



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Licensing and Registration of Clubs
(Amendment) Bill: Institute of Licensing

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Stephen will also give you a bit of background on the Institute of Licensing and how it operates across the various jurisdictions. You will have read our written submission, and I will not go through each point in turn, as I appreciate that you will have spent time going through it. I will flag just a couple of points from our perspective.

The Institute of Licensing welcomes amendments that will modernise legislation here and views the reforms as being very valuable and an opportunity to develop the hospitality and night-time economy, while protecting community safety and public health. Various points in our submission cover some aspects of the Bill. The provisions for additional hours at Easter is one such aspect. The Institute of Licensing is very supportive of the proposed change. The removal of Easter restrictions is in force in England and Scotland, and the Institute of Licensing does not see difficulties with the change in those jurisdictions. Allowing additional opening hours would give licensed premises here flexibility to grow the night-time economy. On the additional hours provision, the Institute of Licensing recommends that the Department develop guidance on the legislation and work closely with all stakeholders, including the PSNI and local councils.

One point that we flagged in our submission is that of the alignment of liquor and entertainment licences. We flagged that because we believe that the proposed change may limit some of the flexibility in the current system, given that, under the Bill, licensees who wish to provide entertainment beyond the hours of their alcohol licence will not be able to do so. That will fetter the discretion of our local councils, which, as you know, issue entertainment licences at present, whereas the courts deal with liquor licences. That goes to a wider point that we flagged, which is that, although it supports the changes, the Institute of Licensing would support wider changes if there were an appetite to look at moving to a council-based licensing system. At present, we deal with a system that is a lot more court-based.

I will move on to some of the other parts of the Bill that we flagged up in our submission. The Institute of Licensing absolutely supports the provisions on special events. I note that Tourism NI touched on that, so I will not go into it. We really support that provision. We also support the provision on a local producer's licence. I know that you have heard from a number of stakeholders in that field about that issue in your various evidence sessions.

The Institute of Licensing is supportive of the clauses that deal with young people in licensed premises, including clause 12, which deals with children and young people at private functions. From our perspective, we are seeking for private functions and other functions to be defined clearly in the legislation so that there is no ambiguity when it comes to the provision being enforced by the police and local councils.

In our submission, we flagged an issue with clause 15, which deals with vending machines. The provision could limit innovation in the sector, and the Wine and Spirit Trade Association touched on that earlier. Our submission highlights some examples. One such example is how those machines work in Pennsylvania. We also highlighted the example of a Nottingham-based scheme and the technology that it uses. Although I can see where the clause is coming from, in that it relates to a straightforward vending machine that anyone can use, we do not want to limit innovation and creative change as technology changes. We want to make sure that we do not tie ourselves to something in the Bill that limits that going forward.

Stephen will speak about Scotland's experiences and about how the clause 16 provisions that replicate provisions in Scotland operate in practice there. The Institute of Licensing is supportive of the advertising changes. The Wine and Spirit Trade Association touched earlier on the issue of prohibiting loyalty points schemes, which is in clause 17. We ask why that is necessary if it restricts consumer choice under, for example, loyalty point schemes in supermarkets. That is all that I had to cover, Chair. Stephen will touch on a few more things, if that will be helpful.

The Chairperson (Ms P Bradley): Eoin, thank you.

Now we are having an issue: our system has failed. We have an unstable connection in the Assembly as well. Welcome to the world of the internet.

Mr Devlin: Modern technology.

The Chairperson (Ms P Bradley): I do not even know whether Stephen has rejoined the meeting. If he has rejoined, can he be brought into the spotlight? I will not know whether we are able to hear him unless he speaks.

It is like a seance now. Is anybody there?

We cannot see anything at the minute. I am not hearing Stephen's voice, which is a shame, because I am very interested to hear about his experiences, especially in Scotland. I do not think that we have sound from Stephen, and I do not even know whether he has rejoined the meeting.

The Committee Clerk: I cannot get back in at the minute.

The Chairperson (Ms P Bradley): I have no access to the screen, Eoin, so we will have to continue with just you. If we cannot get Stephen back in, we will try to fit him in on another date.

I want to ask you a couple of questions. You said that you support clause 16 — I read that in your submission — which is about advertising and promotions. We have heard conflicting evidence on that from various witnesses, with some saying that it could be restrictive for small businesses. Do you have any comment or opinion on that?

