the future. It concerns the return to work to the 40% of the sector which has been made redundant, and to the thousands of freelancers who have lost or reduced livelihoods as a result of COVID-19.

We believe that there is strong evidence that an economic recovery supported solely by certification, and without other measures, would be at the cost of the diversity of audiences, workforce and participants, and diversity of the arts and cultural content that is created.

We have heard strong evidence that the impact on diversity would significantly prevent organisations from delivering effectively against their charitable missions, and against their funding conditions: from trusts and foundations, from local authorities, from Arts Council England and other Arms-Length Bodies, and from their recent Cultural Recovery Fund grants. It would impact on their ability to deliver against community wellbeing and cultural strategies and to the Arts Council's forthcoming Let's Create strategy. Those organisations which are charities could find themselves in contravention of their agreements with the Charity Commission.

We believe that there is an opportunity within this consultation, and more widely, for the government and the cultural sector to reframe the questions that are being asked of us, and to ask: ‘What resources, tools and approaches do we need to deliver sustainable, equitable, inclusive arts and culture over the next year?’.

We believe that the structure of this certification consultation risks reducing the complex decisions and processes that will be required to the introduction of a single measure.

The cultural sector’s transition through and beyond the Covid-19 pandemic must be rooted in our duty of care: to our workforce, to our audiences and participants and to our wider communities. The sole introduction of certification does not reflect the critical need to build trust and relationships at every stage of that transition: whether it is reopening a building, reconvening a youth group, or delivering a festival. To build trust we must collectively acknowledge our shared and different experiences of the last year, and slowly re-engage with one another: recognising that some of our practices will be irreversibly changed – and sometimes for the better. This inclusive approach will have potential costs; from supporting the mental health of staff, to hiring clinical colleagues to administer regular tests.

Over the last year, many people have expressed their intention and their belief in ‘building back better’. They have publicly acknowledged systemic inequality, and the barriers that exist for many individuals in society in accessing the arts and culture. We believe that this intention will be actively undermined if certification is the sole mechanism used to transition through Covid-19.

The [7 Inclusive Principles](#) document gives cultural organisations and individuals the tools to approach Covid-19 recovery and delivery through the lens of Disability and relevant Equality Legislation and supports the industry to make decisions inclusively, to go beyond compliance and celebrate diversity. These principles should be central to any Covid-19 transition strategy and apply in all possible future contexts.

Evidence from our sector academics at Indigo Ltd and The Audience Agency clearly shows that certification is not the key to an immediate return to ‘full houses’ in the next few months. Instead, we will need to follow the strategies above, and this may mean that the cultural sector continues to need to be economically supported for a short period. We believe that a relatively small further investment now will protect and build on that which has already supported the sector through the pandemic, and will, in the longer term, support a much more effective financial recovery.

1.1 What we want

- It is essential that government and any cultural organisations understand their responsibilities under the **Equality Act**. We are calling for evidence of transparent and clear ethical oversight from government and our sector on these issues: Equality Impact Assessment. We want **Equality Impact Assessment** to be mandatory for anyone putting certification in place, and for this to have taken place as part of the Review.
- As is articulated in the ethical consideration section of this paper, this policy represents a ‘rights paradox’; where upholding the rights of one group will actively remove them from

another. If certification was introduced, every organisation must articulate what they are actively doing to support equality of access for the group that they are excluding.

- A slow, financially-supported, considered recovery for our sector – based on care, people, place and community. This should be built around questions of inclusion: ‘How can we open safely and inclusively for everyone?’

2. Consultation Response

2.1 Clinical /Medical Concerns

2.1.1 Lack of clarity on context and model

The government’s current consultation gives us very little information as to what model of Certification it is considering. It is almost impossible to fully assess the clinical levels of risk that this measure would mitigate without understanding the model that will be used, and without understanding the context. For example, if the R-level was 0 in the country, the introduction of certification would be an entirely different proposition to if the R-level was 1. The model takes no account of any potential emerging variants. We therefore do not believe that this policy can be introduced as a blanket public-safety measure.

