



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Licensing and Registration of Clubs
(Amendment) Bill:
Northern Ireland Drinks Industry Group

4 February 2021

NORTHERN IRELAND ASSEMBLY

Committee for Communities

Licensing and Registration of Clubs (Amendment) Bill: Northern Ireland Drinks Industry Group

4 February 2021

Members present for all or part of the proceedings:

Ms Paula Bradley (Chairperson)
Ms Kellie Armstrong (Deputy Chairperson)
Mr Andy Allen
Mr Mark Durkan
Mr Alex Easton
Ms Sinéad Ennis
Ms Karen Mullan
Mr Robin Newton

Witnesses:

Ms Nicola Carruthers NI Drinks Industry Group

The Chairperson (Ms P Bradley): I welcome Nicola Carruthers to the meeting. I invite you to give your briefing. You have up to a maximum of 10 minutes.

Ms Nicola Carruthers (NI Drinks Industry Group): Thank you very much, Chair, and thank you for the opportunity today. I will not go into all our views on the Bill, because they have been set out in our briefing. However, there are just a few points that I would like to raise.

We work closely with Hospitality Ulster and have done for many years. We are very supportive of its views on the proposed changes. You heard a lot this morning about the proposed changes to Easter hours, and it is absolutely right that everyone has their opinion on that. Not surprisingly, we support the general industry view on that, which is that the Easter hours have long needed to be changed. We are working with legislation that we have had since the 1800s, and it is a cause of great confusion for a lot of people.

We support the call for the additional hours to the 104 nights per year. We would also like to see some sort of amendment to allow the small, often rural or community, pubs to do the same. We support the new producer's licence to support local brewers and distillers that is proposed in the Bill. Most importantly, however, we support the provision that would allow industry codes, such as the Responsible Retailing Code (RRC), to be authorised by the Department. We believe that that is important. That has been raised and discussed by others in previous evidence sessions, and I felt that it was worth elaborating on somewhat, just to give some background on it.

Back in 2011, there were really serious problems with some irresponsible drinks promotions in Northern Ireland. The then Minister brought all the industry stakeholders together and told us to sort our act out or there would be legislation that would ban every drinks promotion. We formed a cross-

industry group to start work on developing a code that would work across the whole industry. I drafted the code with the help of the pubs, the supermarkets, the shops and the registered clubs and hotels. All sectors were involved in that.

We spent a long time looking at what was already out there, and the code makes reference to other things that were in force in relation to the Advertising Standards Authority (ASA) and the Portman Group etc, but there was nothing there that went as far as what we wanted to do in banning specific drinks promotions. There was nothing at all in Great Britain. We learned from the experience in the Republic of Ireland, where the industry had developed two separate codes: one that applied to on-sales and one for off-sales. There were disparities in standards between the two codes, so we learned from that, and we were clear that we wanted to develop one code to work across the whole industry. The codes in the Republic of Ireland have not survived and are not there any more.

I drafted the code while I was sitting in the middle, representing the suppliers, because our customers were in the on-trade and the off-trade. Hospitality Ulster did not draft the code and is not in charge of it, even though some are labouring under that misapprehension. Hospitality Ulster provides secretarial services to the independent complaints panel, but the panel is completely independent of the industry, makes up its own mind and publishes regular reports.

Successive Ministers and the permanent secretary have supported the code in the past, and, indeed, every code report has had a foreword drafted by either the Minister or the permanent secretary. The last, most recent report said in its foreword:

"I believe the RRC will continue to play a crucial role in influencing the responsible promotion of alcohol in both the on-trade and off-trade."

The importance of giving some statutory backing to industry codes of practice is really about enforcement. It would give the code teeth. At the minute, if the panel finds that a licensee has breached the code, the licensee can appeal the decision and the panel will then notify that decision to the press, the local PSNI and the council. Breaches get coverage in the press, and a number of them have been discussed on 'The Nolan Show', for example, in the past. However, if the code were to be given statutory backing, or at least approval, it would give it added weight and it would be more likely that all licensees would abide by it, because the courts, before granting a renewal of the licence, would need to be satisfied that the licensee knew about and was upholding the industry codes.

