



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Betting, Gaming, Lotteries and Amusements
Bill: DSD Briefing

21 March 2013

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Ms Paula Bradley
Ms Pam Brown
Mr Gregory Campbell
Mr Mark Durkan
Mr Fra McCann

Witnesses:

Mr Liam Quinn	Department for Social Development
Mr Patrick Rogers	Department for Social Development

The Chairperson: I welcome Liam Quinn and Patrick Rogers to the Committee. One of the issues at stake for us was the question over a bookmakers' licence. Liam, I think we raised this, generally, with you, the other week, and, last week, we received legal advice on it. We have a paper that tells us that a lot of the bookmakers' offices are in more deprived areas. The Committee was of the clear view that, notwithstanding the policies on need and where bookmakers might be located, there was, what seemed to be, an unfair anomaly that means that a bookmaker has to surrender their licence before they can apply to relocate their business. That does not appear to be applicable to any other section of industry. It seems to be unfair. Having taken legal advice, the Committee was of the view that a person should be fit to apply, and, if they were to get a licence, with whatever other framework or policymaking there might be, they would have to surrender their licence. In other words, they would still have only one. So, people felt that there was some type of an unfair anomaly on that, but we wanted to hear from you before deciding to take it further.

Mr Liam Quinn (Department for Social Development): Thank you, Chairman. I will try to explain some of the background to the policy. The policy in Northern Ireland, since the 1950s, when bookmaking was legalised, is that the number of bookmakers' shops should be the absolute minimum to meet the needs of the punters or consumers who want to gamble in that locality. That is the principle that has underpinned the legislation since the 1957 Act.

There have been a number of judgements on it, and I am sure that your legal advisers have talked you through the definitions, examples and case law. The underpinning issue is that a judge will determine whether there is the need for another bookmakers' licence or, indeed, any licence in a particular area. The situation for someone wanting to move premises, even a small number of streets away, is that they surrender their licence and do not renew their existing licence. They go to court and say that they want to apply for a bookmakers' licence on a particular street and demonstrate that there is an

inadequacy in the provision of bookmakers in that locality. The judge will determine whether the licence should be granted.

The Minister is supportive of that policy, but, of course, he will listen very carefully to any proposals put forward by the Committee, or any suggestions as to how that should be amended. We would urge caution in changing the policy, which has served Northern Ireland well in the past. The position in Great Britain was similar to Northern Ireland, until the 2005 Act. The experience there has shown that, ever since the needs provision was repealed, there has been a proliferation of bookmakers' shops moving on to the high streets of the towns and cities, and also towards the deprived areas where we already have, in the view of the courts in Northern Ireland, a sufficient number of bookmakers' shops. Given the evidence in Great Britain, I suggest that, should we tamper with current provisions, you will find a large number of bookmakers applying to move from their current location on to the high streets and towards deprived areas. The reason why bookmakers' shops tend to congregate in deprived areas is due to the fact that it tends to be an activity that working-class males generally engage in, rather than those in more affluent areas.

The Chairperson: I should have said to members that there is a research paper at tab 2 of their packs, but that does not deal with the issue of concern for the Committee. The Committee is quite content with the principle of need and all that having to be addressed. In any other policy framework that exists, the issue for the Committee is this: in order for someone to apply to relocate, they have to surrender their licence.

Mr Quinn: Yes.

The Chairperson: The Committee has taken a view, and it thinks that is unfair. We are not suggesting that we change the need criteria or any other criteria. We are simply asking why you have to surrender a licence before you apply for something else, which you may or may not get. If you do not get it, you are out of business — go home and forget about it. That seems inherently unfair. That does not deal with the issue of need whatsoever. We are not tampering with the issue of need or any other policy, planning or retail framework.

Mr Quinn: The issue that the judge in court will be looking at —

The Chairperson: The judge will look at whatever the judge will look at. We are not interested in interfering with that whatsoever. We want to know why a person has to surrender a licence. Why can they not apply?

Mr Quinn: Because there might be too many bookmakers' shops there already.

The Chairperson: That is OK. The judge can make that determination. However, the problem is that a person applying has to surrender their licence. That is unfair.

Mr Quinn: If we take an example of a town where there are three bookmakers' shops and one bookmaker wants to move, it might be that the three bookmakers' shops there are already more than adequately covering the needs of the punters in that town. On another occasion, there might be three, and that may be too many. Maybe there is the need for only two bookmakers.

The Chairperson: We are not arguing that. We are not taking any issue with that, Liam. You are missing the point entirely. We are simply asking why a person has to surrender a licence and apply. We are saying that that person should be able to apply and you will address whatever criteria is applicable and a judge can turf that application out if they so wish in the context of a policy. However, that person has had to give up their licence to make an application. The Committee has taken the view that that is unfair. It has nothing to do with need; it is to do with the person's right to apply.

Mr Quinn: There are two types of licence. There is the personal licence, which the bookmaker can hold, and there is the premises licence that is based on those premises. I take the point that you make, Chairman, that this is unusual —

The Chairperson: I do not know that you are, because you keep coming back to the question of need. We are not interested in need.

