

### Scotland's Drinking Culture

We could soon be saying goodbye to "happy hours" and (perhaps) hello to 24-hour drinking under radical proposals to shake up Scotland's licensing laws. The report of the Nicholson Commission - which is the subject of a new consultation exercise - examines ways to improve licensing legislation in order to tackle Scotland's binge drinking culture. Estimates put the cost of Scotland's heavy drinking culture at £1bn a year, and alcohol-related deaths have risen from one in 100 to one in 40 in the last decade; alcohol still causes several times more deaths each year in Scotland than other, illegal drugs, and is a factor in 1/2 of all murders and nearly 3/4 of assaults. Drink driving is also on the increase in Scotland and 1/3 of all pedestrians killed in road accidents had been drinking.

Introducing the report, Sheriff Principal Nicholson said: "I believe that this is a thoughtful and measured report that effectively balances the realities of alcohol consumption and licensing in the 21<sup>st</sup> century... The report recognises the real and legitimate concerns which exist in our homes and streets about the impact of alcohol misuse on our national health and public safety."

Research carried out for the Committee found that (a) longer hours of alcohol sales may be linked to increased crime and disorder as well as other alcohol-related problems, though evidence from Scotland and elsewhere in the UK is "mixed" (b) there is evidence of a link between the number of outlets selling alcohol and levels of alcohol-related problems and limitation of numbers may have an impact on alleviating problems. There are currently

43 liquor licences in force in Scotland for every 10,000 persons aged 18+. More than 1/3 of the 17,059 licenses are for off-sales and a further 30% for public houses, with the rest for hotels, restaurants, cafes, etc. - an increase of almost 16 times since 1980 in the number of refreshment licences (from 34 to 539) and a 58% increase in restaurant licences (from 921 to 1,453).

Scottish Ministers have welcomed the proposals, arguing that they help bring the legislative framework up to date to reflect the changes in Scotland's drinking culture over the last three decades. However, Cathy Jamieson said: "While many aspects of our social drinking patterns have changed beyond recognition in the last 30 years, one unchanging feature of the Scottish drink culture is its association with violence. Changing the licensing laws by itself will not break the link between drinking and crime. But what changes to the law can do is to encourage greater responsibility". Nicola Sturgeon, SNP shadow Minister, agreed: "It is high time that licensing law was brought into the 21<sup>st</sup> century to encourage mature and responsible consumption of alcohol and to change attitudes across the social spectrum as to what is acceptable in terms of drinking culture and its outcomes".

#### Proposals

Underpinning the proposals are a set of "licensing principles", which would become the statutory basis for the approach of licensing boards and any other bodies to all aspects of licensing. These are:

- prevention of crime or disorder;
- promotion of public safety;
- prevention of public nuisance;
- promotion of public health;
- protection of children from harm.

The report advocates a new Licensing Act, presenting a "complete package" in which many of the measures proposed are "dependent on others for their overall effectiveness".

Under the current 1976 Licensing Act, there are 7 different types of licence, plus a separate registration system for clubs; and practice re opening hours differs from the officially-stated legal position as extensions are common practice. The various types of licence would be replaced with a single system, bringing clubs under the same jurisdiction as pubs. To bring practice and legislation into closer agreement, there would be no "statutorily prohibited hours". Instead, hours would be specified for each premises within a licence application and authorised by the Board. Supermarkets and off licences would be able to sell alcohol all day.

When this provoked headlines about all-day drinking, Justice Minister Cathy Jamieson distanced the Executive from this prospect of all-day drinking ("routine 24-hour opening for licensed premises is not the way that the Executive intends to go"), claiming that the Nicholson report had been misinterpreted; she added "how could any establishment have a routine 24-hour licence and still meet its obligations under the new licensing principles?"

The report supports the retention of licensing Boards - made up, as currently, of local councillors - but advocates that Board members should be required to undergo appropriate training involving licensing law, best practice in managing and operating licensed premises, awareness of public order and public health issues, and judicial behaviour. A local licensing forum would operate on a statutory basis in every Board area, with Boards required to meet with them annually, and to take their views into account when making policy decisions.

