

Draft Response to the Assembly Communities Committee Call for Evidence Licensing and Registration of Clubs (Amendment) Bill

13th October 2016

The following response has been drafted further to discussions with elected members on Policing and Community Safety Partnerships, and a number of Council Licensing, Environmental Health, Economic Development Officers and Community Safety Officers.

The NILGA Executive will not have an opportunity to consider this response until 28th October, so it should be treated as a draft response until that time. Any NILGA Executive amendments to this paper will be forwarded to the Communities Committee by 12 midday, on 31st October 2016.

Any queries should be forwarded to Karen Smyth, Head of Policy at NILGA k.smyth@nilga.org (028)90798972.

Derek McCallan
Chief Executive

13th October 2016

Pre-amble

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland. NILGA represents and promotes the interests of local authorities and is supported by all the main political parties in Northern Ireland. This Bill, proposing changes to the licensing regime, is important for local government as district councils have responsibility for entertainments licensing, work closely with the police, particularly through membership of the local Policing and Community Safety Partnerships, and have a recently enhanced responsibility for local economic development.

NILGA is pleased to be able to have an opportunity to comment on the proposed Bill and we trust that our comments will be taken into account when developing the final proposals. This response has been developed in liaison with the licensing, community safety and economic development officers from a number of councils, and a number of PSCP members.

We look forward to discussing the Bill with the Committee, in the forthcoming evidence sessions planned for 20th October. For further information on this submission please contact k.smyth@nilga.org or call Karen Smyth at the NILGA Offices (028) 90798972

Introduction

NILGA welcomes the opportunity to comment on the Licensing and Registration of Clubs (Amendment) Bill. We note that this Bill is intended to modernise the licensing regime in Northern Ireland and we view its introduction as a valuable opportunity to support and develop the hospitality industry and night time economy, whilst protecting community safety and public health.

NILGA is supportive of the hospitality industry as a foundation for the development of local tourism, as a provider of local employment and skills development and as an important element in working towards building local communities and reduction of social isolation.

We are aware of the sensitivities of a number of the aspects of this Bill, and we would be keen to ensure that the Committee views this response solely as a series of practical suggestions for improving the Bill, ensuring it can be satisfactorily implemented and achieve the desired policy objectives.

General Comments

NILGA views the introduction of this Bill as a positive step in modernising and improving the licensing regime in Northern Ireland. This is an opportunity that should be maximised and we would encourage the Committee to take a pragmatic view in how it decides to refine and improve the Bill as introduced.

Local councils are keen to improve the Northern Ireland tourism offer and are proactively engaged in promotional activities in support of our growing tourism sector. NILGA is aware that our licensing laws, as they currently stand, can have a negative impact on the tourism offer available in Northern Ireland and we would encourage the Committee to ensure that the finalised Bill overcomes this issue.

We are aware that the hospitality industry is under pressure in some areas; and that the current licensing regime is not reflective of the needs of the modern market or supportive of the development of the industry as a more socially beneficial alternative to home drinking.

NILGA is clear, recognising that alcohol is a controlled substance, that a responsible approach to drinking must be encouraged, particularly in young people, and that measures need to be put in place to begin to change the 'drinking culture' in Northern Ireland.

It is widely accepted that up to 70% of alcohol in Northern Ireland is now sold via retail 'off-sales' and consumed in the home (or rather, outside licensed premises). NILGA is deeply concerned by the growth in the practice of 'pre-loading' and for example, how this impacts on the community safety in rural towns and at festival type events when pre-loading takes place on bus transport.

NILGA would therefore encourage the Committee to use this opportunity to consider greater change than is currently set out in the Bill. To this end we would make the following suggestions in a clause by clause response, followed by a consideration of community safety issues and what we believe are opportunities that the Bill could also cover.

