



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Licensing and Registration of Clubs
(Amendment) Bill: Federation of Small
Businesses Northern Ireland

11 February 2021

NORTHERN IRELAND ASSEMBLY

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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:

Mr Neil Hutcheson	Federation of Small Businesses Northern Ireland
Mr Roger Pollen	Federation of Small Businesses Northern Ireland

The Chairperson (Ms P Bradley): Agenda item number 6 is a briefing on the Licensing and Registration of Clubs (Amendment) Bill from the Federation of Small Businesses (FSB). I welcome Roger Pollen and Neil Hutcheson to the meeting. Roger, I think that you are going to begin the briefing. Can I ask that you stick to a time frame of five to 10 minutes to brief us, and then we will want to come in with questions. You are both very welcome to the meeting today. Please go ahead.

Mr Roger Pollen (Federation of Small Businesses Northern Ireland): Thank you very much indeed. I am very pleased to be here. Thanks for the opportunity to brief you and for the interest that you are taking in this subject. Your support is welcome and valuable. I know that you are taking evidence from industry sector specialists, which means that you are getting quality inputs. We really aim to complement rather than reproduce those contributions.

To put our input in context, I would like to take a moment to explain why businesses join FSB and our locus in this area, before taking your questions. Unlike most business groups, it is the business owner who joins FSB, rather than the business. We have around 6,000 members here in Northern Ireland alone, with many of them owning more than one business. We are a not-for-profit organisation, and we are owned by our members to support our members.

There are two main reasons why they join us. The first is the policy and lobbying work that we do on behalf of all self-employed people and SMEs. That policy work is rigorous. It starts with our policy unit, which Tina McKenzie chairs and which features highly respected members from across a wide range of sectors and demographics. We have sector-specific advisory panels and we survey our members and conduct focus groups and so on. All of that is supported by our policy team here in Northern Ireland, which Neil heads, and by colleagues across the organisation.

The second reason why business owners join us is the huge range of members' services that we provide. Key amongst these are the employment, taxation and legal helplines that we operate 24 hours a day, seven days a week, with indemnity. These are hugely valuable and unrivalled services. The 24/7 nature is particularly valuable and of relevance to our members in the retail and hospitality sectors, whose work and business challenges very often lie outside the standard working week.

We have a great many members in the hospitality sector, but we also have many in the associated supply chains. We have members in food and alcohol production and much more. In fact, from farm to processor, haulier to marketeer, equipment manufacturer to installer and service agent, construction and fit-out services to contract cleaning, cafe to restaurant and hotel to brewery and distillery, we have members in all aspects of not just the hospitality industry but the vast and complicated tapestry of businesses that are interwoven with it.

We are often quoted as highlighting that small businesses employ more people in Northern Ireland than all large businesses and the entire public sector combined. We quote that fact because those businesses are the lifeblood of every community and every constituency.

It is fair to say that few people realised, until the last 12 months, just how interconnected are all these aspects of the economy and how closure of one part can cripple another. If the hotel is forced to close, the food supply chain cannot find a new market quickly enough to avoid massive waste and loss. Our contribution to this discussion is framed in the context of having a great many businesses that play a key role in tourism, hospitality and much more, and who are all affected by the regulatory and legislative frameworks that are placed around the licensed sector.

Legislative reform has been needed for a very long time. Its process and progress has been unsteady and halting, but when the Assembly and the Executive first started to recognise the need for change and to engage with the sector, we were living in different times, with a buoyant and burgeoning economy, with confident and successful production and hospitality sectors winning awards, recognition and customers from far and wide. If reform was needed then, when the industry and associated economy were thriving, the need now, when we have seen many lifetimes of work smashed by coronavirus and our societal response to it, is magnified tenfold.

Earlier in the meeting, Mr Durkan quoted Lewis Carroll. With your indulgence, I will quote William Shakespeare to draw this to a close. He said:

"I would give all my fame for a pot of ale and safety."

Your support in letting us achieve both of those objectives in a more modern and responsive licensing environment is crucial. I hope that we can help you by sharing our members' thoughts and concerns. Neil can lead you through some of the other reflections that we have gathered from members along the way. Thank you.