A premises licence would remain in force indefinitely, while being capable of being varied either on application by the licence holder, or by the licensing Board in the event of breach of its terms in a way which "prejudiced the licensing principles". There

would also be a system of personal licences granted to individuals with approved qualifications; these would allow the licence holder to manage licensed premises, and to sell or supply alcohol without supervision. A personal licence would last for ten years, and would be renewable. Each application for a premises licence would have to name a personal licence holder as responsible for day-to-day management. Existing planning, building and hygiene controls will continue, with the addition of a certificate of suitability from the fire authority and specification of a safe maximum capacity.

In general, a licence can be refused if its granting would "undermine the promotion of the licensing principles", and Boards will be under a statutory duty to issue statements giving a broad indication of policy (the Executive will issue general policy guidance to Boards). Objections to an application may be lodged by anyone living "in or near the neighbourhood" of the premises, by a community council or by a "any body representing an established religion where that body owns or occupies property in or near (the premises)". (It may be significant that this last is a change from 'organised church' to 'established religion' - a problematic phrase in itself - and a replacement of the previous requirement that the religious body represent "a significant body of opinion among persons residing in the neighbourhood").

The Committee has rejected calls for locally set application fees, but recommends that the level set centrally should allow the system to be self financing, be reviewed annually (or every second year), and, if possible, take into account the size and capacity of the venue.

**Liquor Licensing Standards Officers** employed by the Licensing Boards would monitor the licensing system on a regular basis, bringing any examples of non-compliance to the board's notice. Sanctions would be determined by the Licensing Board with reference to promoting the licensing principles.

A **National Licensing Forum** is called for, with membership drawn from a wide

spectrum of relevant backgrounds, appointed by Ministers. It is suggested that the forum should be chaired by the Minister for Justice and the Minister for Health, with a remit to include advising Ministers on how to tackle issues which may arise.

### Binge Drinking

The Scottish Health Survey definition of binge drinking is an intake of more than double the recommended daily amount on a given day (ie more than 8 units for a man and more than 6 units for a woman). This is increasingly seen as one of Scotland's major alcohol problems, both in terms of its effects on crime and disorder and on health; 10% of hospital A&E admissions are alcohol-related.

Currently, pubs and clubs throughout Scotland offer dramatically discounted drinks to boost early evening sales (eg vodka sold for as little as 30p, or £10 for unlimited beer, wine and spirits). Experts fear this 'deep discounting' is contributing to a culture of binge drinking where people drink as much as they can as quickly as possible. Under the proposals "happy hours" would not be banned but would have limits placed on how far these could offer discounts. In some existing local schemes, pubs and clubs can still run happy hours, but, for example, a pint of beer cannot be sold for less than £1.50. The report recommends the continuation of such schemes where premises have agreed with the Licensing Board on a minimum pricing policy in exchange for extended hours.

Welcoming restrictions on happy hours, Chief Superintendent Alan Shanks said: "Happy hours are anything but. There's a clear correlation between excess alcohol consumption and violence. These price reductions cause young people to drink too quickly, which means the alcohol has a greater effect on them. These are not happy hours for residents or for the public." The Conservatives, however, have stated their opposition to any restrictions being placed with regard to pricing policy, arguing that the responsibility for drinking sensibly lies squarely with individuals.

### Under 18s

Current policies with regard to the access of under-18s to licensed premises are "confused, confusing, and unsatisfactory", claims the report. Research has shown that younger generations are drinking more alcohol at an earlier age. The percentage of young people aged 12-15 reporting that they had drunk alcohol in the previous week rose from 14% in 1990 to 21% in 2000; 16-24 year olds are also most likely to exceed weekly recommended limits, increasing from 37% to 43% for men and from 18% to 24% for women.