Clause by Clause Evidence

Part One: Licensing	
Clause 1	<p>Additional Hours at Easter</p> <p>NILGA is aware of the sensitivities around the policy proposals to change the Easter licensing laws, however, it is noted that the current proposal is solely to allow one additional hour on the Thursday before Good Friday. NILGA would suggest that this proposal is too limited.</p> <p>It is unlikely that this minor change will address the issues surrounding confusion for tourists and visitors to Northern Ireland, particularly on Good Friday. The unintended consequence of the current legislation is that people buy alcohol in supermarkets and drink at home, rather than, for example, enjoying a meal with wine in a gastro-pub.</p> <p>NILGA would encourage the Committee to consider greater flexibility than the current proposals, to ensure that confusion for visitors is limited, and that the hospitality sector isn't disproportionately financially affected by an overly restrictive licensing regime. Perhaps some research could be commissioned by the committee or Department to look into the regimes in other countries, particularly the countries from which we are receiving the most visitors, to assess what our tourists might be expecting when they get here. NILGA notes the opportunities presented to the tourist industry as a result of the ongoing flux in currency markets (and low pound sterling value).</p> <p>NILGA would encourage the Committee to consider standardisation of hours on the Thursday and Saturday before Easter as a minimum.</p>
Clauses 2 3 and 4	<p>Additional Hours: applications to court</p> <p>Section 2: consequential provision</p> <p>Additional hours: police authorisations</p> <p>See comments in relation to Clause 6.</p> <p>NILGA considers the extensions proposed within the Bill as being insufficient to address the desired change in consumer behaviour and provide an attractive alternative to home drinking and to visitors, but we are also aware that many pubs are on streets with large numbers of residents who may be negatively impacted by noise and potential anti-social behaviour from some pub customers.</p>

	<p>The industry considers that relevant businesses should have at least 102 late extensions for the sale of alcohol until 2.00 am. NILGA accepts that it is likely that a more consistent application of license extensions will be much better for business.</p> <p>A more ‘staggered’ approach to closing hours could help address the current ‘spilling out’ of customers en masse from licensed premises, and consequent difficulties in dispersal, lack of taxi availability etc.</p> <p>It will also be vital to ensure that the PSNI properly controls closing times, and restricts the additional hour to premises that are not in residential areas. NILGA would be keen to see the hospitality industry work locally with the police and councils to ensure that pressure is not put on licensing authorities to grant inappropriate licenses and conditions in areas where there is an identifiable anti-social behaviour issue impacting on residents.</p> <p>As a key additional issue, NILGA notes that the complexity of these clauses within the Bill, largely due to the number and detail of amendments to existing legislation, may cause difficulty in ensuring this legislation is easily understood by the industry and by the public. NILGA would therefore suggest that the Committee encourages the Department to develop guidance on the new legislation, once it has completed Assembly passage, working with appropriate bodies.</p>
<p>Clause 5</p>	<p>Extension of ‘Drinking Up’ time and restriction of ‘carry out’ facility after 11.00pm</p> <p>NILGA notes that the hospitality industry has requested this extension, expressing the view that it will allow better and more gradual dispersal of customers at the night.</p> <p>NILGA accepts that this short extension of ‘drinking up’ time will still require good management to be in place at bars to guard against binge drinking during that hour and to manage safe and trouble-free dispersal of customers.</p> <p>The chief concern for NILGA in relation to this clause is in relation to the proposed year trial period and review of this policy. We would ask the Committee to consider the following with the Department:</p> <ul style="list-style-type: none"> • Why is a trial period necessary? • Would the success of the trial be reviewed prior to the development of regulations? • If so, who would undertake this review and would it be an independent review? • Has the Department set aside funding for a review? • Would such a review be undertaken within the year or at the end of the trial year? • Given the length of time required to develop legislation, would there be a lengthy break between the end of the trial period and the commencement of regulations? • Would such arbitrary change in the licensing regime add to confusion and complications – particularly with the public? <p>NILGA would suggest that a trial period is not necessary and that the policy should be changed by</p>