Mr Quinn: I know. However, the reason why they have a licence in the first place is due to the fact that the policy for the number of bookmakers' shops and the location of those shops is restricted. It might be possible to allow bookmakers to maintain their current licence while applying to move and, if we do that, you will find that most of the bookmakers, certainly the big chains, will take the punt — to use an expression — on trying to move to another location, and they may be successful.

The Chairperson: But they still have to address the judge or whoever has to address the question of need. So, it is nothing to do with the need. We are not looking to expand the criteria at all.

Mr Quinn: But you will still find that they will move their location.

The Chairperson: How can they move their location if the judge is going to apply the principle of need?

Mr Quinn: To take the scenario that you are discussing, Chairman: I own a bookmakers' shop, and I want to move to another street. In the new scenario that you are talking about, I do not have to close that bookmakers' shop. I apply for a licence here and the judge says, "No". I can apply again somewhere else, and I can continue to apply to move until I find somewhere that is more suitable for me without having taken any risk whatsoever to the existing business. So, I can continue to move to various high streets and to other locations —

The Chairperson: If I have a retail business in Belfast, and I want to go for a change of use somewhere in another row of shops, I do not have to surrender my licence.

Mr Quinn: No.

The Chairperson: I can go and apply within the policy criteria that will be laid down democratically and legally by a particular authority or the courts, and they will determine whether I am able to open or get a change of use. Is that right?

Mr Quinn: Yes.

The Chairperson: I do not have to surrender my furniture retail licence to sell furniture.

Mr Quinn: Parliament in the past has taken the view that betting is fundamentally different from selling furniture or newspapers. It is an issue that has been controlled, for very good reasons. People have problems with gambling and so on. If we allow bookmakers to maintain their current licence while speculating on moving, we would find that they would move, and they would move towards the high streets and deprived areas.

The Chairperson: I am not going to engage you any further on that. All I know is that the Committee took evidence and legal advice last week and there was no evidence to suggest that that would happen. That is on our record.

Mr Quinn: Sorry, Chairman, but there is strong evidence from Great Britain, where the needs provision was abolished —

The Chairperson: You are missing the point, Liam. I am sorry, but we are not dealing with abolishing the needs criteria. We are not suggesting touching that at all. They are two separate issues.

Mr Quinn: Could I ask you to explain, Chairman? Are you suggesting that the bookmaker should be allowed to maintain his current licence on his existing premises while applying to operate elsewhere, providing he then closes those premises down?

The Chairperson: Of course.

Mr Quinn: I understand what you are proposing, but I will go over again what would happen. The bookmaker would maintain his business in some back alleyway while he puts in an application for a licence on the main street, in the middle of a housing estate or some other location that he finds may be more profitable. He could continue to do that without any risk whatsoever to his existing premises. The large multiples that operate in Northern Ireland now would take advantage of any such provision

and move to the high streets and deprived areas where they think they will have more lucrative business.

The Chairperson: What you are saying is that the law and the courts will ignore the principle of need.

Mr Quinn: No, no. They would still apply it. Bookmakers may not get it the first time that they apply, but they would continue trying, because there would be no risk to their business. Currently, they have to close the premises and take a gamble that the court will permit them to move to another location.

The Chairperson: We understand that, but we do not think that it is fair.

Mr Brady: Just to clarify: if they apply for new premises, they are not going to increase the number of bookmakers. That is not the case. You would not have the two premises running concurrently. So what is the issue? The number is not going to be increased. If you have premises somewhere and you want to move two streets away, you have to apply. We are saying that you could still hold your licence and move to a premises, and the other one would then close down. You would not then have four bookmakers; you would still have three.

Mr Quinn: The concern for a bookmaker trying to do that is that the judge will take a view that the three licences that are there already are too many.

Mr Brady: He may do, but the point is that there are three there. Presumably, those were given on some sort of informed judgement.

Mr Quinn: Things change.

Mr Brady: Of course things change, but there are loads of illegal bookmakers around that the judge has nothing to do with. That is the issue. Holistically, it is all the one issue. I do not understand. If they apply for new premises and keep their licence, then move with that licence to new premises, the other place closes. So you are not increasing the number of bookmakers.

Mr Quinn: The concern for a bookmaker attempting to do that, under the current legislation, is that the judge may not grant their licence because he believes that the three licences already there is too many. Maybe only one bookmaker is required when you look at the demand for bookmaking in that area. That is a gamble for the bookmaker to take.

The Chairperson: That would not be a concern of the bookmaker. The bookmaker is unlikely to be concerned that, if he or she applies to go somewhere else, there might be three other businesses operating there and so the judge might knock them back. I am sure that the bookmaker would not be concerned about that. Why would they be? If there is too much provision, they are not going to get their business and they will close anyway.

Mr Quinn: What happens is that other bookmakers object. If you try to move, they would object.

The Chairperson: I appreciate that.

Mr Quinn: They would argue the case —

The Chairperson: I appreciate competition and the right of everybody to have their view on planning applications. People have the right to object. To say that somebody could keep making repeat applications on the basis that somewhere down the line they will get an application is to suggest that the judge would just get fed up and give them it to get rid of them. I cannot see that happening.

