



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Licensing and Registration of Clubs
(Amendment) Bill: Committee Deliberations

25 March 2021

Mr Liam Quinn (Department for Communities): Chair, the detail would have to be worked out. There are different models used around the world. The Chair is quite right to say that it would be those premises that avail themselves of late-night licences who would pay for it. The levy would pay for the clean-up afterwards, for policing and for emergency treatment for anyone who suffers, and it would possibly even go to charities that help people get home when they are in distress. There is no detail, however, on how the levy would be collected. All that work would need to be done.

Mr McCann: OK. I appreciate that.

The Chairperson (Ms P Bradley): We heard that a vast percentage of it would go to statutory services. I cannot remember who brought it up last week — perhaps it was Karen — but it was asked, if there were some sort of levy, whether it should go to the voluntary and community sector or pay for rehabilitation to help anybody with alcohol-related issues. It is therefore a much bigger issue than saying, "Let us bring in a levy". A lot of technical stuff would have to be gone through to decide what percentage of it would go where.

Ms Armstrong: Chair, as you said, the idea of a levy looks amazing on paper, but the practicalities involved in working it out for inclusion in this Bill would be a step beyond. From the Department's point of view, if, after a period, whether for a major event or extended hours for the night-time economy, we found that there was a significant cost and we did not have the levy in the Bill, would secondary legislation be required? Could it be added through regulations? If it were not in this legislation, how could a future Minister bring in the levy?

Mr Quinn: Specifically on the levy, primary legislation would be required. We would be taking the power to impose a levy on businesses, so primary legislation would be needed. I imagine that a lot of secondary legislation would be associated with that to decide how the levy would be distributed.

Ms Armstrong: OK. Thank you.

The Chairperson (Ms P Bradley): All right, members. Are members content to note the proposals that the PSNI sent the Committee?

Members indicated assent.

The Chairperson (Ms P Bradley): Members have also been provided with a tabled letter from Hospitality Ulster that asks the Committee to support its call for rural pubs to be able to diversify and provide a range of community services, local farmers' produce etc. That type of trading is evidenced across the UK in the Pub is the Hub model. Hospitality Ulster proposed that that could be accomplished by a change to the regulations. As far as I am aware, it is not in the Bill and a different set of regulations would be required. I will go to Liam and Carol first on that proposal.

Ms Carol Reid (Department for Communities): I will take that one. To provide a bit of background, Pub is the Hub is a not-for-profit organisation based in GB. It has volunteers that provide independent specialist advice to pubs, particularly to rural pubs on rural diversification where local communities have been left without a bank, a grocer's, a bakery, a library or something like that. Hospitality Ulster engaged with the Department in, I think, September 2019 as part of its consultation on the Bill, and it raised that issue with us. As part of that, it was to do a piece of work on what need there would be for that here, and the Department then looked into its feasibility under the current law. As usual, it is not exactly straightforward. Prior to the current Licensing (Northern Ireland) Order 1996, licensing legislation prohibited any other business from being carried out in pubs. The 1996 Order withdrew that, so the Department sought legal advice on that and whether that would mean that it would be possible and legal within the current legislation. Our solicitor has told us that, although the 1996 Order does not state that it would be illegal, she would caution against saying that it was legal.

A number of issues were raised. When a pub goes to court for a licence, the court looks at the suitability of the premises. That would be the premises for just the alcohol licence, and the court would not be looking at what else goes on in the premises. Our solicitor cautioned that, at the renewal stage, if a pub were to go to a court and had, for argument's sake, a library in it, the court could have an issue about whether it was a suitable premises to hold a licence. Similarly, there is a process for alterations that we discussed recently in the licensing legislation. For any specific changes to the means of passage between where a pub sells alcohol and any other parts of the building, the pub would have to go to court in advance. Our solicitor therefore urged caution on a number of issues.