	<p>this Bill without the need for a trial period and regulations. We are particularly concerned that if the trial period is not made permanent this will impact severely on other proposals in the Bill, primarily the alignment of liquor and entertainment hours.</p> <p>However, if the Committee disagrees and feels that there is merit in a trial period, then NILGA would suggest that this clause be rewritten to allow continuation of the application of the 60 minute drinking up time extension, until the outcome of the trial and subsequent review is published; and thereafter, if the trial review finds that the 60 minute period is acceptable, to allow continuation in practice until regulations are approved by the Assembly. NILGA would advise that a start/stop/start policy is best avoided.</p> <p>Subsection (2) of Clause 5 will require ‘carry outs’ purchased from bars to be removed by 11.00 pm. This could have the unintended consequence of encouraging customers to leave a bar earlier than they otherwise would have, and to consume a larger amount of alcohol within the home (uncontrolled) environment, potentially increasing binge drinking.</p>
<p>Clause 6</p>	<p>Alignment of liquor, entertainment and refreshment provision etc</p> <p>NILGA has a number of concerns in relation to Clause 6, in that it has the potential to ‘roll back’ current council powers. If entertainment licensing is tied in with liquor licensing, councils could lose a great deal of their discretion to act to suit local circumstances.</p> <p>This clause will also be affected by the implementation of the ‘trial period’ advocated in clause 5.</p> <p>The proposal in this clause will permit pubs and hotels to sell alcohol to 2.00am, 12 times per year. However, this amendment would require licensed premises to stop all entertainment at 1.30 am at the latest. This would severely affect and damage the night time economy and restrict licensee’s ability to attract consumers and tourists.</p> <p>As previously mentioned, during the one year trial, entertainment on licensed premises would be allowed to finish no later than 2.00 am. However, if the trial is not extended and made permanent the finishing time will be 1.30 am or if a new ‘Occasional Licence’ (12 nights) is in place, no later than 3.00 am (or 2.30 am if the trial is not extended); except on a Sunday which will be 1.00 am (or 12.30 am if the trial is not extended).</p> <p>The extension of 12 times per year is not enough to address the change in consumer behaviour and provide an attractive alternative to home drinking and to visitors. This is a view also shared by the industry, which also considers that relevant businesses should have at least 102 late extensions for the sale of alcohol until 2.00 am.</p> <p>It is the NILGA view that one hour, twice a week would be a moderate increase that would help deliver staggered closing and attract people out of home drinking into licensed premises.</p>

	<p>Granting of this additional hour should be controlled by the PSNI and restricted to premises that are not in a residential area, as noted in our comments on Clauses 2, 3 and 4.</p> <p>A move to staggered closing will also assist in dealing with current issues related to customers being able to get home safely during periods of high demand for taxi services.</p>
<p>Clause 7</p>	<p>Removal of the Requirement for the Children’s Certificate</p> <p>The experience of councils, particularly in relation to outdoor family events such as the Tall Ships festival and the Sunflower festival, would indicate that removal of the requirement for a children’s certificate is a very pragmatic policy, given the perceived limited value of these certificates.</p> <p>The removal of the requirement to have children’s certificates and the extension of a person under the age of 18 being allowed on premises, now to 9.30 pm instead of 9.00 pm is therefore welcomed.</p> <p>NILGA is aware that the industry would further request to permit under 18’s to remain after 9.30 pm when attending family events. It is our view that ‘Family events’ should be clearly classified - such as a wedding, wedding anniversary, christening and birthday party. NILGA would have some concern in relation to birthday parties, and would encourage the Committee to give careful consideration to e.g. 18th birthday parties, which could have potential to attract underage persons to a venue when the bar would be open.</p>
<p>Clause 8</p>	<p>Underage Functions</p> <p>NILGA is generally supportive of the aims of this clause, as it will permit hotels and other venues to advertise and offer their facilities legally to host events and functions catering for the younger audience, such as school formals, as long as certain criteria are met; however we have a number of concerns, as follows:</p> <p>It is noted that no lower age limit is expressed. NILGA would suggest that the Committee consider this issue and would highlight that the Bill seems to be aimed at facilitating events for teenagers, rather than younger children.</p> <p>NILGA would also encourage the Committee to consider the wisdom of the proposed 1am finishing time (p12 line 5), particularly if there is no lower age limit set. This gives a similar standing to normal licence activity and it is suggested that perhaps the hour should be brought back until 12 midnight or even earlier, to ensure that children are not meeting with adults dispersing from licensed premises.</p> <p>Alternatively, the Committee may wish to consider banded age-related closure times, either in legislation or in associated guidance, to ensure venues are enabled to host events for younger children (for example ‘baby raves’) in an earlier part of the day.</p>

