



Subject:	Council response to the Liquor Licensing Laws in Northern Ireland Consultation Document
Date:	24 January 2020
Reporting Officer:	John Walsh, City Solicitor / Director of Legal & Civic Services
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Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	The purpose of this report is to seek approval from the SP&R Committee to a Council response to the Department for Communities Consultation Document on "Liquor Licencing Laws in Northern Ireland".
2.0	Recommendations
2.1	It is recommended that Members: (i) note and review the attached draft response to the Liquor Licensing Laws in Northern Ireland Consultation Document at Appendix 1. (ii) approve the draft council response subject to any amendments.

3.0	Main report
3.1	<p><u>Background</u></p> <p>The Department for Communities has produced a consultation document entitled “Liquor Licensing Laws in Northern Ireland”. The Department is seeking views on the effectiveness of the <u>current</u> liquor licensing laws rather than putting forward any policy proposals.</p> <p>The last general review of Northern Ireland’s liquor licensing laws took place in 2012 resulting in the Licensing and Registration of Clubs (Amendment) Bill 2016. This Bill included measures aimed at contributing towards a reduction in alcohol related harm and making the licensed trade more sustainable and attractive to tourists. The Bill was making its way through the Assembly’s legislative process and when the Assembly collapsed in January 2017, it could no longer be progressed.</p> <p>Given the passage of time since the last review, recent developments in other jurisdictions and growing public interest in licensing issues, the Department believes that it is appropriate to carry out a consultation on the current liquor licensing policy. The aim of the exercise is to determine public opinion on current licensing laws and views on whether changes could be made in future to ensure Northern Ireland has a more flexible and modern licensing framework to respond to changing expectations and lifestyles.</p>
3.2	<p><u>Draft Corporate Response</u></p> <p>The consultation document seeks the views of interested parties across a number of general policy positions and principles. The Committee are asked to review the suggested Council response to each of the policy positions contained in the draft response at Appendix 1. A summary of the council response to each of the issues is included below.</p> <p>Categories of licence</p> <p>The Council agrees that local ‘Micro’ brewery type businesses should be allowed to sell their product directly to the public at markets or other special events. One solution would be to introduce a license to permit the brewery to sell at their own premises and also to sell for consumption off the main premises. Another would be to introduce an exemption scheme whereby such premises could apply for an exemption from the requirement to hold a license (restricted to those businesses which sell a certain amount of alcohol and only operating up to a certain time). A district council should be able to acquire a licence to host events showcasing local product permitting the sale of such product for consumption on or</p>

off the premises. Consideration should also be given to enable specific and streamlined licensing of tourist facilities and artisan markets owned or controlled by district councils.

Permitted hours

The Council believe that flexibility in opening hours is important in promoting tourism and the night time economy and welcomes the ability to apply for additional opening hours. However, the extension of 12 times per year does not go far enough to address the change in current demand and provide an alternative to home drinking and to visitors. This view is shared by the industry who consider that they should be able to have late extensions for the sale of alcohol until 2.00am twice a week. The Council agree that one hour, twice per week would be a moderate increase that would help deliver staggered closing and attract people out of home drinking and into licensed premises. This change could help facilitate a more gradual and steady dispersal of patrons, reducing the impact of 'spilling out' of customers en-masse from licensed premises.

Additional hours – small public houses

The Council agree that the number of occasions that police may authorise late opening hours in small pubs should be increased provided there is consideration given to location, other mixed-use services and infrastructure surrounding the business.

The Council strongly urge that provision is made within legislation that the police must consult with their local council prior to granting such occasional licences to ensure that no problems such as noise and nuisance behaviour have arisen, particularly in residential areas. In addition, a clear definition of what constitutes a small pub is required if the number of occasional licences are to be significantly increased. If not the implications are that some larger pubs will relinquish their article 44 licence, apply for occasional licences and not provide entertainment or substantial refreshment at all.

Easter opening

The Council recognises the significance of the Easter period for many people. However that has to be balanced against those people who would wish to see a relaxation of the restrictive Easter opening hours at a time when they are likely to be off work and wish to socialise during that period. There is frustration in both the tourism and licensing industry that licensed premises are effectively closed during what could be a positive trading period.

In addition to the restricted opening hours, there is no retail activity available on Easter Sunday. The Council is concerned that the combination of these factors leads to tourists either staying away or not enjoying their visit and therefore being unlikely to return or

recommend Belfast as a tourist destination. In light of all those considerations, it is the Council's view that the current hours are too restrictive.

Drinking up time

In 2016 the Council, on balance, welcomed the proposal for drinking up time being extended from 30mins to 1 hour. However there were some concerns that it might encourage binge and excessive drinking, as people will have more time to consume their last drink and may buy more than they would have previously. If successful and implemented responsibly by licensees, the extra 30 mins may facilitate a more gradual and steady dispersal of patrons, therefore reducing the impact of 'spilling out' of customers' en-masse from licensed premises.