Mr Devlin: Yes, Chair. I have read some of the previous evidence and can see how that could have an impact on some small businesses, but if the advertising is kept to a licensed area, that will hopefully work. Stephen will touch on how that works in Scotland, where it has worked quite well. It is about striking a balance between protecting young people from advertising and allowing companies to advertise their products.

The Chairperson (Ms P Bradley): My screen is back up in front of me again, thankfully. Stephen has not rejoined the meeting for some reason or other. Perhaps he cannot get back in. If we do not get him in before the end of the session, we will ask him to come back, as I said. There is no problem with that.

Mr Devlin: He is back.

The Chairperson (Ms P Bradley): Is he back? He is not back on my screen. Can you text him, Eoin, to see whether he is there?

Mr Devlin: He is on my screen, Chair.

The Chairperson (Ms P Bradley): He is on your screen; he is just not on our screen. There we go. Technology is just wonderful.

Stephen, we cannot see you. I am sorry. I do not even know whether you can hear me.

Mr McGowan: I can hear you, Madam Chair. Can you hear me?

The Chairperson (Ms P Bradley): I can hear you now. There we go. You have come up on our main screen but not on the screen beside me. Please go ahead, Stephen.

Mr McGowan: First, I should say that I am delighted to be able to speak to you [*Laughter.*] It is an honour to be asked to speak to the Committee today. Yes, the old Wi-Fi between Belfast and Glasgow was down at the start of the meeting, but hopefully all is well now.

Madam Chairperson and members, I am a specialist licensing solicitor from TLT. I spend my days representing the licensed trade, but, today, I am here in my capacity as a trustee of the Institute of Licensing. Given that my connection dropped off, I am not sure what Eoin said, so apologies if there is a slight amount of repetition. I am a director of the Scottish region of the Institute of Licensing, and I am here today to stand in for the chairman of the Northern Ireland region, James Cunningham, who is the licensing manager for Belfast City Council. He could not be here today, so I am standing in.

The IOL is a registered charity whose role is to promote best practice in the licensing system. What I mean by that is that its role is to represent and support licensing issues. The IOL is a broad church. We represent local authorities, councils, police authorities and specialist licensing solicitors, such as Eoin and me, all over the UK. [*Inaudible*] 10 years ago, and we have a regional presence across the UK, including in Northern Ireland, which has been an established region for many years. We are delighted to give evidence to the Committee today and engage with you on the licensing reform proposals.

While my connection had dropped off, you hopefully heard from Eoin about what the institute had to say in its written response. My role today is now perhaps to provide you with some comparison with Scottish alcohol licensing, especially given that the scheme has some notable crossover with your proposals. I can say that, having watched a number of the other evidence sessions as well as what was discussed earlier this morning, it seems to me that there are perhaps four key areas that may be of interest to you. I will briefly go through them, and, of course, I am happy to take any questions that members may have.

The four areas that I picked up on when reviewing the evidence sessions are issues with loyalty cards, taprooms, extended hours and tightened alcohol display regulations. I will tell you what happens in Scotland and what our experience has been with these things.

I will take taprooms first, on which there were various discussions this morning, it is fair to say that, in Scotland over the past number of years, there has been a boom in small, local craft breweries the length and breadth of Scotland, many of which I represent and have secured licences for. They supply local beer to the pubs in the local area as well as to shops, and many of those breweries have taprooms. The presence of taprooms in brewery premises in Scotland is a completely uncontroversial topic. That appears not to be the case in Northern Ireland, which is perhaps because of the licence moratorium.

From a Scottish licensing perspective, my experience has been that local publicans are supportive of local breweries wanting to provide *[Inaudible]* or a visitor facility such as a taproom, because it adds value to the wider amenity of an area. The Scottish perspective is that it is very much a shared success if you have attractions in an area that are invested in, thus becoming more attractive. That is considered a shared success for multiple businesses and the community in the area. That therefore is the experience that Scotland's taprooms offer.

We are up to around 120 independent breweries in Scotland now, which is a fantastic number. They were thriving pre-COVID, but even during lockdown, when unlicensed breweries were suddenly without a route to market owing to pubs and restaurants being closed, a significant majority of local licensing boards, the authorities that issue licences, were very supportive in granting special temporary licences so that those breweries could sell directly to the public. Would breweries have survived the first lockdown in the latter part of last year otherwise? As a result of being granted those special licences, many of them have instead gone on to apply for and secure full licences.