The Chairperson (Ms P Bradley): Thank you very much, Roger, for setting the tone of this evidence session very well. We absolutely understand the pressures that many of your members are under. If, through this Bill, we can assist those members in some way, we certainly want to do that.

I want to ask you a couple of questions in relation to some of the consultation responses that you put in. One of them was to do with the issue of major events. Your response seemed to indicate that you did not feel that there was sufficient information on the parameters for defining a major event. Do you still feel that more detail needs to be put into the Bill?

I also want to ask you about the issue of aligning liquor and entertainment licences. The federation's response to the Department's consultation seemed to indicate that you did not wish to see a change in the law in that regard. Is that still the case?

Mr Pollen: I will ask Neil to come in on these specifics. He is the head of policy for FSB in Northern Ireland.

The Chairperson (Ms P Bradley): No problem.

Mr Neil Hutcheson (Federation of Small Businesses Northern Ireland): Good morning, Chair and members. Hopefully, I heard you correctly. I have a slight issue with my sound, but it seems to be OK for now.

We asked four questions in the consultation response. We felt that there was a slight lack of information at that time. A separate consultation was done prior to the Open in 2019 because officials realised that there was a potential hole on the Sunday of that four-day event, and that was the right thing to do. For members' benefit, we asked what exactly a special event is or could be; why notable events held outside of NI, a sports teams playing abroad for example, could not be considered; how a special event is designated by the Department; and which businesses may gain or lose out as a consequence. As it was, let us say, a speedy process, we genuinely wanted to find out more information. We felt that we could not make a qualified judgement at that time. We feel that that has been rectified now.

Your second point was on the alignment of the entertainment licences. It remains the case that we do not wish to see a change in that respect. That is the short way of putting it across.

The Chairperson (Ms P Bradley): OK. We will have the Law Society coming in later to our meeting, and it has a few issues around that as well. I just wanted to get your members' response on it.

The other thing that I want to ask you about is the response on small producers being able to offer product samples and product sales for off-site consumption. I imagine that you absolutely support small producers being able to sell their products on their premises and online. The issue is people having a special licence for the likes of a taproom. What is the federation members' opinion on that?

Mr Pollen: I will kick off on that. Our response was very much looking for those producers to have the capacity to do off-sales. We try to reflect what our members are telling us and act as a conduit for their voices. We have a huge footprint in events such as the Balmoral show. A lot of producers there were telling us that they are very much hampered by the inability to let people taste the product and then buy the product for consumption off the premises and that they find this wherever they produce. That was the real appetite that they were expressing.

I have to say that the appetite to take it further and develop taprooms was not expressed to us. I think that there is a lot of merit in that. I have seen some of the evidence on this, and it is very interesting. However, it is not something that has come to us from our membership. There are a lot of potential unintended consequences that would need to be considered before you explore that area. The pressure that we were feeling was just to relax things sufficiently to allow people who had shown an interest in the product to buy it for consumption in their own premises in their own time, not necessarily to go further than that. That is definitely not to say that we would be against the special licence, but we do not yet have an evidence base to take us into the advocacy of it.

Mr Hutcheson: I will build on that slightly. It is very interesting to read the departmental summary of the consultation responses. We certainly noted and reflected quite a bit on the taproom element. Some 780 comments were made by those who wanted a new licence — a 13th licence, if you like — a producer's licence, and that was, rightly, placed in the Bill. The Department noted that four of five of those comments were particularly in favour of that licence, and it noted the taproom element but did not outline just how many of those 780 wished for the taproom element. So, we found ourselves wondering just how much of a want there is for that. As Roger has outlined, we are certainly sympathetic to it. We also noted that Ms Armstrong and Mr Durkan noted it at the Bill's Second Stage. Perhaps they would like to discuss it in a little bit more detail.

The Chairperson (Ms P Bradley): OK. Thank you. We have heard very strong and very good evidence for and against. It is something that the Committee will have to deliberate on when we come to that stage.

Ms Armstrong: Thank you very much, Roger; it is good to see you again. Thank you very much, Neil. I want to go first to your comments on deliveries of alcohol. Thank you for bringing that up because it is quite stark. I have to declare an interest that I have a 17-year-old who, outside of COVID, works in a bar. At this stage, she would be allowed to accept, on behalf of her employer, deliveries of alcohol to the bar/restaurant that she works in. Under the new proposals, she would not be. As you have highlighted, this has a difficulty with regard to employment law. It is something that we certainly need to take into consideration. We, as the Communities Committee, know the number of young people who work in hospitality. Denying them access to part of their job would be quite difficult. As you have rightly pointed out, health and safety requires employers to have due consideration for under-18s. So, thank you for that.