Hospitality Ulster proposed using a power that is already in the Order to make regulations, but the solicitor confirmed that that would not be suitable. The regulations that Hospitality Ulster referred to talk about prescribing conditions under which any business authorised by the licence can be carried out. The business authorised by the licence under the Licensing (Northern Ireland) Order 1996 is the sale of alcohol, and the only regulations that are used for that are the mixed trading regulations. Those are for supermarkets and allow them to state how they will sell alcohol in supermarkets, as opposed to what Hospitality Ulster suggested, which is how you would carry out another business while you sell alcohol.

We do not have a straightforward answer to that, Chair. The solicitor has urged caution, and it is not quite clear at the moment.

The Chairperson (Ms P Bradley): OK. Thanks, Carol.

Ms Armstrong: Thank you very much for your explanation, Carol. That had me completely confused. I live in a rural area, and the pubs there are certainly hubs. I know of a few rural pubs that have diversified and have small shops attached to them, and they could, of course, apply for a post office licence if they wished. I could not quite understand why there would be a need for extra regulations, but you have clarified that for me. It would be outside the Bill, and a bit more work would need to be done on that. As was said, regulations rather than primary legislation would be needed, and I am happy enough with that. I understand better now what the limitations are on pubs. As you said, it would not be illegal, but it would not be good practice for them to extend beyond their licence. Thank you.

Ms Mullan: I am the same as Kellie, Carol. Thank you for that explanation. It is all very interesting, as we work our way through the Bill.

Carol, did Hospitality Ulster cite any options? Has it produced any papers on what a pilot would look like of a village or town that does not have a post office or a shop and where the only hub is the pub? Did it go any further?

Ms Reid: We have not received anything so far. Work potentially had begun on it, but the pandemic started early last year. That engagement took place in September 2019, so, no, there has been nothing forthcoming as yet.

The Chairperson (Ms P Bradley): There is nothing to stop us, when we do our final Committee report, making some comment that it is something that we want the Department to explore. I know that Mark has brought this up several times, but, when villages and small towns see the loss of a licence, that is the licence gone. We need to look at whether we can do something to help smaller village pubs and smaller town pubs to be sustainable. We will discuss that in closed session, but we can put at the end of our report that we have heard what they are saying and that we recommend that, in the future, some exercise can be scoped out to look at how sustainability can be achieved. Are members happy with that?

Members indicated assent.

The Chairperson (Ms P Bradley): You have been provided in your tabled papers with a letter from the Market Inn in Draperstown expressing concerns about taprooms. The letter highlights the point that the pub trade is currently held to account by the value of the licence and that adopting the taproom model would undermine that and add further unfair competition in what is an already struggling trade.

I will also make you aware that, since that tabled paper went out, we have received two similar letters from the same constituency. Those will be included in the next Committee meeting pack. I propose that we note the letter and consider the issues later when we get to the deliberations on clause 8, when we will consider the departmental response on that issue. Are members happy enough with that?

Members indicated assent.

The Chairperson (Ms P Bradley): You have been provided in tabled papers with a departmental response on the questions raised by the Society of Independent Brewers (SIBA) about the Committee's discussion on the issue of taprooms at its meeting on 11 March. We received a letter in

which it was disputing that taprooms had been part of the conversation prior to our receiving the Bill. Do members have any questions or comments? No? Liam is here. Do you want to make any further comment on that response, Liam?

Mr Quinn: The Department has provided a comprehensive response to the enquiry, and I have nothing further to add.

The Chairperson (Ms P Bradley): OK. Members have been provided with a copy of the delegated powers memorandum from the Examiner of Statutory Rules. Do members have any comments on that? Are members content to note it?

Members indicated assent.

The Chairperson (Ms P Bradley): After the meeting on 11 March, when we started our deliberations, we wrote to the Department with queries about several clauses. The departmental responses are in your pack. Liam and Carol are here to answer any further queries that we might have.

I suggest that we go through the responses to each clause, starting with clauses 1 and 23, which relate to the removal of additional restrictions at Easter. The Committee had queried the issue of staff protection if they did not wish to work the additional hours at Easter. The Department for the Economy has advised that there is no statutory provision to require employers to allow workers to opt out of working on religious festivals, unless there is a specific agreement on the matter in the individual's contract of employment or in a written statement of terms and conditions. That applies to all employees/workers, irrespective of the sector in which they work.