It is probably fair to say that taprooms are not for every small brewery. It is not for every brewery to offer a facility of that nature: a default position in the Scottish experience. It is, however, something that more and more breweries are wanting to do and have been able to do, and the Scottish licensing authorities have supported that *[Inaudible]* lockdown. It is accepted that they are part of the wider tapestry — pardon the pun — to boost local tourism and an opportunity for an area to experience communities and jobs.

Another point that I want to make is that crossover and takeover breweries are very popular and successful in the Scottish market. One of the members asked a question about them earlier of the gentleman from the tourism body. From a Scottish perspective, they are very popular. Breweries join up with one another to produce special and particular beers fairly regularly. That is an insight into taprooms in Scotland. I hope that that has been helpful.

Loyalty cards is another hot topic that I discerned from earlier evidence. Such schemes are lawful in Scotland, because alcohol can be gained through accumulating points on loyalty cards *[Inaudible]* we employ the concept of cash equivalency. In other words, in order to get points from a loyalty scheme, you have had to pay money for other products to get the benefits.

There was a bit of interesting interplay on minimum pricing and loyalty cards. I am sure that members will be aware that minimum pricing has been in place in Scotland for a few years now. It was introduced in 2018. The Scottish Government's position and, indeed, now the law is that minimum pricing and loyalty cards can coexist. Where a loyalty card reduces the cost of an alcoholic item to below the minimum price, that still *[Inaudible]*, because the loyalty points equate to a cash equivalent. It is that cash equivalency that rules the day when it comes to the use of loyalty cards. That is something that we are well used to having in Scottish supermarkets and other retailers across the country, and it works well with the systems that we have, including the famous — or infamous, depending on your view — tradition of minimum pricing. The other topic that may be of some interest to the Committee is that of later hours and extensions. Putting COVID and the lockdown period to one side, it is fair to say that there has been a clear move to a later hours culture over some years. People

start their night out later and, therefore, want to stay out later. In Scotland, that phenomenon has been observed and accepted by local licensing boards. Scottish licensing boards are not the council; they are an independent creature. Local councillors sit on the board but their decisions are independent of decisions by the local authority. Scottish licensing boards have reacted to the well-observed phenomenon of the later hours culture. Many licensing boards have introduced pilot projects to allow premises to trade later.

The first and probably the most famous of those was in the Fife area, where premises in places like Kirkcaldy were allowed to trade until 4.00 am. When that proposition was put forward, Police Scotland — the single police authority in Scotland — was, it is true to say, very concerned about the idea of later hours. It was very concerned about antisocial behaviour, asking whether we were just putting grief back an extra hour or two at the end of the night, and opposed the pilot project. The licensing board decided to adopt a suck-it-and-see approach and to run the thing for a year. At the end of the year, the premises in Kirkcaldy and other parts of Fife that had been trading until 4.00 am were all called back in, along with the police, for a review. At that stage, the police completely reversed their position and said that it was the best thing that could have happened for antisocial behaviour in the area because it had gone down significantly. Part of the reason for that was that people were more relaxed and leisurely; they were not rushing to finish their drinks by an earlier cut-off time and were not rushing to get taxis and causing resource issues in that regard. With the staggered and later closing times, people went home in fits and starts, which had a positive impact on antisocial behaviour. So, when the year-long pilot in Fife ended, the police supported it. Fife has moved forward on that basis for a few years.

There are other examples. For example, in Glasgow city, a 4.00 am pilot was introduced for nightclubs. However, the nightclubs only got to take advantage of that for a few months before the lockdown kicked in, so we have not seen the impact of that properly. Similar projects have been run in smaller Scottish locales, in places such as Dumfries and Dumbarton. Those smaller and, in some cases, rural areas have recognised the need for later hours and have instituted projects where they have granted licences — permanent licences, in some cases — for later hours, and it seems to have gone well.

There are always, of course, individual cases where there is antisocial behaviour, and, in those cases, the licences can be brought back in and varied or reduced. However, it is fair to say that, across Scotland, numerous local licensing boards have granted later hours, and those projects have been successful, not just for the operator and the customers who want to go out and stay out later but for the wider local communities and for the responsible authorities, such as licensing staff and police.

That gives you a few insights into the Scottish licensing system; I hope that it was useful, and *[Inaudible]* any questions for me. Thank you for your time.