Your issues with special events are duly noted. The points are well made.

I want to tease out with you the advertising code of practice. You have said that, instead of banning advertising in and around shops, you would prefer to see a code of practice. Who do you see managing that code? Would it be statutory or something within the industry? How do you consider that?

Mr Hutcheson: At the time, we were trying to think of ways in which you could build on the approach that is taken within the industry. In a previous evidence session, a member from the NI Drinks Industry Group noted that the industry is on its third iteration of a code. One of the questions in respect of the Bill is around the departmental or statutory stamp of approval. Having spoken to experts in the industry and some of our members, we feel that a code and that way of working builds a sense of responsibility. To be honest, it is working to rule out the exception rather than the norm. We feel that that is the way in which we could tease that area out a bit further, noting the public health element of what we are trying to do here and the balance that is needed. That is the reason that we came to the code of conduct; that is part a. Part b is about who would manage it. We feel that it probably sits within the Department as is. We had not thought about it at the time, Ms Armstrong, but it is a natural place. In our response, we stated that the Department could help to draw it up for further discussion.

I think that we got to the stage of saying yes to a code. The Bill has gone further than that, and we note that there will be some restrictions and so on and so forth. That is not what we proposed at that time, and we would stick with that. That is what we have.

Ms Armstrong: Thank you very much for that, Neil. I will not put words in anybody else's mouth, but we have heard from others. You have talked about the sale of alcohol. The sector is so widespread, how could you have the same code for a corner shop or garage as you would have for a big hotel? Thank you for that.

On the local producers, I note that you said, and rightly so, that if a local producer wishes to have a taproom, they need to have a licence and that it should be comparable in costs — I think that that is the way that I have read it — to another licence of type, so if somebody wants to run a bar, they should pay for a bar licence. The amount has me a little confused. So far, all that I have seen is that the amount for a licence through the courts is minimal, but the large amounts that are often quoted for licences are due to the private negotiations that go on. We can do nothing about the surrender principle and the way that negotiations happen with the costs of bar licences. However, if it came down to it, and there was a proposal for a local producer's licence that was the same statutory cost as any bar, would you be happy that that price should be about the same as that through the courts?

Mr Hutcheson: Let me just consider that.

Mr Pollen: While Neil is reflecting on that, I will detail some of our considerations on that. We really do not want to have barriers to economic activity, stifle innovation and so on just because you have bureaucratic systems, but a sort of silt has built up that has meant that licence values have become a part of the capital assets of the sector, which has had colossal damage done to it over the past year. You start to think that the unintended consequences of changing it and freeing it up could be huge. We need to be very careful about what those are and how we would go about mitigating them.

It is interesting that the last real piece of licensing work was done in, I think, 1996. That predates the Belfast/Good Friday Agreement, the population of Northern Ireland has swollen by a quarter of million in that time, and yet, we are stuck with a static system of a finite number of licences. Somewhere in the middle of all that, we need to find a way of responding to what society, markets and the economy want while not doing damage to people through unintended consequences. I know that that sounds like I am dancing on the head of a pin and trying not to offend anybody, but it is a bit more thoughtful than that. We genuinely need to consider people who have invested and bought assets, and we should not see the state doing something very suddenly that will very quickly remove the value of those assets without providing adequate compensation.

It is a really interesting area. We are very supportive of the spirit but are cautious about the method to get there. Neil, do you want to add to that?

Mr Hutcheson: Yes, I would like some clarity on the question first. Are you asking whether, in the event that there is a producer's licence and an amendment or an additional element were tabled that allowed for a taproom form of licence for consumption on-site, the cost of that should be similar to what exists through the courts? Is that the question?

Ms Armstrong: Yes.

Mr Hutcheson: As you know, we have not gone so far as to endorse the taproom element. If it were to go to that stage, it would appear appropriate that you would apply the same principle.