DFE further advised that employers need to be aware that a refusal to grant Christian employees time off for any of the bank holidays with religious significance could amount to indirect religious discrimination if it places them at a particular disadvantage when compared with employees of other faiths or non-religious employees. I am content with the response. We knew that that was going to be the response. Do members have any comment on that or any further questions that they want to ask of Liam or Carol? No? We are happy enough then with that response.

We move to the Department's response on clause 4, which concerns police authorisation for additional hours. The Committee proposed that, if it considered the increase to 104 days for clubs to match other licensed premises, it made sense to do the same for small pubs and clubs. The Minister is minded to consider the proposal from the Committee to increase the number of police authorisations for additional hours. Should the Minister agree with the Committee's proposal, the Department will take forward the amendment, subject to Executive agreement. Do members wish to propose an amendment to that clause? If so, we can discuss it in closed session later. I think that there was overall support from members for the proposal that everyone should move up to 104 days, so we will ask Liam and Carol to take back to the Minister that that is certainly the Committee's view. Yes?

Mr Quinn: Yes.

The Chairperson (Ms P Bradley): We need to consider the response on clause 5, which concerns the extension of drinking-up time. We queried the building of a review of that provision into the Bill. The Minister is content to provide a written commitment to a review of the extension of drinking-up time, as the evaluation and review of the extension is vital for providing an evidence base should there be any need to revert to 30 minutes via the power included in the Bill. I remind members that there were discussions last week on the potential for a wider review clause to cover other aspects of the Bill, so you may wish to consider that decision in closed session later. Is there anything that you want to ask of Liam and Carol on that issue or about the Minister's response, or are we happy to discuss the issue in closed session and make our decision today on whether we want to do an overall review? Let me hear you.

Mr Allen: I am content with that approach, Chair.

The Chairperson (Ms P Bradley): OK. We will look at it in closed session.

We move to the response on clauses 15 and 30, which concern the prohibition on self-service and vending machines. We agreed with the clause but queried whether an honesty box in a guest house is also covered. Officials have discussed the issue with the Bill's draftsman and believe that honesty

boxes are captured under clauses 15 and 30. I brought that up and am content with the response. Are members also content?

Members indicated assent.

The Chairperson (Ms P Bradley): We move to the response to clause 16, which concerns restrictions on off-sales drinks promotions in supermarkets etc. We sought clarity on the distribution of leaflets and brochures. Officials have discussed that with the Bill's drafts person and believe that the distribution of leaflets within the 200-metre radius are captured under clause 16. It should be noted, however, that only leaflets or brochures that wholly or mainly promote the purchase on those premises are captured. Are members content with that response? I think that that clears up that issue, but, if members feel differently, they should say so now.

Mr Durkan: It does a wee bit, Chair. I will just pick a shop as an example: Eurospar. There are loads of Eurospars everywhere, and sometimes they have common offers. Say that Eurospar had an offer on 12 cans of Carlsberg for £10 or whatever and a leaflet was produced that had that information in it and leaflets were sent out along with newspapers or through Royal Mail or another delivery agent and came through doors of addresses within 200 metres of a Eurospar, that promotion would not wholly be from the Eurospar within that 200 metres, if you know what I mean.

The Chairperson (Ms P Bradley): Yes.

Mr Durkan: Sorry to confuse things a bit.

The Chairperson (Ms P Bradley): It would not be like you, Mark. Liam or Carol, do you have any response to that?

Ms Reid: I can take that, Chair.

Mr Durkan: Sorry, Carol.

Ms Reid: You are OK. The promotion would not be classed as a promotion under the Bill, because the brochure is not wholly or mainly to promote alcohol, if it is only one item. Realistically, we are talking about a brochure that, largely or in its entirety, is for alcohol sales. A generic Eurospar brochure on grocery products, but which also happens to have a single page on alcohol that is available in those premises, would be captured, but the example that you have given would not.