The [Institute for Government reports](#) that [Innovate UK](#) has funded a number of different technological models and The Times has reported that the [existing NHS app](#) will be converted into a ‘passport’. Most reporting assumes that there will be some kind of ‘Green’ status that could include proof of vaccination or a recent test. Some also include those who have had Covid-19 and can prove that they have antibodies.

2.1.2 Lack of clarity on transmission risk

None of these options would reduce to zero the risk of transmission of Covid-19 at a cultural event or venue. A recent paper from the Ada Lovelace Foundation shows there is [currently insufficient scientific data](#) to tell us whether vaccination stops transmission of Covid-19. By mixing two or three of the green categories above, ‘recently tested’ people could be exposed to transmission from a vaccinated individual. There is no evidence to show how risk of new variants would be mitigated by certification. There is very little information to show how long antibodies last.

It may be that some of this evidence will come on stream shortly, and it may positively show that some or all vaccines do have an impact on transmission, which would change the impact of certification on safety.

2.1.3 Lack of clarity on need for other measures

At this current time we do not know how far certification would need to be combined with other social distancing measures. We cannot assume (as the [Prime Minister](#) and [Oliver Dowden](#) have done in their recent statements in the press) that organisations and events can dispense with social distancing if this measure is included.

2.1.4 Impact on behaviour

We also don’t know what the impact of the concept of certification would have on audiences, participants, workforce or employer behaviour. If they felt themselves to be ‘safe’ individuals could start relaxing restrictions immediately, and therefore could

contribute to a new wave of infection, and actively contribute to the development of new variants.

2.1.5 Precedent: social to medical model of disability

Integrating health data into cultural participation in this way is a significant precedent, and one which we should fully consider: we believe it could push policy from the [social to the medical model of disability](#).

2.1.6 Responsibility of employer to accurately present risk

We have heard from currently shielding individuals and from some disabled artists who are pro-actively in favour of anything that would help them have confidence that they are able to work and perform in places that have formal checks in place for staff and audience members. They see the introduction of a scheme like this as a potentially positive move, but it is essential in these circumstances that the level of risk that they are assessing for their own participation or engagement, is clearly and honestly articulated. Any organisation or event would have a responsibility to publish up-to-date and accurate information on all risk, and we do not think that this would be practically possible.

2.2 Legal Considerations

2.2.1 Equality Act and Equality Impact Assessments

It is essential that government and any cultural organisations understand their responsibilities under the Equality Act. We are calling for evidence of transparent and clear ethical oversight from government and our sector on these issues: Equality Impact Assessment. We want Equality Impact Assessment to be mandatory for anyone putting certification in place, and for this to have taken place as part of the Review.

As is articulated in the ethical consideration section of this paper, this policy represents a 'rights paradox'; where upholding the rights of one group will actively remove them from another. If certification was introduced, every organisation must articulate what they are actively doing to support equality of access for the group that they are excluding.

2.2.2 Mission paradox

We have heard strong evidence that the impact on diversity would significantly prevent organisations from delivering effectively against their charitable missions, and against their funding conditions: from trusts and foundations, from local authorities, from Arts Council England and other Arms-Length Bodies, and from their recent Cultural Recovery Fund grants. It would impact on their ability to deliver against community wellbeing and cultural strategies and to the Arts Council's forthcoming Let's Create strategy. Those organisations which are charities could find themselves in contravention of their agreements with the Charity Commission.

2.2.3 Employment considerations

The legal considerations of this for employers are extremely unclear. Colleagues do not understand what action they could legally take if any of their staff did not have certification, or whether they would be open to legal challenge for turning away any audience member or participant. Many arts organisations work with volunteers also, and the same considerations apply to them.

It is unclear as to whether an organisation would be open to legal challenge if they failed to introduce certification, or if they implement it.