Removal of off-sales

It is the Council's view that similar timings and conditions should exist for both the on and off trade for the sale of unopened alcohol to be taken off the premises. The Council would support the prohibition on being able to remove alcohol after 11.30pm as there is a risk that alcohol being purchased after that time could increase the likelihood of alcohol fuelled anti-social behaviour, noisy parties, etc.

Places of public entertainment

At the time liquor licensing legislation was enacted, betting at race tracks was not permitted on a Sunday. The Betting and Gaming (NI) Order 2004 permitted on-course Sunday betting, but with no corresponding changes to liquor licensing law, the sale of alcohol on a Sunday therefore remains illegal under a "Place of public entertainment" race track licence.

Following the conclusion of the 2012 consultation and during the early passage of the Bill, representations were made to amend the law to allow permitted hours on a licensed race track on a Sunday. The Council agrees that this anomaly should be rectified.

Major events

The Council consider that special arrangements or dispensations should be made for special events given their importance to the local economy and tourism. The current licensing laws caused difficulties in delivering the MTV Music awards and when the Council was assisting in preparing the UK and Ireland's bid for the Rugby World Cup. It is essential that the Department takes proactive steps to provide more flexibility for special events now so as to provide more confidence for statutory agencies bidding to bring international events to Northern Ireland.

As Northern Ireland, and in particular Belfast, seeks to establish itself on a global scale, it is important that there is flexibility for international events which are of regional economic significance. The legislation should be worded in such a way as to allow the decision to designate an event as a major event to be taken by either the Chief Constable or senior civil servants. Otherwise the requirement to enact legislation to make the decision may act as a hindrance to securing these events and/or delivering them. In particular, for street based events, special arrangements should provide for the sale and consumption of intoxicating liquor by establishing zones outside licensed premises in which this would be permitted. The same dispensation should apply within areas designated for events associated with festivals/carnivals within town and city centres. This would be subject to appropriate controls including stewarding of the areas in question.

Alignment of entertainment and liquor licences

The 2016 Bill proposed that entertainment cannot be provided any later than the permitted hours for the consumption of alcohol which, on the basis that drinking up time was extended, would be 1am on a Sunday and 2am the rest of the week. Entertainment until 3am would only be permitted 12 nights per year for certain licensees who have applied for a court order to sell intoxicating liquor until 2am.

To support the night-time economy and Belfast as a destination for tourism the Council believes the proposed limitation of 12 nights per year should be amended to permit these liquor licensing arrangements to 2am on two nights per week for certain licensees, subject to strict controls relating to patron dispersal and nuisance. Consideration should be given to giving district councils power to designate areas/zones in which these licences could be granted.

The Council believes the alignment of hours for liquor and entertainment licensing is not required and that flexibility should be permitted in respect of licensees who wish to provide entertainment going beyond the hours for which the sale and consumption of intoxicating liquor is permissible.

The Council remains of the view that district councils should be given powers to deal with both Liquor Licensing and Entertainments Licensing, as they are best placed to administer and issue both types of licence. This would allow alignment of the licences and ensure there is a holistic approach to dealing with issues around how premises are operated.

Children's certificates

The Council supported removal of the requirement to have Children's certificates and the extension of a person under the age of 18 being allowed on the premises to 9.30 pm instead of 9.00 pm as proposed in the 2016 Bill.

Deliveries of alcohol

The Council continues to welcome the 2016 proposals in this regard. The experience of Council officers is that the delivery of alcohol to under 18s through taxis (Dial a Drink) or online via supermarkets is contributing towards anti-social behaviour issues involving minors as these deliveries tend to be consumed 'on street' or in parks.

The Council view is that alcohol should not be delivered to a minor and verification of age should be sought when delivering alcohol – a system of introducing this to supermarket deliveries and also allow controls on other delivery options such as Taxis should be an enforceable offence and may require additional legislative control.

Underage functions

The Council supported the proposed 2016 changes as it will permit hotels and other venues to host events and functions catering for the younger audience, provided there are strict safety controls in place, without fear of breaching their Liquor Licence. The Department may, however, wish to consider introducing a lower age limit for these events.

Family functions

The Council agrees that the current law should be reviewed to facilitate under 18's, when attending family events in licensed premises. However, a family function must be defined in the legislation to avoid any potential ambiguity for enforcing authorities.

Young people in sporting clubs

The Council welcomed proposals in the 2016 Bill that young people be permitted to remain in the bar area of a registered club until 11.00 pm during the summer months or to attend an awards ceremony on one occasion in a calendar year. The Department may wish to consider that competitions and ceremonies are not just confined to the summer months and clubs may have more than one awards night per year.

Restriction on advertising in supermarkets and off-sales

The Council continues to support the 2016 proposal and considers it appropriate that, with the current societal problems with alcohol, advertising and promotions be restricted from view in places and environments where children are likely to be present.