The Chairperson (Ms P Bradley): Thanks, Stephen; that certainly was useful. You were listening in earlier, so you may have heard — you have heard about this in previous evidence sessions — about the loyalty card issue and how it will pose us a great problem. As you said, we do not have minimum unit pricing here, and how the Department is going to achieve what it wants to achieve with the loyalty card issue is beyond me, because all I can see is it causing great problems for many of our large retailers.

Can I take you back to the local producers issue? You listened to some of the conflicting evidence that we are getting along those lines. As part of our deliberations, we will have to look at the issue very seriously, and we will definitely have to look at taprooms as well. How does licensing in Scotland work for local producers? How much does a licence cost? Will you give us a ballpark figure of what a local producer could be looking at to have a licence and to have a taproom?

Mr McGowan: I am happy to help with that. The licences for taprooms in Scotland are essentially no different from licences for any other type of on-sales premises, such as a pub, a bar, a restaurant or a nightclub. Every on-sales licence in Scotland is referred to as a premises licence. In fact, the same system operates in England and Wales, although there are differences. If you have a brewery that wants to sell alcohol on its premises, which is colloquially known as a taproom, the application process is identical to that for a new pub or restaurant that may be opening.

The licensing fees payable to the local authority are based on a sliding scale and are linked to rateable value. The absolute maximum that can be charged is £2,000. Off the top of my head, based on my experience as a solicitor who represents breweries, I would say that an average cost for a brewery to

apply for a licence for its facility is between £1,000 and £1,500, because the rateable value for a small unit, which may be in an industrial estate, will clearly be a lot smaller than for a five-star hotel.

The Chairperson (Ms P Bradley): Thank you for that, Stephen. You know that our licensing system here is very different. How do you think that we should proceed with those licences? The figure of £1,000 to £1,500 based on rateable value seems like a fair enough price. If we progress this, how do we ensure that there is a fair price across the board here? At the minute, there is certainly not a fair price when it comes to our licences, with the surrender principle and the cost that some people have to pay for a licence here for a pub or restaurant. How do you think that we could progress that? What would be a fair way of progressing it?

Mr McGowan: If we put the surrender principle and the moratorium point to one side, and if we look at how the licensing regimes are costed across other elements of the UK — England, Wales and Scotland — we see that, in the vast majority of cases, the fees are based on setting it to be cost-neutral to the system. In other words, the fee applied to the licence is based on what it would cost the authority to process the application. The local authority should not profit from the application. Generally speaking, it would be on a cost-neutral basis. That is a possibility. If you were to introduce a special licence that was unaffected by the surrender principle, you could look to set a fee based on what it would cost a local authority to process that in time. You could try to work out a fee that way.

Another example that you might use, specifically, for brewers — I think that it would work only for brewers — is a graded fee based on the amount of alcohol that is produced. I am sure that you will have breweries of different sizes, and, therefore, the amount of litreage that is produced may be a relevant test as well. Ultimately, it is a matter for you to decide how to proceed with the idea.

The Chairperson (Ms P Bradley): Thank you for that, Stephen. I understand where our pubs are coming from as well. They are saying that they have had to pay an extortionate amount for their licence, and they have extortionate overheads and everything else. They want to see a fair system as well. It is about trying to balance that fair system for both, which will cause us and the Department an issue going forward.

I will open up now to questions from members.

Ms Armstrong: Stephen, that is very useful. I want to go back to your paper. You talk about lower age limits at events. Will you tease that out a bit more for us? You say, for instance, when there is an eighteenth birthday party, there could be an issue for the police to enforce that, and you mention the lower age limit.

Mr McGowan: I will let Eoin answer that [*Inaudible*] not to give him too much of a surprise. As the Northern Ireland representative, it is probably more appropriate for him to answer. Then, if necessary, I can come in from a Scottish perspective to give context.

Mr Devlin: I think that NI local government will be giving evidence to you, as well, on this point. It is about whether there should be a lower age limit for those events, particularly ones that, if they are a private function, might go on to 1.00 am. It is about how you put safeguards in place around all those factors.

Ms Armstrong: Is it the case that you do not have in mind that, for instance, at an eighteenth birthday party, where alcohol can legally be sold on the premises, it should be limited to 18-year-olds?

Mr Devlin: We are on the same page, yes.

Ms Armstrong: OK. There is the issue of age verification for delivery. Eoin, do you have any thoughts on how that could work? Stephen, do you have experience of that from Scotland?

