



AlcoholAction
Ireland

A RESPONSE TO THE DEPARTMENT OF JUSTICE
OPEN CONSULTATION ON THE REVIEW OF
ALCOHOL LICENSING

JANUARY 2022

About Alcohol Action Ireland

Alcohol Action Ireland (AAI) is the independent advocate for reducing alcohol harm.

We campaign for the burden of alcohol harm to be lifted from the individual, community and State, and have a strong track record in effective advocacy, campaigning and policy research.

Our work involves providing information on alcohol-related issues, creating an understanding of alcohol-related harm and offering public policy solutions with the potential to reduce that harm, with an emphasis on the implementation of Ireland's Public Health (Alcohol) Act, 2018.

Licensing application systems

At present some alcohol licensing applications are made to the District Court, while others are made to the Circuit Court. The Circuit Court is involved in the majority of new applications. There is a proposal to streamline court involvement so that all court licensing matters (in relation to alcohol) are entrusted to the District Court.

What are your views on the existing licensing system?

In our view, the historical context of an alcohol licensing system was largely driven by an economic and social need for order within a 19/20th century society, where alcohol use was understood to be contributing to significant crime, public disorder and nuisance, undermining economic productivity and public safety, and endangering children from alcohol harm.

Over recent decades, modified social norms have somewhat influenced a change in alcohol behaviours, however those fundamental concerns remain central to the rationale of ensuring that adequate controls are established on the vendor of alcohol.

In current times, with a much greater understanding of the risk to human health, reducing alcohol use has become an imperative of public health policy, with alcohol now known to be responsible for the deaths of at least three people every day; over 1000 alcohol attributable cancer diagnoses annually and over 10% of our national health expenditure dedicated to managing the care of those impacted by alcohol harm.

In this context, while alcohol licensing had a public order policy fit within the Department of Justice, in our view the significance of public health considerations suggests this role can no longer exclusively be within its remit.

For instance, public transport policy on road safety, determined in the early noughties, identified that the previous licensing regime for road users and vehicles was no longer fit for purpose or aligned to the objectives of road safety. The reform pursued, at that time, established the Road Safety Authority as custodians of an enhanced and exacting driver training and licensing criteria that combined with a variety of safety initiatives: car worthiness; environmental improvements, etc., has seen road fatalities and incidents reduce dramatically in two decades.

*Do you think that all licensing matters should be dealt with by the District Court?
More fundamentally, in our view, alcohol licensing may be better assessed and awarded elsewhere. In our view, the housing of the administration of a licensing system is less concerning than who has the expertise and mandate to shape and execute public policy.*

While aspects of ensuring related crime, public disorder, nuisance and safety are legitimate concerns for the Department of Justice and by extension, An Garda Síochána, equally with alcohol holding such a profound impact on our society's health and wellbeing because of its psychoactive addictive and carcinogenic nature, it is our view that one exclusive government department cannot have the professional expertise or sufficient capacity to holistically address the reforms required in alcohol licensing.

How can the alcohol licensing application process be improved?

While we recognise the current licensing application process may be viewed as cumbersome, and should undoubtedly be streamlined and less bureaucratic, nevertheless the threshold of responsibility with alcohol use should not be diminished.

It is our view that the duty and responsibility that accompanies the sale of alcohol should be enhanced and reinforced. In this respect, and at a minimum, the introduction of an objective to protect and improve public health must be established within the process.

The commencement of Section 4 of the Public Health Alcohol Act in November 2021 was an acknowledgement of such a consideration.

Equally, greater scrutiny of compliance and enforcement of rigorous sanction should be brought to bear on those who are found to be in breach of their licensing conditions.

What is your experience of using online application forms and online payment systems?

No comment

Are there related improvements which you would like to suggest with regard to the alcohol licensing application process?

In our view, the establishment of clear criteria should be afforded a licensing authority, whether courts or authorised body/officer, to assess the capacity of a prospective licence holder to meet defined public health responsibilities.

These criteria must reflect a fundamental consideration of the harm from alcohol use:

The importance of the harmful use of alcohol as a public health priority, with action integral to successful promotion of well-being and healthy lifestyles and reduction of the burden of noncommunicable disease, as well as some communicable diseases, should never be underestimated. Alcohol is teratogenic, affecting the developing foetus; neurotoxic, affecting brain development; intoxicating, causing a wide range of intentional and unintentional injuries; carcinogenic, causing a wide range of cancers; an immunosuppressant, increasing the risk of communicable diseases, and a cause of a range of cardiovascular diseases. Alcohol harms people other than the drinker, whether through violence, traffic accidents, domestic violence in the family, or simply using up government resources. The greater the exposure to heavy drinking, the greater the impact on quality of life. Economic efficiency is impaired through diminished productivity due to alcohol. The real risk of dying from an alcohol-related condition increases with the amount of alcohol consumed over a lifetime, with heavy drinking occasions (when most alcohol is drunk) being particularly risky.