Advertising of functions in clubs

The Council remains supportive of the proposal in the 2016 Bill that a registered club will be allowed to advertise any function outside a club premises where the advertisement clearly states that only members of the club and their guests may attend.

Provision of entertainment in restaurants

There is a need to provide a diverse range of entertainment venues and care should be taken not to affect the current ability for restaurants to provide entertainment as an ancillary means of enhancing their offer.

However, there have been significant problems in the past associated with restaurants operating as a bar and providing entertainment when they only have the benefit of a restaurant licence thereby effectively using the premises as a nightclub. The Council would welcome measures to prevent this occurring. It may be that more detailed conditions could be attached to such licences to prevent this use and introduce a power to immediately suspend a licence for a limited period where these conditions appear to have been persistently breached rather than having to apply for a Court Order. Such an immediate deterrent will be much more effective in ceasing the unauthorised use. As the premises is unlikely to hold valid insurance for the provision of entertainment other than as ancillary to the provision of food, the Council is of the view that such a legislative provision would be appropriate in the interests of public safety.

Self service

The Council agrees that self-service of alcoholic drinks for immediate consumption should be regulated.

Our view is that this type of self-service in a bar or club environment does not encourage patrons to alternate their alcoholic drinks with non-alcoholic drinks and does not promote responsible drinking. Bar staff cannot monitor when individuals have consumed too much alcohol and therefore are not in a position to refuse service.

Codes of practice

The Council agrees that the Department should formally approve a Code of Practice in relation to the display or sale of alcohol, as well as any activities designed to promote the sale of alcohol. Whilst the 2016 Bill requires a court to be satisfied that a licensee is aware of the Code upon the grant, transfer or renewal of a Licence it does not refer to protection orders. Nor did it make it an offence to fail to comply with any such approved Code.

Whilst this is welcomed in principle, the Council remains concerned that the fact it is not an offence to fail to comply with the Code will render it meaningless and that PSNI and others will seek to enforce this Code through the prism of Entertainments Licensing. It is imperative that some statutory force is afforded to such a Code, which should be written by the Department, in conjunction with both PSNI and local councils and in consultation with the relevant trade bodies.

Remote sale of alcohol

The Council agrees that clarity is required. The Council would like to reiterate its previous comments around the delivery of alcohol to young people and the need for the proposed additional safeguards including prohibiting under 18s from receiving any deliveries of alcoholic drinks and requiring proof of age to be shown and recorded upon delivery as proposed in the 2016 Bill.

Loyalty Schemes

The fact is, even among supermarkets, it's not completely clear how effective loyalty cards are. Asda and Waitrose, for instance, manage to attract a loyal following without them. Unless there is clear evidence that changing the law in this regard will have any significant impact on alcohol misuse or alcohol related harm there would seem little need at present to make such a change.

Other aspects of liquor licensing law that should be changed

There are two additional areas which the Council feels should be changed.

Controlling wider patron dispersal – At present there is a significant issue around liquor licencing, the hours of operation and the management of patrons spilling out on the street in the wider university and Lower Ormeau Road area. The problem is exacerbated by fast food outlets staying open until 4 am to accommodate lingering patrons which perpetuates the noise, littering and other anti-social behaviour issues. This is having a significant impact on those local neighbourhoods. The inability to effectively deal with these issues demonstrates, in the Council's view, that current licensing legislation is not fit for purpose. These issues cannot be dealt with through the prism of entertainment licensing as the majority of the issues occur in public rather than on the premises. It is essential that provisions are introduced to allow a wider control of patron dispersal where it is considered necessary to do so.

The Council is of the view that it is important to look for innovative ways to feed community views into the liquor licensing process. This could be, for example, requiring operators to carry out a community impact assessment where their premises have been identified as

	<p>potentially being linked to anti-social behaviour or if their premises is located within a certain area of the city in which such behaviour is considered prevalent. Furthermore, all operators could be required to submit an anti-social behaviour plan which must be approved by PSNI in consultation with local councils. There should be an express legislative requirement that these assessments and plans must assess the cumulative impact of their premises together with other licensed premises within the local area.</p> <p>Irresponsible drinks promotions – Drinks promotions continue to be prevalent at certain times of the year at events such as students’ Fresher’s, Halloween etc. These promotions have the potential to result in increased antisocial activity in residential areas within the city and impacts on the wider community living within those areas and risk the health and wellbeing of those consuming the alcohol.</p> <p>The introduction of effective management and controls of drinks promotions would be welcomed as part of the review of liquor licensing laws, with the ability to ban in certain areas in which such promotions would be likely to result in anti-social behaviour.</p>
3.3	<p><u>Financial & Resource Implications</u></p> <p>None.</p>
3.4	<p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>None.</p>
4.0	<p>Appendices – Documents Attached</p>
	<p>Appendix 1 – BCC Response to the Liquor Licensing Laws in Northern Ireland Consultation Document</p>