Mr Durkan: What if the brochure was entirely on alcohol? There are so many other Eurospars, so you would say that it is not wholly or mainly [*Inaudible.*]

Ms Reid: Sorry, I spoke over you. It is difficult when you cannot see anybody. I imagine that, if a Eurospar leaflet went out, it would apply to all Eurospars, in which case, it would be captured. If it applies to one specific Eurospar in one town, it would have to be within 200 metres of that Eurospar.

Mr Durkan: OK. Sorry.

The Chairperson (Ms P Bradley): Did that clear that up for you, Mark?

Mr Durkan: Thanks, Chair. Chair, will you record an interest from me, please?

The Chairperson (Ms P Bradley): No problem.

There are no more questions. Are members content with the Department's response?

Members indicated assent.

The Chairperson (Ms P Bradley): Clause 17 relates to the prohibition of loyalty schemes. Members noted the operation of various loyalty schemes across the UK and the Republic of Ireland and requested further information on the inclusion in those of alcohol sales. In summary, the Department has advised that the Sainsbury's website states:

"Spirits and liqueurs are no longer included in promotions and coupons in the same way that baby formula, fuel, stamps, tobacco and other excluded items are not."

The Tesco website states:

"You can't collect points on some products due to various legal, regulatory or contractual reasons".

It also states that, where minimum unit pricing or permitted pricing applies, a customer may not receive all of the discount on alcohol purchased.

Again, I am happy with that response from the Department. Are members content with that clarification?

Members indicated assent.

The Chairperson (Ms P Bradley): I move now to the response on clauses 6 and 25 relating to major events. The Department has responded that, should there be a situation in the future where no Minister is in place, the power to designate a major event under clauses 6 and 25 could still be taken by a senior official from the Department. Are members content with that response?

Members indicated assent.

The Chairperson (Ms P Bradley): I move now to the response on clause 8, which relates to licence for off-sales. We queried whether the Minister would be minded to take forward an amendment to include a provision for taprooms, if the Committee proposed one. In summary, the response highlights that the 2016 Bill did not include a provision for local producers of alcoholic drinks, although it was discussed during evidence sessions. It also states that, without a Minister in place at the time, the Department's consultation in October 2019 sought general opinion on licensing laws and asked for public opinion on the adequacy of the current number of premises that were eligible to apply for a liquor licence. Responses included calls for local producers to be able to sell directly to the public. It is the Department's view that, in the absence of compelling evidence for or against allowing the licensing of taprooms, the Minister would not agree to take forward such an amendment. However, should the Committee propose an amendment that is based on sound evidence, the Minister will consider all the information available. The Minister is minded to commit to the Department carrying out the relevant research and producing a report on the issue in the Assembly. The response states that it would not be appropriate to provide a commitment in legislation to introduce taprooms when the outcome of any research or consultation is unknown.

OK. I again open up the floor to any members who want to comment on the response from the Department.

Ms Armstrong: I am a little bit concerned by the reference to "sound evidence" in the response. Previously, there has been no need to gather up sound evidence. The Committee has heard from a lot of stakeholders and received a lot of correspondence about this in response to its consultation. I was very interested to find out whether it confirmed my thoughts on the relation between taprooms and food and drink tourism. To be honest, I am minded to suggest that the Committee consider taking forward an amendment. Look at how long it has taken the Department to take forward liquor licensing. If we wait for the Department to complete the review, it would hold back the legislation, if we want the provision to go in there. To be honest, I do not think that it would see the light of day in this mandate, because the Minister has so much on her plate with the amount of legislation coming forward, and taprooms therefore would not have the opportunity to be considered again for the next few years. I appreciate that there is talk about the need for "sound evidence". Maybe the officials here could confirm what "sound evidence" looks like for the Minister.

The Chairperson (Ms P Bradley): Liam or Carol, do you want to answer that?

Mr Quinn: Yes, Chairperson. The Minister is looking to see the economic and social impacts. The brewers will certainly benefit from the current proposals in the Bill, which allow them to sell on the internet, allow them to sell drink on their premises for people to take away, allow them to sell their products at, for example, the Balmoral show and allow them to organise tours, which is where, I believe, the link to tourism comes in. This is probably the second time that that has been through Committee Stage, given that it was very close to the end the last time. All of the members on the previous Committee and this Committee could see the benefits of all of those proposals, and that is

why the Minister has included them in the Bill. The bit about taprooms takes it a step further, in that, as I have said before, they would be operating almost as mini-pubs, and it is about the economic impact of that.