Scotland's relative lack of family-friendly pubs has been highlighted as a particular problem, with one major reason said to be the level of restrictions placed on licensed premises in order to qualify for a children's certificate, described by one MSP as "petty bureaucracy". The proposal is that there will be a presumption in favour of access to licensed premises by children, from which applicants can choose to opt out (for all or part of the premises); applicants will have to provide details of whether, and at what times, unaccompanied young people will be admitted, etc. However, the Deputy Health Minister has promised that children's access to licensed premises would be "tightly controlled", and "access would not be granted willy-nilly". Whether there should be an "opt-in" or "opt-out" system of allowing children's access is open for debate in the consultation. The Committee also call for a national proof-of-age card, to tackle under-age drinking.

There are no proposals for change in the ban on licenses for motorway service stations, nor on two matters which have recently been raised in Parliament: (a) the ban on alcohol at sports grounds, which the Conservatives wish to end, at least for all-seated grounds (though the Committee felt that "the time may be ripe" to consider changes on this) and (b) the statutory prohibition on selling alcohol to persons who appear to be drunk (on which Donald Gorrie and others have called for more effective enforcement, as there have been no prosecutions for some time).

## **Concerns**

It is not clear what impact on the number of licenses or overall opening hours the proposals will have. At present, many pubs choose not to use their extended licenses, claiming they are of little use and simply spread customers' spending over a longer period while increasing the costs to bars of remaining open longer. However, the Committee seem may not have paid enough attention to the results of its own research on the impact of longer hours, or to the failure of the 1976 changes to change the culture by extending hours.

The welcome for the report's proposals has not, however, been universal. Many residents who live near bars and clubs are unlikely to welcome round-the-clock opening, which, it is argued, will generate unacceptable levels of noise. MSPs John Swinburne (Scottish Senior Citizens Unity Party), and the SNP's Brian Adam have voiced fears that relaxation of licensing laws will only contribute to Scotland's heavy drinking culture.

Within the Scottish Licensed Trade Association there is concern that, as bars compete with each other over longer opening hours, this will only lead to the kind of extreme cuts in prices which contribute to binge drinking. Their chief executive said "The last thing we want to see is a free-for-all on hours, with everyone competing with everyone else." Others have claimed that there are already too many licenses, and further liberalisation would only lead to 'saturation' creating the kind of fierce competition and irresponsible pricing that has been blamed for fuelling alcohol-related disorder.

The prospect of licensing standards officers to enforce the new licensing principles has also raised concerns among police. While broadly in favour of the idea of such 'enforcers', Superintendent Shanks fears that they may get drawn into confrontational situations with people who

have been drinking and may become violent.

## **Towards a Christian Response**

A theological context for this debate was sketched in SCPO Briefing 3/7 on alcohol misuse. Clearly, a moralising attitude to alcohol is no longer a tenable basis for licensing law. However, while attitudes to alcohol in Scotland's churches clearly vary from strict principled teetotalism to a more liberal "relaxed" approach to drinking, we may share some sympathy with an approach based on "licensing principles" rather than the mixture of moral and commercial responses that have shaped the current position. And our awareness (through churches' experience of working with its victims) of the devastating effects of alcohol abuse on individuals and families, as well as their impact on the wider community, may persuade us that a new approach is needed.

But we may well have questions to ask about the hope that solutions will be found in encouraging more relaxed (and, therefore, responsible?) attitudes. As in other aspects of policy, there must be more attention to "what works" as a basis for action than to what plays well in the media. Again, we may have experience to contribute to a mature debate.

## **Consultation**

The proposals will be discussed at a meeting of church representatives on 10 November at the Scottish Churches Parliamentary Office from 2pm, when Sheriff Principal Nicholson himself will present his Committee's "biggest shake-up of licensing laws in 30 years". Anyone interested in attending should contact SCPO.

Responses should be sent, by 19 December, to Tony Rednall, SE Justice Department, 1<sup>st</sup> Floor West, St Andrew's House, Regent Rd, Edinburgh, EH1 3DG (Nicholson.Report@ scotland.gsi.gov.uk).

An Executive White Paper is expected early next year.