Organisations do not know whether they would be open to legal challenge if fraudulent certification was used to gain entry to an event or venue.

2.2.4 Clarity of policy

Should the government decide to devolve the decision on whether or not to implement this policy to individual businesses (as has been indicated by the Prime Minister), then the legal and operational requirements for all cultural businesses will be unworkably chaotic. Clarity is absolutely essential.

2.2.5 Implications for touring: UK and International

This is particularly important for any cultural sector business (e.g. touring) which moves from venue to venue. Negotiating different requirements on a case-by-case basis would be impossible: particularly as performing in one setting (with no certification) on one night could potentially violate the terms of another (with certification) on the next.

Similarly, we would need clarity on the legal implications for UK-wide touring (as culture and health are devolved) and on international tours. This certification would present added complexities for international casts; already complicated by new, additional Brexit bureaucracy, and would be an unworkable, extra barrier to export of UK culture to other nations.

2.2.6 Local authorities, licensing and insurance

Understanding the legal ramifications of differing individual decisions and local authority decisions on this - on licencing and on insurance - will also be critical. Local Authority Public Health teams will take a view at a local level, which could change the context that organisations are operating within.

2.2.7 Competition law

The sector needs clarity as to how this potential policy would affect competition law, especially if the commercial sector were to adopt certification whilst the public sector was prevented from doing so due to its charitable status (see above).

2.3 Operational / Delivery considerations

2.3.1 Economic Imperative

The economic need of the cultural and creative industries is not in dispute. It has been well documented, and many venues have made, and continue to make staff redundancies and reductions to their offer, which make a return to their previous operating models look extremely uncertain.

This economic lens cannot be under-weighted in making plans for the future. It concerns the return to work to the 40% of the sector which has been made redundant, and to the thousands of freelancers who have lost or reduced livelihoods as a result of COVID-19.

Many arts venues feel that certification is an important and needed tool that can be used in tandem with other measures (such as mask-wearing), in order to facilitate a return to performance, and they are welcoming of the introduction of this measure.

There is also a strong, wider, economic imperative, which includes cultural activities as

part of our tourism offer, of our industrial strategy, and of place-based economic regeneration.

The case for national wellbeing is also important, with a return to culture and cultural activity being a large part of individual and community identity, and real, documented need for an increased role of culture in delivering a range of social outcomes in a post-COVID-19 landscape.

2.3.2 Building Audience Confidence

The comments made by Oliver Dowden in the press make a strong assumption that a Covid-19 Certification Scheme is essential to boost consumer confidence and therefore ticket sales, and that it would enable venues to dispense with social distancing. However, we would strongly challenge these assumptions.

Both the [Audience Agency](#) and [Indigo Ltd](#) have done some initial work to gauge the reactions of audiences.

[A snapshot of Culture Restart data](#) from 1-24 March (13K responses from audiences) shows:

- Not having certification/passport as a requirement isn't going to stop the majority of people who want to return to venues from returning – other measures are far more important for them to see in place.
- Requiring Covid-19 Certification may disproportionately add barriers for people who would come anyway – such as young people.
- Getting people back safely – with measures they're already confident in – is the best way of building consumer confidence.

The Culture Restart Toolkit is delivered by three prominent UK consultancies - Indigo, Baker Richards and One Further. They are working together as the Insights Alliance to help the cultural sector gather the essential audience insight needed to plan for a successful recovery and restart.

The Audience Agency's findings from the Centre for Cultural Value's Cultural Participation Monitor suggest that, at least in the short term, the number of people prevented from attending by vaccine certification is likely to exceed the number of people persuaded to attend (based on analysis of questions about demographic profile, vaccination status and attitudes about attending events in the near future).