You also need to look at other issues such as how and where they would be able to operate. The premises used by a lot of the breweries simply would not be a suitable place for people to consume alcohol. They are essentially industrial sites, with limited toilet facilities. Some are based in industrial estates where there would be deliveries to nearby industrial sites, with, for example, forklift trucks transferring product across the site. People consuming alcohol and then leaving those premises, potentially late at night, would therefore be an issue. A lot of issues therefore need to be taken into account.

We also need to look at having a clear definition of a taproom. Does it extend to, for example, breweries, cider producers and gin manufacturers, so that people could sit and drink gin or whisky all day long? Would it be limited to small producers, or could, for example, Guinness or Heineken set up a site in one of our towns or cities? Those are the sorts of things that we need to hammer out. There are issues as well with how they would operate in practice. What would be the permitted hours? Would children be allowed on the premises? Would entertainment be permitted? Would gaming machines be permitted? Would they be permitted to broadcast sports events and compete directly with pubs when it comes to screening rugby internationals, Ulster rugby matches and Premier League soccer? Those are all issues that need to be looked at. The main context, then, is this: what is the economic and social impact?

Ms Armstrong: I have to say, Liam, that all that you said there is quite negative. Those organisations have to comply. I was formerly a health and safety officer — National Examination Board in Occupational Safety and Health (NEBOSH) qualified — and I know that you cannot operate a manufacturing premises without meeting health and safety regulations. All that you talked about, as far as health and safety is concerned, is covered. My concern is that everything is always about the competition with pubs. What about the fact that we may be able to produce more jobs or to develop our tourism market? There is an economic uplift from it. It is not all about competition with pubs.

I agree that there is a lot of information that needs to be considered. I have spent the past few months speaking to the different producers. There are some who will never go down that route; they will never have a taproom and do not want one. There are others who, as you said, will have opportunities through the legislation. We absolutely welcome that, but it has not gone far enough. I know that complaints have come through. There seems to be a protection for pubs and hotels. They are an important part of our tourism industry, but taprooms are a potential addition to it. I would very much like to see us exploring that. I am not going to ask for a taproom that would take away from a pub. They are not pubs; they will be able to sell only their own produce. As someone from a rural constituency, I am thinking, "Are we just protecting the centre of Belfast here?". A wealth of organisations are being, and have been, prevented from developing their Northern Ireland produce. Although there are certain opportunities in the legislation, everything that I have heard so far from the Department has been about the negative side of a taproom, whereas getting jobs into a rural area connected to local produce would be wonderful. There is an opportunity in that regard that I really do not want to go past. A review period could be built in, and there is an opportunity, but, of course, we need to discuss that as a Committee. It has been talked about so much, including by the previous Committee. Information has been provided. The sound evidence is there; it just needs to be pulled together.

The Chairperson (Ms P Bradley): Liam, I should probably know the answer to this, but does the legislation allow our small producers to give a sample after a tour?

Mr Quinn: Yes, Chair.

The Chairperson (Ms P Bradley): OK. Has it specified the size of sample, how many samples or anything in it?

Mr Quinn: No, Chair. The primary legislation will allow regulations to be made to set the level of sample or tasters that can be provided. It will depend on the type of product that they are tasting, obviously.

The Chairperson (Ms P Bradley): As you know, this is an issue that we have heard a lot of evidence on and have very much been lobbied about. I can certainly see the positives that it would bring to

Northern Ireland, our tourism and our general model of socialising. I also see the other side, which is the unintended consequences. You mentioned one of them, Liam: what is to stop one of our big producers or one of our major bar or hotel owners in Northern Ireland from coming into my constituency in the Cathedral Quarter, buying one of those lovely big buildings and turning it into a brewery? It would be done wonderfully well. There are certainly unintended consequences that we need to look at. My reading of what the Committee is saying is that, if the Department is minded to look at taprooms, there will have to be strict and specific rules around them. Again, it is about the unintended consequences. Those unintended consequences could squeeze smaller producers even further. I would like to see us doing something, but it is about the level of that something. That is something that the Committee will discuss in closed session. We all represent areas that have small producers in them, whether that is in the city or in rural areas. We want to help them in any way in which we can. I want to put the issue of unintended consequences out there.