<p>Clause 9</p>	<p>Delivery of intoxicating liquor to young persons</p> <p>NILGA supports the aims of this clause, however would highlight to the Committee that delivery of alcohol is not undertaken solely by supermarkets. Some websites and ‘apps’ specialising in deliveries of food also offer alcoholic drinks deliveries (e.g. Deliveroo) and there is evidence from across Northern Ireland that some local taxi companies will deliver cigarettes and alcohol on request. With the increasing number of intermediary companies now offering delivery services, NILGA would highlight to the Committee that this clause raises a number of issues:</p> <ul style="list-style-type: none"> • Ensuring delivery drivers are over 18 • Establishing the point of purchase • The practicality of this clause beyond supermarket deliveries <p>This is also a wider issue than delivery to young people and it will be necessary to ensure that our licensing legislation keeps up to date with developing technology and digital service provision.</p>
<p>Clause 10</p>	<p>Restaurants and Guest Houses: Notice displaying licence conditions</p> <p>NILGA is satisfied with the content of Clause 10.</p>
<p>Clause 11</p>	<p>Prohibition on self-service and sales by vending machines</p> <p>NILGA is aware that this clause is intended to ensure that the sale of alcoholic drinks is always supervised, allowing trained staff the opportunity to monitor alcohol consumption and refuse the sale of alcoholic drinks when necessary, in a regulated environment; however we would take this opportunity to raise the following with the Committee for their consideration:</p> <p>The Bill, we believe, has taken the view of a vending machine as a machine which would be placed in public, similar to a soft drinks vending machine in a shopping centre, and does not allow for technological innovation, or changes to future customer service provision. It is our view that ‘vending machine’ may be subject to a wider interpretation. The prohibition outlined in this clause would stop use of any such machines in Northern Ireland outside premises to be exempted in regulations.</p> <p>NILGA is aware of technology – already in use in the States of Pennsylvania and Arizona (USA) – where wine vending machines have been introduced to grocery shops across each State.</p> <p>Customers are required to swipe their driver's licence, look into the camera and blow into a breathalyser attached to the machine to purchase a bottle of wine. A state employee (e.g. in Harrisburg, Pennsylvania) remotely approves the sale after verifying the buyer matches the photo ID.</p> <p>The proposed clause will outlaw any such innovation to be provided for customers in Northern Ireland, even with safeguards in place to stop underage consumption. We are raising this issue, in</p>