2.3.3 Duty of care

The cultural sector's transition through and beyond the Covid-19 pandemic must be rooted in our duty of care: to our workforce, to our audiences and participants and to our wider communities. The sole introduction of certification does not reflect the critical need to build trust and relationships at every stage of that transition: whether it is reopening a building, reconvening a youth group, or delivering a festival. To build trust we must collectively acknowledge our shared and different experiences of the last year and slowly re-engage with one another: recognising that some of our practices will be irreversibly changed – and sometimes for the better. This inclusive approach will have

potential costs; from supporting the mental health of staff, to hiring clinical colleagues to administer regular tests.

It is important to note that organisations have a duty of care to staff, audiences and participants leaving an event or activity, just as they do to those arriving.

2.3.4 Hostile environment for existing policy and priorities

The introduction of certification would create an extremely difficult policy environment for the publicly-funded sector. It would impact on its ability to deliver against community wellbeing and cultural strategies as well as national priorities such as Social Prescribing.

2.3.5 Partnership working

Much of the content and the activity developed and delivered by organisations is done in collaboration and through partnership. This would be impossible if each partner had different requirements: for example, a cultural organisation, health partner, local authority and community charity working together across multiple spaces and venues.

2.3.6 Costs

There is no indication so far as to how the technological and practical roll-out of this scheme would be funded, and it is likely to have a cost to each organisation implementing it.

If any scheme were to suggest mass-testing on site, this would have a great deal of financial costs and adjustment, including on-going PPE and training, and extra members of staff. A scheme of this kind would also present potential significant data management and security issues for organisations, with the need for, and costs of training included in any roll-out.

The cultural sector would not be able to meet these costs from existing budgets or from the emergency funds that have already been announced.

2.3.7 Policing

Cultural organisations will need to consider who in their organisation would be responsible for policing and implementing this scheme, what skills or support they might need, and whether such implementation would be possible. In many cases this would fall on front-of-house or on volunteers, and we have heard from a number of colleagues who have felt that this would not be fair, or within the terms of employment for these staff members. It is also the case that these colleagues are much more likely to be young and to be from ethnically diverse backgrounds than other areas of the arts workforce – meaning that they are more likely themselves to be discriminated against by a certification scheme.

2.3.8 Public health and insurance / licensing

As above, Local Authority Public Health engagement with this issue is absolutely critical, as, if an LA makes licencing or operating any event conditional on this policy, it could override an organisation's own stance and could have a significant impact on community delivery as described above. Similarly, if insurers made this a condition, this would have a huge impact on the sector.

2.3.9 UK-wide delivery

This is currently an England only policy, and, as ever, this is an issue, as culture and health are devolved in the four nations. Colleagues have stated that they would need a joined-up approach for financial viability of any touring: which must have access to all markets.

2.3.10 Lack of uniformity

Government has indicated that it may decide not to mandate certificates, but to devolve them to a local level. Again, as above, this would lead to practical chaos in the performing arts in particular, with any local, regional or international touring affected.

2.3.11 Multi-artform venues and outdoor arts

It may be the case that there are different needs and requirements for different artforms, e.g. a visual art gallery and a comedy venue. Many buildings support multi-artforms and would need absolutely clarity and guidance about how to address these differing needs. It is essential that any policy is looked at for both outside and indoor cultural activity.

2.3.12 Creative responses to meeting the needs of everyone

Many colleagues believe that we should include and support creative responses to this issue: exploring ideas such as 'socially-distanced performances' that would be run alongside 'certification performances' – akin to currently established 'relaxed-performances'. There will be a financial cost to this approach.

2.3.13 International travel

We are unconvinced by the elision between international travel concerns and domestic engagement with culture, but it is worth noting that any artist working internationally may face the need for a certificate, even if this is not rolled-out domestically.

Vaccine provision is not currently equitably provided around the world, and this could have another, discriminatory impact on the cultural partners and projects that we engage with in the UK.

2.3.14 Timescale

Because the timescale is unclear, it is impossible to judge the long-term implications of a policy of this nature. There is a strong risk that this would become established rather than emergency practice, opening up the possibility of culture requiring evidence of the 'health status' of any participation. This is a dangerous precedent.