Mr Quinn: We have some reports on the impact of the 2005 Act in Great Britain and how bookmakers' shops have moved to the high streets and deprived areas. I can share those with the Committee Clerk. Maybe you would find that helpful.

The Chairperson: I appreciate that. That is an issue for us.

Mr F McCann: I was getting a bit confused there. The judge may rule on this, but the fact is that this guy wanted to move. The bookie who objected owns a string of bookie's offices, and that is what is

stalling things. There may be what we would call an anomaly in the law on people moving. It is not about what a judge says.

I take it that this guy has been there for 30 or 40 years or perhaps longer; probably longer than the person who has objected to him. There must be something in the rules of competition that would take into consideration the length of time that this family has had a bookmaker's shop. It has more to do with another bookie objecting to him moving rather than a question of need. The bigger bookie will move in to fill the need that the other bookie had catered for in the first place.

Mr Quinn: Under the current legislation, the judge has to weigh up the need himself, whether there are objections or not. The objections will come with arguments to try to sway the judge, but the judge still has to weigh that up even if there are no objections.

Mr F McCann: I do not gamble, but the nature of bookmaking has changed over the past 30 or 40 years; it has gone from family-run businesses to major companies. There is an individual here who may not have the money or the resources to challenge something like that continuously. However, the person who is objecting can persevere and cover the cost of objecting in the hope that the guy goes away.

We are talking about fairness here. We talked to family-run businesses, as we did for the gambling inquiry, and their concern is that multinationals are taking over everything and local businesses are going to the wall. That is what this is about.

Mr Campbell: I am glad that I am not the only person who is a bit confused here. I am not clear on what the departmental concern is if the suggested change came about.

Let us take the scenario that you were unfolding about the three bookmakers in a locality. As I understand it, you are saying that if one bookmaker says that he wants to move, and, in moving, there will still be three bookmakers' shops; it is just that one of them will be in a different location to where it was previously. What is your concern if what the Committee was looking to be changed came about? What would happen then that is not happening now?

Mr Quinn: The location of the bookmaker's shop would change.

Mr Campbell: One of them.

Mr Quinn: One of them, yes, but others would be able to change as well. This will not affect just one bookmaker; it will affect all bookmakers. Any bookmaker could apply to move the location of his premises to a more lucrative site on a high street or in a deprived area or wherever they perceive their business would be better served.

Mr Campbell: But there would still be three bookmakers' licences.

Mr Quinn: If we maintain the needs provision, the judge would have to determine whether there should be three bookmakers or not. In this case, if the bookmaker was able to maintain his existing licence, there would still be three bookmakers' shops. In the current situation, where someone surrenders their licence and applies for a new one, the judge may say that there were three bookmakers' shops in the locality but that that was too many to begin with and another one is not needed.

The Chairperson: But that penalises the individual.

Mr Quinn: That is for the judge to determine. Any bookmaker who wants to move location is taking a gamble that they can convince the judge that, in their new location, they are meeting a demand for bookmaking facilities in that area that are inadequate.

Mr Campbell: Yes, but the gamble that they are taking if they win is that there will still be three bookmakers, and if they lose, they will have two.

Mr Quinn: Yes; they may lose.

Mr Campbell: Right.

The Chairperson: I do not think that we can rehearse this much more today. As I see it, the Committee has heard no compelling evidence to suggest that its position is wrong. I take your point, but it is a fairly old policy. Fair enough, it might have served its time. We are not interested at all in changing the needs criteria or any other retail or planning criteria that need to be met. I am not suggesting expanding that at all. We are simply saying that it is unfair that, when a person applies to relocate, they have to surrender their licence and, in all probability, unless they are a big operator, lose their business. No other industry or sector has to do that. It is different if a person can take a short-term lease on a property and then seek to get a change of use. That is a legitimate enough risk to take, but they do not have to give up the business to do that. The Committee thinks that this is unfair. We have heard the legal advice and your response to that, Liam.

Mr Durkan: I agree with all the members who have spoken so far on the need to have the anomaly removed. It reminds me of the situation with pharmacy licences, given the weight that can be attached to objections, regardless of who the objectors are — they may be rivals from big chains. I know that pharmacy licences are outside this Department's remit, but what way do they work when someone wants to move premises?

Mr Quinn: I have no idea.

Mr Durkan: It might be worth looking at.

The Chairperson: I am sorry for going on about it, but the Committee has taken fairly heavy lobbying on this, and it comes down to one business as such. We have heard legal advice and opinion, and we think that it is unfair. Our advice also suggests that it should be relatively easy to amend the legislation. I take your point about what is happening in Britain, but we have not been presented with any evidence to suggest that it will open the floodgates. We are not at all suggesting expanding or changing any of the criteria on need or anything else; it is simply that a person has to give up their business when they apply to relocate. That is unfair. If members are content, we will reschedule this for discussion on its own on another day. Is that fair enough?

Members indicated assent.

Mr Quinn: Would you find it helpful if I sent you some of the research from Britain on the impact of the 2005 reforms?

The Chairperson: Certainly, Liam. We would appreciate that very much. Thank you very much for helping us this morning.