Ms Armstrong: It has not been teased out with the Committee yet, but I fully expect that taprooms would not be the same as pubs. For instance, they would be tied to producers' premises and so on. They would be completely different. You could not just go and set up a taproom anywhere. That, hopefully, would take away the competitive element with the pub experience, which we all miss dearly. It was just to make sure of that.

As far as the legal parameters of government are concerned, there is a cost for a licence. The only one that we have control over is the one that is in the courts and through the legal processes. As you said, the bidding for licences outside of that, because of the limited number of licences in Northern Ireland, has grown some licences to extraordinary costs and is a barrier to the market.

Thank you very much, folks. I really appreciate that. You have certainly opened my eyes to some elements that we need to consider, especially the equal treatment of 16- and 17-year-olds who are working in the industry. We are limiting their employment opportunities.

The Chairperson (Ms P Bradley): I have Robin waiting to come in. Members, my screen has gone again. I do not know who is waiting and who is not, so I will go to members individually after Robin.

Mr Newton: I thank the FSB for coming along and for all the work that it does throughout the year on behalf of the small business sector in Northern Ireland, which is very important. The work that goes on there is very much undervalued.

My question is a very simple one about one aspect. I agree with Roger's comments earlier that we do not want barriers to economic activity or prosperity. Nor do we want protocols to prevent economic activity or prosperity. Roger, the one area that you left blank was to do with the removal of off-sales. The question is:

"Do you think alcoholic drinks, which are bought before 11.00pm, should be allowed to be removed from the premises between 11.00pm and 1.00am".

You have not answered yes or no, and you have not offered any explanation for that. Do you want to comment on why that is?

Mr Pollen: Thank you for your kind words about the work that FSB does for its members. It is about trying to reflect what our members tell us. We did not have any particular steer from the members to qualify us to make an answer in that section. The overriding principle has to be, "What are you trying to achieve in life, and how do you go about achieving it?". It did not seem to us that there was anything that we could reasonably add to that. If there are issues to do with policing or order and so on, those need to be considered, and you consider how to address them. If there is no issue, why should there be a barrier to that sort of trade? That slightly libertarian approach is probably the right way to go. We did not feel that we had a mandate from the members to input to that. Neil, is that a fair summary of where we got to?

Mr Hutcheson: Yes, that was the only one that we did not mention, and that is exactly the reason.

The Chairperson (Ms P Bradley): Members, as I said, I cannot see who wants to ask questions, so I will just go to members individually on StarLeaf. Mark, do you have any comment, or are you content at the moment?

Mr Durkan: Thank you, Chair. Thanks to Roger and Neil. I had my hand up and then took it down because Kellie touched on the two things that I had noted down: the code of practice and the surrender principle. I think that you, Roger, said in response that you feared that you sounded like you might be dancing on the head of a pin. Welcome to our world. We identified pretty early that the issue around taprooms was going to be a difficult nut for us to crack. It is imperative that we do everything that we can to encourage and grow new businesses for future members of yours, as well as to protect the interests of current ones. That is a very difficult balance to strike. Thank for your contribution; it has been most useful in our deliberations.

Mr Pollen: Thank you. Can I just respond in some way? I know that that was not a question. Earlier in your session this morning, there was talk about whether a bid had been put in to ask for more than you thought that you might get, just to take a bit of ground. I suspect that our response to the producer part of this is that we did not do that; we actually said, "What is it that our members have been asking for?". That was to have the ability to sell alcohol to be taken away and consumed elsewhere. They did not go beyond that in the hope of just taking that bit of ground, if you see what I mean. We tried to reflect what members were telling us that they wanted at that point. Had they known that you had an appetite to go further, we may well have encouraged other responses to come in, but, at that point, we were considering it to be a limited relaxation of the laws that stood. That is maybe why we did not have the evidence base that we would look to have now if we were to take things a little further.

Mr Durkan: OK. Thank you, Roger.

The Chairperson (Ms P Bradley): Sinéad, do you have any questions, or are you content to move on?

Ms Ennis: I am content to note. Thank you.

The Chairperson (Ms P Bradley): Alex, do you have any comments or questions, or are you content to move on?

Mr Easton: Just a quickie. Thank you very much for your presentation and for all the work that you do in the business community. Do you have any concerns at all with the Bill?