The benefit of having an industry-led code, since 2012, is that we have been able to change it quickly, as new promotions arise or as things need to change. The code is now in its third edition since 2012, and changes are made a lot more quickly than if we had to wait for statutory change.

Given the references that have been made to it this morning, it is important to mention the Department of Health's consultation on 'Making Life Better', which is for the new drug and alcohol strategy. We have been involved in the steering group of the current drug and alcohol strategy for many years, and we sit on the Department of Health's drug and alcohol advisory group. Much of what we have put into the code over the years reflects what is in the Department's strategy in relation to training, provisions relating to underage drinking, labelling, Challenge, 25 etc.

That concludes my introductory remarks. I could talk a lot about the code because I am proud of what the industry has done since 2012, but I will leave things there for now.

The Chairperson (Ms P Bradley): Thank you, Nicola. You have heard the other submissions this morning. I know that, because I saw your name on StarLeaf, which is good, because you were able to listen in. The Churches brought up the issue of people of faith having to work on Easter Sunday, for example. What do you say in response to that? You also heard that the Committee will write to the Department for the Economy about that, and we are sympathetic to it. What is your opinion?

Ms Carruthers: I do not represent the pubs, but I know from discussions in the past with them that they would say that their members respect the fact that they have people of faith working for them, Christians and other religions.

Good Friday is not a public holiday in Northern Ireland. I do not know whether that causes any difficulties with what you intend to do, but I am absolutely sure that pubs and off-sales want to be cognisant of their employees' rights and beliefs and will do everything they can to support them. I honestly cannot see that being a problem.

The Chairperson (Ms P Bradley): You are right: Good Friday is not a public holiday. We have the holiday on the Monday in Northern Ireland, so this is more to do with Easter Sunday than Good Friday.

Ms Carruthers: I cannot see it being a problem.

The Chairperson (Ms P Bradley): OK. I want to pick up on another couple of points. I asked this of Glyn, although I do not know whether you can comment on it. It is about restaurants that operate almost as bars. That happens, and it is damaging to our pubs because of the sums of money that they have to outlay. Is there anything in the code of conduct or the various rules that we need to look at to tighten up on that practice?

Ms Carruthers: You are absolutely right, Chair: this has been a problem for many years. Previously, I worked for the pubs, and it is something that we have been concerned about for an extremely long time. The majority of restaurants operate within the terms of their licences; that has to be said. However, there are restaurants running as bars. In the past, there was more of a problem in Belfast city centre with restaurants using their restaurant licence to run a nightclub. That is less of a problem now, because Belfast City Council, working in conjunction with the PSNI, used the entertainments licence to stop that. However, there are certainly restaurants still operating as bars. The Bill proposes requiring restaurants to put a notice on the wall stating how they are allowed to serve alcohol. It is what it is; I cannot see it making a massive difference in practice. The difficulty is with enforcement. Making a restaurant operate within the terms of its licence is, understandably, not high on the priorities of the PSNI, which is the enforcement body. The Committee has heard about the role of local licensing officers in England. We do not have anything like that. Enforcement here is up to the PSNI, and restaurants operating outside their licence and registered clubs admitting non-members is, understandably, low on its list of priorities. Nevertheless, it is a real difficulty. Alcohol is meant to be ancillary to the main table meal, but anything that allows someone to sell alcohol in an ancillary way will always create problems with enforcement. I am afraid that there is no easy answer because it has been a problem for many years.

The Chairperson (Ms P Bradley): I know. It has been a problem that I have been involved in in my constituency. We have had the police, councils and everyone involved. However, it is hard to pin down because you have to gather evidence. If there was something in the Bill to strengthen that, that would be good.

You had a concern about the phrase "produced in the production premises" in relation to the licensing of small local producers. Can you expand on that?