Mr McGowan: I will go first on that one. In the Scottish system, the position with those verifications is essentially no different from buying a pint in a pub or standing at the checkout in the supermarket. If I order alcohol to be delivered to my house, the person delivering the alcohol has to verify my age. If I teenage daughter, for example, answers the door, instead of me or my wife, they have to come and get me or produce proof of age to show that they are 18 or over. The Scottish system also requires a refusal of delivery where the person attempting to receive the goods is under the influence, in the same way that a drunk should not be served at a bar. [*Inaudible*] system, but it also has significant

record-keeping requirements. For example, a huge number of the breweries that we talked about survive through home deliveries of product, because they do not have another route to market. They have to keep records; there has to be a delivery book, a day book, the customers' details and the amount of alcohol that has been ordered. Record-keeping of that nature is a part of the licensing requirements in Scotland.

Ms Armstrong: Thank you. I have a couple more points. Your paper talks about having sporting club events open throughout the year for younger people. Can I have your thoughts on that? There is a proposal that you maybe have it only once in the year. Does it make it more difficult to limit it to once or a few times a year? Would you rather see the same rules for the summer and the winter?

Mr McGowan: That is one for Eoin to answer.

Mr Devlin: Yes, that is what we are saying, Kellie. Rather than limit it to the summer months, we should have it throughout the year. Stephen, that is how it works in Scotland, across your jurisdiction. There is no summer-month limit for the sporting clubs.

Ms Armstrong: OK. To be honest, that makes sense, and makes it easier. I am not sure why this limit has been put in.

In another part of your paper, you talked about people drinking alcohol on vehicles. I was going to say to the Chair that we need to write to the Department for Infrastructure. A few years ago, legislation was brought forward about the consumption of alcohol on vehicles and that may be in legislation already.

Mr Devlin: Yes. We raised two points about that. It is whether it comes under this legislation or a different piece. There have been issues, such as bus drivers not wanting to take responsibility for that. The question is where that legislation would sit. It is a relevant point that we want to flag, because it is very prevalent across our communities, as you probably know.

Ms Armstrong: Party buses were a big concern, when I worked in transport. There was prosecution of the driver, if people were drinking on the bus or in a taxi. We need to match in with the Department for Infrastructure on that one. Thank you very much, guys.

Mr Durkan: Thank you, guys, for that. The issue that Kellie raised at the end about transport is the one that I wanted to come in on. You have categorised it as a missed opportunity *[Inaudible]* When I was in the Department of the Environment, this issue caused headaches for the officials and heartache for many parents and transport providers out there. Now that it has been raised, I concur with Kellie that it is not something that we can ignore. We have to see if there is an opportunity to address it, through this legislation, and working with the Department for Infrastructure, which also has a role. You might have given us a wee bit more work to do, as if we have not got enough. *[Laughter.]* Do you have examples of how other jurisdictions deal with this, or is it a particular issue here?

Mr McGowan: I can answer that for Scotland and, indeed, for England and Wales. The Scottish system and the English and Welsh systems allow vehicles to be licensed, but you must remember that we put up with the *[Inaudible]* moratorium, so the granting of new licences is based on the merits of that application and not whether another licence exists. In Scotland, it is common for the vehicle to be licensed, and they hold *[Inaudible]* the same type of licence that applies to a pub. The benefit of that to the system is that the person who wants to run the business is vetted by the police and is subject to the fit-and-proper test and the vehicle is subject to safety checks, to an extent. That puts everything into the regulatory system. That has to be part of it, because how do you deal with activities when they are operating outside the system? The fact that operators have to apply for a licence for a vehicle means that the regulator can keep a check on them and that the licence can be reviewed every so often or revoked if the person is allowing underage drinking, for example. It is brought into the regulatory system. That is the preferred approach in the other constituent parts of the UK.

Mr Devlin: You cannot license a bus or party bus, for instance, under the Licensing Order 1996, within which our licensing categories fall. When that was drafted, such a vehicle was not envisaged, and it is not a category of licence under that legislation.

Mr Durkan: Thanks, guys. It is something that we might have to look at in collaboration with other Committees and Departments.

The Chairperson (Ms P Bradley): No other members have indicated that they want to comment or ask anything. Thank you, Stephen and Eoin, for briefing us today. Thank you for your submission in our call for evidence.

Mr McGowan: You are welcome. Thank you for the opportunity.

Mr Devlin: Thank you very much.