2.4 Ethical and equalities considerations

2.4.1 Intent

It is absolutely essential that the government is clear about its intent (and the whole of its intent) when reviewing and considering this measure. If certification is about increasing public safety, then it must justify its decisions through clear publication of evidence. If it is about 'nudging'/coercion of vaccine hesitant communities then this must be explicitly stated.

2.4.2 Rights Paradox

We have heard from venues who feel that including measures like a certification scheme will enable audiences and workforces to feel and be safer, and that we have a collective

responsibility to these audiences to do everything we can to promote this. Adam Wagner of the [Better Human Podcast](#) describes this as a 'rights paradox', where the rights of one group (Green Certificate holders) to engage with culture directly impact on another group's rights (those without a green certificate).

In making a decision on which side of the paradox to support, organisations need much more clarity on what measures will actually promote real safety, and who is likely to be in which group; but they also need to be clear on the mission, vision and values they are working with, what kind of culture they are making, and who that culture is for.

2.4.3 Discrimination

A passporting/certification system could be discriminatory in a number of different ways; for our workforce, for the arts and culture that is created and shared in the country, for participants, and for our audiences.

We join lots of different sectors in fearing that it could:

- potentially exclude any individual unable to have a vaccine, e.g. those with underlying health conditions, pregnant, or breastfeeding
- widen the digital divide (as only those with access to phones would display the app)
- be used to coerce and penalise vaccine hesitant communities
- penalise anyone with concerns/ issues about sharing their health or personal information with the state
- exclude anyone not within the health system e.g. homeless communities
- exclude anyone who is not able to access a test, or who feels/has been forced to avoid testing for economic reasons.
- exclude young people who have not yet been offered the vaccine, and are unlikely to do so in the timescale proposed
- exclude children.

We suspect that the impact would be likely to fall [disproportionately amongst our Black, Asian and ethnically diverse](#), migrant and disabled communities. This is borne out by [recent ONS data](#), which shows reduced uptake of the vaccine in areas and communities facing systemic inequality.

Generalisations about vaccine hesitancy have been used to justify this approach, with colleagues (and some MPs) using phrases like 'your choice not to vaccinate will have consequences'. Some colleagues feel that the arts and cultural sector should have a proactive role in public health and should be promoting vaccinations. Although some organisations are embedded in public health and the vaccine roll-out (e.g. [Battersea Arts Centre](#) and the [Science Museum](#) are vaccination centres), there are very clear differences between positive health promotion and coercion through conditionality.

It is important to ask why individuals and communities might be vaccine hesitant. Many have had decades of experience where, from their perspective, neither the NHS or the Government have acted swiftly in their best interest. Many people experience state intervention as hostile and labyrinthine, and have not been given clear information which speaks to their personal circumstances. Confidence is based in trust, and trust is often based in privilege – and a system that works for you.

However, as above, we recognise that this is not a binary position: many disabled artists are pro-actively in favour of anything that would help them manage their own risk, and have confidence that they are able to work and perform in places that have formal checks in place for staff and audience members.

2.4.4 Changed behaviour leading to indirect discrimination

As we state above, we believe that the introduction of this concept will change behaviour. We are very concerned that the introduction of certification will lead to a relaxation of COVID-19 safety protocols in venues, and that this would effectively make the events and facilities in question more unsafe for those who are more susceptible to the virus. This could result in indirect discrimination against those who remain cautious around COVID risk, particularly those in communities disproportionately impacted by the virus.

2.4.5 Potential issues with amnesty provision

There have been some reports suggesting that the government might be considering amnesty / exemption certificates for some of the groups in the bullet points above, but, as with all bureaucratic systems of this kind, it may be that the process to apply for exemption is too onerous to work effectively for those initially excluded by the scheme.