Ms Carruthers: I have heard over the past number of weeks talk about breweries working together, and that is absolutely a fair point. However, we would not want to see it become a backdoor to not having to have a pub licence, with somebody, for example, being able to say that they were a small brewer while, in reality, having nothing to do with the brewing process at all and simply putting things into bottles and selling them from their premises. I will go no further than that. It was just a note of caution; we did not think that it would turn into a massive difficulty.

The Chairperson (Ms P Bradley): Would you recommend a change of wording?

Ms Carruthers: I know that taprooms and the licences for small producers are being discussed. Having listened to the evidence over the last number of weeks, I would not want to stop our local producers being able to do what they do with regard to working with local producers. I can look at it again, but it was really to raise the issue that we did not want people pretending to be breweries. However, I suppose that that would be with regard to how any new licence was framed, but I am more than happy to look at it again.

The Chairperson (Ms P Bradley): OK, Nicola, thank you. My screen has gone off again, but I know that Kellie wants to come in, so I will go to her first.

Mr Newton: Chair, can I come in on that just as a short —.

The Chairperson (Ms P Bradley): Is that on that point?

Mr Newton: On that point.

The Chairperson (Ms P Bradley): Certainly, Robin.

Mr Newton: Thank you. If brewers were to cooperate, would you be opposed to one brewer selling another brewer's product on his or her premises?

Ms Carruthers: When I talk about cooperation, I am talking about the evidence that you have heard where the small, independent brewers say that, often, two of them will often work together and share recipes. Where both are involved in producing a product, both should be able to sell it. However, I would not go so far as to say that they should all be able to sell one another's products because that would be replicating an off-sales licence.

Ms Armstrong: Thank you very much, Nicola. This type of information is key for us. As we are talking about it at the moment, I just want to go back to the local producer's licence. At the moment, it still does not allow producers to sell for consumption on their premises. In reading between the lines — please forgive me if I have picked this up wrong — I am getting the impression that you are fine for these guys to sell off their premises and to have samples for their products —

Ms Carruthers: Yes.

Ms Armstrong: — so how do you feel about them selling their own produce for consumption on the premises, given the caveats and caution that you have raised?

Ms Carruthers: Thank you. Yes, you are absolutely right in what you read between the lines. We support what is in the Bill. However, with regard to sampling and selling on the premises, we have a real concern. I understand why the issue is important to people, but we have a real concern that they would duplicate what the pubs wanted to do. We have the problem of restaurants selling outside their ancillary licence. If they were to be allowed a taproom, that too would be ancillary to the brewing process, but who will police it?

A few weeks ago, you heard interesting evidence from the Society of Independent Brewers and the guy from Bristol saying that there are 20 taprooms in Bristol that can also sell wines and spirits. Things can start with the best of intentions, but we have a real concern that that will duplicate what the pubs are doing. We think that there is a real opportunity to work with the pubs because, if products are good and are selling, they will be stocked.

Ms Armstrong: That point about enforcement has piqued my interest. You talked about the Responsible Retailing Code Northern Ireland. I have read through the details of it. Yes, absolutely, it comes from within the sector, and there is a commitment to ensuring that it is the best possible system. However, it has no teeth.

Ms Carruthers: Yes, exactly.

Ms Armstrong: If someone is not operating within the code, you can report them to the press, the police and so on, but it is up to the police to take action. Are local brewers part of that code?

Ms Carruthers: No, they are not, because they are not really selling. The code is meant to cover everybody with an on-sales or off-sales licence, including restaurants. The code can change very quickly, so, if there were a need or a want to bring brewers within it, it could be done very swiftly.

Ms Armstrong: I am thinking about how the code can be given teeth because we know how effective a bottom-up approach can be. The industry would be involved in developing the code, but without a statutory or legal footing, it has no teeth; it sounds like Big Brother pointing fingers at people. Do you think that those on the Responsible Retailing Code Northern Ireland panel — it is a very impressive panel — want it to become a statutory code?

Ms Carruthers: Yes. They want it to be given statutory recognition, absolutely, because they recognise that what they can do when they find a licensing breach is limited, and they would like to be able to do more.

