

Review of Liquor Licensing Law in Scotland



Response to the Nicholson Committee Report

**CAMRA, The Campaign for Real
Ale**

December 2003

1.0 General Points

- 1.1 As a consumer group our primary focus is in pursuing reform to provide consumers with greater choice.
- 1.2 We support the replacement of permitted hours with a more relaxed and flexible approach aimed at leading to varied closing times.
- 1.3 We believe that reform will give consumers greater choice, boost tourism and tackle the problem of alcohol related disorder by phasing closing times and in the longer term by encouraging a more sensible approach to drinking.
- 1.4 Consumers should be represented on both local and national licensing forums.
- 1.5 We do not believe that the “promotion of public health” is an appropriate licensing objective.
- 1.6 We do not believe that Licensing Boards should have the power to reject or modify a licence in the absence of any valid objections.

2.0 Licensing Principles (Recommendation 1)

- 2.1 We support the approach of establishing clear licensing principles that will guide future licensing legislation and guidance.
- 2.2 We support the inclusion of the prevention of crime or disorder; the promotion of public safety; the prevention of public nuisance; and the protection of children from harm as licensing principles.
- 2.3 However we do not feel that the case has been sufficiently made to justify the inclusion of the promotion of public health as a licensing principle. We fully support the promotion of public health but believe that this could be best achieved through partnership and self-regulation rather than legislative intervention.
- 2.4 The inclusion of the promotion of public health as a licensing objective could lead to unnecessary regulation that would reduce consumer choice.

3.0 Licensing Boards (Recommendation 2)

- 3.1 We support the retention of licensing decisions in the hands of licensing boards composed of local councillors.

4.0 Licensing Board Members Training (Recommendation 4)

- 4.1 In order to ensure consistency in decisions we believe that training for members of licensing boards should be mandatory.
- 4.2 We support the principle that training should be prescribed and approved nationally by the Scottish Executive.
- 4.3 We recommend that all members of licensing boards should have to make a declaration of interests in the event that they are asked to make a decision on an application on which they have a vested interest.

5.0 Meetings of Licensing Boards (Recommendation 9)

- 5.1 We believe it would be useful if Licensing boards were required to hold a minimum of four meetings at regular intervals throughout the year to ensure proper oversight of the licensing system. However we accept that where there are no applications to be considered then the requirement to hold a meeting should be allowed to lapse.
- 5.2 To ensure that decisions are taken at an appropriate level we believe national guidance is required to indicate what issues can be devolved to the Licensing Clerk.

6.0 Statutory Licensing Forums (Recommendation 10)

- 6.1 Licensing policies can have a significant impact on consumer choice in a locality. We would therefore like to see local licensing forums being proactive in seeking the views of consumers and ensuring that these views are communicated to the licensing board.
- 6.2 We believe that local licensing forums should include individual consumers and consumer representatives. We also believe that local licensing forums should meet in public and provide an opportunity for the general public to express their views.

7.0 Personal Licences and Premises Licences (Recommendation 11)

- 7.1 Replacing the existing system of licences with Personal and Premises Licences would help simplify the licensing system.
- 7.2 We agree that Premises Licences should remain in force indefinitely in order to provide greater certainty for licensees and consumers alike.
- 7.3 The operating plan should include a detailed plan of the internal layout of the premises. This is important as changing the internal layout of a licensed premise can have a significant impact on the potential for crime, disorder and/or public nuisance.
- 7.4 Where the interior of an establishment is of architectural and/or historical merit then any material changes to the fabric should be taken into account in the operating plan and discussed with the relevant Planning Authority.
- 7.5 We campaign for the highest possible standards in pubs on behalf of consumers. We would therefore welcome moves to establish a national minimum training standard for new licensees

8.0 Licence Conditions (Recommendation 12)

- 8.1 We express concern at the proposal to authorise the making of regulations setting out standard conditions that must be attached to all premises licences. Standard conditions will simply not be appropriate in many cases, as both premises and businesses will differ.
- 8.2 Where standard conditions are deemed necessary we believe that they should be on the face of the Bill to ensure proper parliamentary scrutiny.
- 8.3 It is our view that licensing boards should only have the power to modify a licence where valid objections have been reached. To restrict business freedom and consumer choice in the absence of any valid objections is disproportionate.

8.4 We are concerned that allowing licences to be modified in the absence of valid objections would lead to some licensing boards imposing draconian conditions based entirely on conjecture to prevent a problem occurring at some point in the future about which someone may object.

9.0 Staff Training (Recommendation 15)

9.1 We campaign for the highest possible standards in pubs, on behalf of consumers, and would therefore support accredited qualifications for those working in licensed premises.

10.0 Permitted Licensing Hours (Recommendation 20)

10.1 The present system of statutory permitted hours is archaic and reform is long overdue. We therefore support the abolition of statutory permitted hours and the introduction of opening hours tailored to suit each individual premises.