Mr Hutcheson: We broadly support it. We asked ourselves that question, Mr Easton, from an objective point of view, and there are some elements that we would perhaps tweak such as, for example, the definition of "entertainment". So, a self-employed DJ being able to do what they do and licensing laws apply; we would tweak that sort of thing. In our consultation response, we also tackle the loyalty scheme issue. Our preference was to ensure that our members, the producer and others in the industry could have the choice to act responsibly and for that to be policed properly. Our internal questions were, "Where are we now? Where will this take us? Will that give the industry here the opportunity to grow into itself that bit more in the coming years?". The answer was a definitive yes, and that is broadly why we support it.

Mr Easton: OK. Thank you very much.

The Chairperson (Ms P Bradley): I want to ask a supplementary on the back of Alex's question about the loyalty scheme. Can you give us a little bit more information on your views on that?

Mr Hutcheson: Having spoken to members, there is certainly an appetite to continue that in certain respects, and we note the public health element and the off-chance that it could be open to abuse. We took a decision — again, driven by the members — that it should be allowed to continue. It is as simple as that. We know that others in the industry support that view.

The Chairperson (Ms P Bradley): If the Bill goes ahead as is around the loyalty scheme, what sort of effect would that have on your members?

Mr Hutcheson: It will potentially have an effect on those who run a loyalty scheme, but we always look to the potential for innovation. It is not even necessarily about innovating solely around the selling of alcohol but is the combination of local producers interacting with, for example, a licensed premises and combining food and local produce. There is quite a lot of opportunity still to go in that space. Agri-food is a big thing in NI. We focused our attention on the potential. We do not have a solid evidence base on how the impact would ripple out, and that was the balance that we struck in our decision in that respect.

The Chairperson (Ms P Bradley): Neil, thank you for that. Karen, do you have any comments, or are you happy enough to move on?

Ms Mullan: Robin asked my question on the off-sales, so I just want to thank Roger and Neil for attending today and giving the briefing. I certainly know the excellent work that you do in representing your members. Thank you so much for that.

Mr Pollen: Thank you very much.

The Chairperson (Ms P Bradley): Thanks, Karen. OK, Roger and Neil. No other members have indicated that they want to ask any further questions. Again, thank you for being part of the evidence gathering and for briefing the Committee today.

Mr Pollen: Thank you very much. Can I just see whether Neil has anything that he wants to add by way of a concluding remark?

The Chairperson (Ms P Bradley): Absolutely.

Mr Hutcheson: I have one final point that I did not mention. One issue that came to the fore quite a bit was how the process and the simplification of licensing law will play out on the ground once this all flows through. We therefore urge members to keep in mind the red tape and the simplification of the process. In one of your evidence sessions, one of the local brewers noted that, in ROI, one producer's licence had been allocated so far, and they felt that there was a large amount of bureaucracy. Therefore, even if the Bill is passed and the process is put in place, it is important to note that things can always be improved in that respect. That is everything. Thank you.

The Chairperson (Ms P Bradley): Thank you for that. Go ahead, Roger.

Mr Pollen: The final point is that I know that, because of things within the year, there are lots of aspirational targets for when people hope that the Bill will become law. Obviously, Dr McBride's comments in the last couple of days have suggested that that may be very wide off the mark. Nonetheless, notwithstanding what the short-term targets and restrictions are, we urge a sense of urgency in getting the Bill through and bringing the legislation into force. We obviously know that the Assembly has another year to run before breaking to go to elections. The Bill's gestation has been awfully long. There seems to be a current running with it, and there seems to be support for it. A lot of good work has been done on it. Given the support, attention and focus that you have brought to it, I urge you to try to keep that momentum going so that we get the legislation in place and that the industry, which is currently on its knees, will at least have a degree of certainty to start to plan, along with the hospitality and tourism sectors, what its next phase is beyond that.

The Chairperson (Ms P Bradley): Thank you for that, Roger. I assure you that the Committee will not take any longer than is absolutely necessary in its scrutiny of the Bill. We are marching on: we have only a few weeks left of scrutiny before we move on to deliberations. We will not hang on to it for any longer than we need to. Thank you for joining us today.

Mr Pollen: Thank you very much.

Mr Hutcheson: Thanks. Bye.