Ms Armstrong: To clarify, I am not necessarily talking about the code getting statutory recognition; I am talking about it being statutory. That means that it comes in-house to the Department.

Ms Carruthers: We would definitely want to talk about how that would work, because one of the benefits of having it non-statutory is that it can be changed very quickly. It also does not cost the public purse a penny. We have funded this and paid for it for the past 12 years. We are willing to have the conversation, but we want to see how it would work in practice.

Ms Armstrong: OK. We live in a litigious society, and I have a concern that, if the Department were to give a nod to a retail code that it did not have control over, it would end up in court because it would not have a legal footing, despite being recognised by the Department. I worked in transport, and we had codes like that, and it was made very clear to us that we could not have statutory recognition because it was not controlled by government and was not in legislation. I can understand that. I think that it is an effective retailing code, and it reads really well. The way that complaints are handled is great, and it would be good to see that extended if the Bill does include anything for craft brewers.

If you have heard the other presentations today, you will know that I am asking everybody about addiction services. We know that you are supportive of the changes to licensing, drinking-up time and so on. I know that good retailers do not want to see anybody in trouble with alcohol. For those who have concerns about the impact of alcohol on others, I wonder about that levy. I asked Glyn from Retail NI about it. Would it cause an issue for you if, almost like the retailing code, there were an industry-wide donation? Would you want that to be voluntary as opposed to compulsory?

Ms Carruthers: We would have to see what was being proposed, to be perfectly honest. The suppliers already put an awful lot of money into harm reduction. The industry completely funds Drinkaware, which is the independent responsible drinking charity. You talked earlier about people drinking above the safe drinking guidelines and alcohol-related harm. I was told the other day at a Drinkaware meeting that the Drinkaware app, which gets people to regulate, is the most downloaded drink app in the world, so that was interesting.

They have been doing an awful lot of research into drinking habits during COVID. The preliminary results of that research are interesting. As people would, no doubt, think, drinking increased during the first lockdown, but then, interestingly, it dropped way off and reduced as people thought, "Well, this is going to carry on for a while, so we'd better moderate ourselves a bit". There will be more information on that shortly.

We will have to look at a levy. A lot of money is already put into harm reduction; we just have to see how that could be spread about.

Ms Armstrong: That is a fair point. This is a question more for us as a Committee: do we know at this stage whether Responsible Retailing Code NI has submitted a response directly to our request for information?

The Chairperson (Ms P Bradley): We will let you know by the end of the meeting, Kellie. Give the guys a chance to have a look for that.

Ms Armstrong: Absolutely. Thank you very much, Chair.

The Chairperson (Ms P Bradley): The Committee Clerk is shaking his head saying no, but we will get a definite answer to that.

Ms Armstrong: Nicola, we know that your members are trying to be as responsible as possible. It is sometimes out of their hands when others act illegally.

Ms Carruthers: Yes.

Ms Armstrong: It is a really useful response that you have provided for us. Thank you.

Ms Carruthers: Thank you, Kellie.

Ms Ennis: The issue of a levy was referenced in an earlier submission about the gambling industry. There is a levy on the gambling industry, but it is voluntary, not mandatory. The PSNI has called for a levy to be introduced into the Bill to top up the wages of officers who will have to police longer opening hours. That is something that we need to consider in our deliberations on a levy.

The Chairperson (Ms P Bradley): Thank you, Sinéad, for that information.

Mark, do you have anything that you want to bring up?

Mr Durkan: No, just thanks to Nicola for the presentation.

The Chairperson (Ms P Bradley): Karen, do you want to ask anything?

Ms Mullan: No. Thanks, Nicola.

The Chairperson (Ms P Bradley): Thank you. Alex, was there anything you wanted to ask?

Mr Easton: No, thanks.

The Chairperson (Ms P Bradley): Nicola, thank you for your briefing and your submission.

Ms Carruthers: Thank you very much, Chair.

The Chairperson (Ms P Bradley): OK, bye-bye.