Alex, you are waving frantically at me. Go ahead.

Mr Easton: I agree with everything that Kellie and you have said. I want to explore this more. If we do not take the opportunity now, it may never happen for them. The Department is being incredibly negative, and I am not sure why. The health and safety and the things that are needed for it can be done easily and put in place. I do not understand the negativity. I am keen for the Committee to discuss and explore further what can be done, if that is possible.

The Chairperson (Ms P Bradley): We will discuss this in closed session after the meeting. We need to make decisions that are evidence-based, but we also need to make decisions that are balanced. We need to look at doing something. What that something will look like, I do not know yet, but I will leave it there.

Do any members want to comment? Liam or Carol, is there anything that you want to come back on from any of the suggestions or anything that has been said?

Mr Quinn: Chair, I will just add that I am sorry if I came across as negative. That certainly was not the intention, particularly to Kellie. The points that Kellie made are well made. There may well be an economic benefit. No doubt there will be an economic benefit to a small sector. The extent or size of that benefit, we do not know. That is really what I am saying. The issue around health and safety, of course, is slightly different when you have people consuming alcohol on a site, because they do not always behave rationally. I am just highlighting that. It is not a normal industrial site where you can train people and take certain approaches. People are consuming alcohol. I am sorry if I came across as negative. It certainly was not the intention.

The Chairperson (Ms P Bradley): Thank you, Liam. Mark, do you want to comment?

Mr Durkan: I am on record from before in recognising, accepting and welcoming the economic impact that local producers can have and that the Bill, as drafted, will allow them to have. Indeed, they are asked to explore taprooms. Something that you asked, Chair, got me thinking about the tours and the sample size and quantity. Could it be the case that the Bill will allow local producers to give samples as part of the tour but that they could have a £5, £10 and £15 tour and the number of samples that you get is proportional to the tour that you have taken?

The Chairperson (Ms P Bradley): Good point.

Mr Durkan: Someone could pay £15 at the door and get three pints rather than pay £5 three times.

The Chairperson (Ms P Bradley): That is true.

Mr Quinn: The regulations on samples will come back before the Assembly, so members will have the opportunity to comment on those. The thing about regulations is that we want to keep detailed information like that out of the Bill so that it can be changed in the future if something else comes up. As Mark proposes, people may want to have the gold standard tour, and, if it is priced accordingly, that will be fine. It will be a matter for the Assembly to decide on the number and size of samples that will be provided at the end of the tour.

The Chairperson (Ms P Bradley): Mark, thank you for throwing that one into the mix. It is certainly something that we can chat about when we go into the closed session.

Do members have any other comments on the issue or anything that they want to be clarified by Liam? Go ahead, Kellie.

Ms Armstrong: The unintended consequence that the producers will have to realise is that they will have a change in their rates value if they choose to have a taproom. It is not all roses around the door for them. As Liam pointed out, if they have to comply with new health and safety, it will not be a cheap option for them. That is why we have to recognise that this is not forcing people to have taprooms where they manufacture their products. It is a choice for them if it is brought forward. It is a small sector but a sector that, as we have seen elsewhere, has a huge potential to grow tourism.

The Chairperson (Ms P Bradley): Thank you, Kellie.

Are members happy with those responses?

Members indicated assent.

The Chairperson (Ms P Bradley): We are going to leave that part now. Are there any other questions for Liam and Carol, while they are here? They are aware that we might ask them to come back after our closed session to answer questions. I am sure that they will be delighted to hear that. If members are content, we will let Liam and Carol go, at this stage, and we will get them back if we need to.

Members indicated assent.

The Chairperson (Ms P Bradley): Thank you, Liam and Carol.