2.4.6 Digital inequality

The digital and technological components of this scheme would significantly impact on communities without access to smartphones, and would need a simple, safe, analogue alternative.

2.5 Issues with consultation design

We would like to register important issues with the design of this consultation:

- The speed of this consultation (a two-week turn-around time), is inherently inaccessible and makes it extremely difficult for a diversity of organisations and individuals to engage meaningfully with this process.
- The government is currently simultaneously consulting on the model and any potential implications, which means that the scope of this consultation is much too wide. It is extremely difficult to assess the risks in this context.
- The government has given no indication as to the amount of time that these measures could be in place – it could be for years. This makes it difficult to assess an appropriate model going forward.
- As we have stated elsewhere in this document, the government must be absolutely explicit in stating its wider intent in introducing this policy.

2.6 About the What Next? consultation response

Over the last two weeks, colleagues across What Next? have discussed this issue; with Chapter Chairs and Steering Group members, in individual Chapters, through a national meeting with 250 participants, and through a focussed Roundtable of 40. Our wider network fed into this document via e-mail and through 1:1 telephone consultations. We have had conversations with experts; including leading academics, barristers and

epidemiologists. What Next? has been working closely with [Ramps on the Moon](#), [#WeShallNotBeRemoved](#), [Inc Arts](#), [The Audience Agency](#) and [Indigo Ltd](#) to develop these arguments.

2.7 About What Next?

What Next? is the UK's only free-to-access national movement. With chapters all over the country we bring together freelancers and small and large arts organisations to inform, debate and shape the future of the arts and culture.

Our vision

Arts and Culture play a vital role in creating a more equitable society.

This will be achieved when:

- all people have access to arts and culture, and the sector reflects the full diversity of our communities
- the arts and culture sector takes greater ownership of its public sector role, improving quality of life for all

Our values:

- **Democracy:** creating models for open and purposeful conversation
- **Equity:** creating conditions for a more equitable movement and society
- **Leadership:** building the conditions for everyone in our movement to make change
- **Creativity:** embedding and celebrating creativity across our movement
- **Generosity:** sharing our skills, expertise and resources with each other
- **Trust:** building relationships and a more resilient sector.

How we work:

We:

- facilitate conversations with each other, politicians, funders, partners, activists and the public
- build knowledge, relationships and resilience in the arts and cultural sector
- lobby for the arts and culture, creating collective responses to policy proposals and national and local strategies
- create national campaigns and collective resources to effect the things the movement cares about.

We are comprised of 30 chapters operating across the UK, who each meet regularly in their own local community and together at quarterly meetings. All are supported by a tiny core team working a total of 3.5 days a week and a Steering Group of sector leaders.

Contact Lizzie Crump: WN? UK Strategic Lead, lizzie@culturallearningalliance.org.uk

Appendix 1: All culture is not currently closed

Although some cultural venues closed when COVID-19 hit, many organisations immediately developed comprehensive plans to meet the needs of their communities, and worked to design and deliver creative, innovative and critically important programmes of work. This is their core practice and expertise.

These programmes range from making work for digital distribution; creating local, socially distanced performances and opportunities to make and share art online and in the real world; physical creativity packs through children's doors; community art galleries on lamp-posts and in other settings to operating food banks, providing specialised youth work, homework support and learning resources, free software and technology for creative young people, and significant mental health support.

They also include targeted programmes of creative activity for people seen to be vulnerable, older people, or those shielding because of pre-existing health conditions - often created in partnership with local health, social care and voluntary sector services; and programmes of activity designed for carers, paid and unpaid, and those resident in care homes, prisons, and hospitals.

These many hundreds of organisations and individuals have very different operating needs, both within COVID-19 and in their pre-COVID practice (which they may wish to resume in some form, if it has changed). In many cases they work with participants, individuals and communities that already face many systemic barriers to engagement with culture, and COVID-19 Certification is potentially another barrier that we would be putting in place.