	awareness of the rapidly developing self-service technology in use in our supermarkets.
Clause 12	<p>Restrictions on off-sales drinks promotions in supermarkets etc</p> <p>We would concur with this proposal and consider it appropriate that with the current societal problems with alcohol that advertising and promotions be restricted from view in places and environments where children are likely to be present.</p> <p>The Committee may wish to consider whether this clause will cover mass marketing of alcohol promotions via leaflet communications delivered directly to homes.</p>
Clause 13 (and 23)	<p>Code of Practice</p> <p>NILGA would be keen to ensure that the Department consults with council licensing officers in addition to the PSNI, to achieve co-development of codes of practice and other guidance in relation to this legislation.</p>
Clause 14	<p>Removal of exemption for angostura bitters</p> <p>NILGA is satisfied with the content of Clause 14.</p>
Part Two: Registration of Clubs	
Clause 15	<p>Extension authorisations for sporting clubs</p> <p>NILGA is supportive of the aims of this Clause. A sporting club will be able to apply on six occasions per year to extend the area of its premises licensed to supply alcohol, provided that certain conditions are met. This will allow sporting clubs to take advantage and maximise events being held at their clubs. It will also encourage the introduction of others, such as captain's day at golf clubs, which attract large numbers of members and guests, by extending the area where they can supply alcohol on club grounds.</p>
Clause 20	<p>Young People in Sporting Club Premises</p> <p>While NILGA is supportive of the aims of this clause we would highlight the following:</p> <p>Young people will be permitted to remain in the bar area of a registered club until 11.00 pm during the summer months, 1st June to 31st August, or to attend an awards ceremony on one occasion in a calendar year. This will allow young people to avail of the full range of sporting activities open to them during the summer months, which often extend into the evening. An awards ceremony allows sporting clubs to celebrate the success of young people who participate in the sporting activities offered by a club.</p> <p>While NILGA understands that this is proposed with the aim of supporting the provision of constructive activity for young people during the summer school holidays, we would contest that many sporting competitions and ceremonies are not just confined to the summer months and</p>

	continue throughout the year. We would therefore suggest that the Committee to consider a more general application of this clause.
Clause 22	<p>Restrictions Relating to Advertisement</p> <p>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. Currently, members of the general public are permitted to attend functions where the proceeds are devoted to charitable or benevolent purposes. However, the law prohibits a registered club from publicly advertising the function.</p> <p>This provision will ensure that there are no restrictions on the advertising of such events as many non-members and general public may prefer to attend events within a local club environment.</p> <p>NILGA would highlight to the Committee that there may be some issues arising from this provision in relation to rules about club members signing in non-members and some research into this issue may be necessary. Opening up clubs to a larger number of people may also have implications for provision and regulation of security staff.</p>

Emerging Issues and Missed Opportunities

NILGA would be keen to see measures introduced within this Bill, to deal with a number of issues, as outlined below.

“Pre-loading” alcohol on transport on the way to venues

NILGA is aware of problems regularly being experienced across Northern Ireland as a result of people drinking on buses coming to nightclubs, or large outdoor music events, and the associated problems when they get off the bus. There is no legislation to stop onboard drinking happening except for those going to Class A events. Councils have been working with the police and with bus operators to try to tackle this problem. We would be keen to ensure that the Committee considers practical measures for dealing with this and the potential for inclusion of a new clause in the Bill to assist in addressing the problem. We are aware that bus operators do not feel that the onus should be on them.

Licensing of ‘Party’ Buses and Taxis

NILGA would also highlight a ‘grey area’ in licensing that has emerged within recent years, of ‘party buses’, taxis and similar, which are similar to mobile nightclub venues and used for drinking either on the way to other venues, or as a standalone activity. The Committee may wish to consider this issue with a view to making legislative recommendations.

Craft Breweries and Distilleries

The Bill has not introduced an additional category of licence to permit craft breweries and distilleries to sell products made on their premises as part of a visitor centre experience (for consumption off premises), or for these small businesses to trade at markets or exhibitions.

This is an increasing and popular market across Northern Ireland, and most of our 11 councils are now facilitating the operation of continental and artisan markets which encourage small food producers to sell their produce and merchandise. However, restrictions on the sale of alcohol mean a visitor to a brewery or distillery can sample a product but cannot purchase it to take it home.

Committee members may also be aware that several craft and artisan events have taken place in a number of different towns and cities, with alcohol being offered through the provision of an Occasional Licence. NILGA would highlight that the legislation currently requires a liquor licence holder to apply for the Occasional Licence and there is unfortunately no facility to permit craft breweries to make the same application.

Special Events

NILGA would be keen to see the Bill introduce a provision to be able to cater for a 'Special Event' Licence for events of regional economic significance that require a liquor licence but fall outside normal trading hours or outside the scope of an existing licence type. The authority to grant this Special Licence should be given to a statutory body, such as Tourism NI.

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