10.2 The abolition of statutory permitted hours and the introduction of a more flexible approach to licensing hours will deliver the following benefits:

- Allowing licensed premises to cater for the demands of modern consumers and tourists.
- Reducing the speed at which people drink by allowing them longer to consume their drinks. The result will be people drinking the same amount but over a longer period leading to a reduction in public drunkenness and the impact on public health.
- A reduction in the risk of conflict as a result of varied closing times, as well as reducing the pressure on police resources, late night transport and late night fast food operations.
- Allowing local communities a greater say in licensing decisions and encouraging licensees to work in partnership with local residents.
- Allowing smaller community orientated pubs to compete on a level playing field with larger venues that are already able to secure regular extensions.
- Encouraging people in a mature society to take a more responsible approach to the consumption of alcohol.

10.3 We would like to see flexibility built into the authorisation of opening hours to enable licensees to extend their opening hours on specific holidays such as Hogmanay, no matter which day it falls on.

10.4 We believe that there should be an expectation that public houses will not necessarily trade all the hours that they are authorised to do so. It is likely that many public houses will apply for hours until 12pm, but will normally only open until 12pm on Friday and Saturday nights.

11.0 Publication of Applications (Recommendation 27)

- 11.1 Lists of applications should continue to be published in local newspapers, as it is important to ensure that potential objectors, including consumers, have an opportunity to comment. We believe listing applications by postcode would make it easier for people to identify applications, which they may have an interest in.

12.0 Statutory Objectors (Recommendation 32)

- 12.1 Both individual consumers and consumer representatives with an interest should be statutorily entitled to register an objection.

13.0 The Power to Modify or Reject a Licence in the absence of objections (Recommendation 35)

- 13.1 We strongly oppose the proposal to allow licensing boards to modify or reject applications in the absence of any legitimate objections. In the absence of any objections a licence should be granted automatically.
- 13.2 Allowing licensing boards to reject licences in the absence of complaints will lead to unnecessary restrictions that will penalise consumers and the licensed trade alike.

14.0 Fees (Recommendation 45)

- 14.1 Fees should be set at an affordable level and should not threaten the viability of small community public houses. Public houses are a vital community amenity and their loss can have a devastating effect on isolated communities.
- 14.2 A maximum fee should be set centrally to ensure that small community public houses are not threatened by extortionate charges. There should however be scope for local authorities to charge lower fees where possible.

15.0 National Licensing Forum (Recommendation 47)

- 15.1 It is consumers who are ultimately affected by decisions made as a result of the licensing process. Consumer organisations such as CAMRA should therefore be represented on the National Licensing Forum.
- 15.2 CAMRA, as the only organisation in the country that campaigns specifically for drinkers and pub goers rights, should be represented on the National Forum".

16.0 Public Health Condition (Recommendation 58)

16.1 We would be concerned about moves to force every licensed premises to display a prescribed minimum of promotional material in a prominent place promoting sensible drinking. We are concerned that this level of compulsion would lead to resentment from publicans and consumers alike and would be counter productive.

17.0 Permitted Sales to 16- 18 Year Olds with a Meal (Recommendation 60)

17.0 Perry while rare in Scottish licensed premises remains in regular production and it is not unknown for public houses or restaurants to serve perry. We therefore do not believe that reference to perry should be removed from the list of drinks 16 – 18 year olds are permitted to consume with a meal.

18.0 Occasional Licences and Permissions (Recommendation 72)

18.1 We welcome the proposals to retain Occasional Licences and Permissions. These enable many different voluntary organisations, including CAMRA, to run very successful temporary events.

18.2 We welcome the proposal to define the term “voluntary organisation” and as a “voluntary organisation” ourselves would like to see consultation on an appropriate definition.

19.0 Drinking Up Time (Recommendation 74)

19.1 The proposal to retain the principle of drinking up time and to increase the period to 30 minutes will benefit consumers, by creating a more relaxed a friendly approach to closing time.

19.2 A 30-minute drinking up time will also help reduce any possible public nuisance by facilitating a more gradual dispersal of customers.

20.0 Interpretation (Recommendation 90)

20.1 We believe that there should be a common definition of alcoholic liquor throughout the United Kingdom and welcome the proposal to consult with HM Customs and Excise.

Need more information?

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Appendix 1

About CAMRA

CAMRA, The Campaign for Real Ale is a not-for-profit independent voluntary consumer body, which exists to promote and defend access to full-flavoured and distinctive beer and the best features of the British pub.

CAMRA was founded in 1971 and membership our membership currently exceeds 70,000.

CAMRA's mission is to act as the champion of the consumer in relation to the UK and European drinks industry. Its aims are as follows:

Maintain consumer rights

Promote quality, choice and value for money

Support the public house as a focus of community life

And campaign for greater appreciation of traditional beers, ciders and perries as part of national heritage and culture

The Campaign is funded by member subscriptions, sales of publications and products and proceeds from beer festivals. Other than revenue from advertising in our member's newspaper, it is not funded in any way by the industry. Only individuals can join CAMRA.