(WHO, European action plan to reduce the harmful use of alcohol 2012–2020)

Categories of licence

1 There are many different types of alcohol licences available in Ireland; the variety of alcohol licences that a venue or premises selling alcohol can have is quite broad. It is intended to streamline and re-categorise the types of alcohol licences available to establishments to ensure a more straightforward, open and coherent process while still ensuring that the sale of alcohol can continue to be controlled appropriately.

What categories of licences would you like to see in operation?

In our view, the categories of licence are less consequential than the volume and density of alcohol availability. There is strong evidence that alcohol-related harm can be reduced by regulating and limiting the density of outlets as well as times for alcohol sale (WHO, 2009).

The proposed extension of alcohol licensing into everyday normal lifestyle events, whether in established non-alcoholic businesses such as cinemas and sports venues, or notional 'pop-up' events, in our view should not be considered.

A principle that underpins existing public health alcohol policy framework: National Substance Misuse Strategy 2012; Cabinet decision on an enabling Bill 2013; Oireachtas enactment of Public Health Alcohol Act, 2018, is an endeavour to de-normalise alcohol as an every day commodity and bring population alcohol use within recommended weekly low-risk alcohol guidelines. This requires a +35% reduction from current per capita consumption.

Is there a need for streamlining? If yes, when, what and where would you streamline?

No comment

How could alcohol licences improve the cultural offerings available throughout the country?

In our view, alcohol licensing has nothing to offer the improvement of cultural offerings throughout the country. In our submission to the Night Time Economy taskforce we outlined:

" While many of the most exciting cultural and creative activities happen at night there is also a perceived norm that none can be enjoyed, or sustained, without the accompaniment of alcohol.

The continuing visible presence of alcohol in most cultural experience is detrimental to a new environment that seeks to ensure our children can go about their lives without being regularly exposed to alcohol promotion.

One major opportunity for the work of this taskforce should be to challenge this perception, and to reframe the integrity of the cultural expression beyond a commercial caricature.

An expansion of the night time economy cannot become a further commercial opportunity to embed a fabricated concept that alcohol use is central to our cultural experience. Neither should such an expansion of night time activities be advanced on the necessity of easier, or greater, access to alcohol."

Public Health

Ireland, in common with many other jurisdictions, has traditionally implemented its alcohol licensing requirements with due cognisance given to public health concerns (such as the proven adverse health effects of over-consumption of alcohol, the need to restrict the availability of alcohol to under 18s, public order and public safety, etc.).

In your opinion, how best can a public health approach inform the reform of alcohol licensing laws?

In our opinion, a public health approach can only inform a reform of alcohol licensing laws if equal purpose is given to sustain the objectives of public health alcohol policy. This would ensure that a formal consideration is established for public health in assessing an application and refusal determined unless the applicant can demonstrate adherence to such objectives.

This alignment to a public health approach could enable the input of expert knowledge and insight from local stakeholders such as HSE Environmental Health Services; An Gardaí, and/or Community representative groups, to inform the assessment of application.

Such an approach is evident in Scottish legislation, Licensing (Scotland) Act 2005.

AAI also propose that a Health Impact Assessment on any proposed reforms to alcohol licensing should be conducted to determine the impact any changes to alcohol licensing would have to public health and safety.

Health Impact Assessment is a structured process that assesses the likely effects of a proposal on health, leading to a consideration of how to improve the proposal to protect and enhance health

A brief overview of economic and social impact Ireland harmful relationship with alcohol:

The annual cost of alcohol related illness and harm costs the Irish exchequer €3.7bn (2012).

Every day at least three people will die from alcohol-related illnesses.

Today, 1 in 10 beds in our public hospitals are occupied by alcohol related cases.

1.4 million people in Ireland use alcohol harmfully.

The Health Research Board findings from the National Drug and Alcohol Survey 2019/20, published in July 2021(i), highlight that 578,000 people in Ireland have an Alcohol Use Disorder (AUD) – a prevalence rate of 14.8% in the general adult population.

An estimated:

- 90,000 with severe Alcohol Use Disorder
- 155,000 with moderate Alcohol Use Disorder
- 333,000 with mild Alcohol Use Disorder.

Among younger drinkers, aged 15-24, the highest prevalence of AUD was observed – 38% of all drinkers in this age group, an estimated 45,000 young men and women's lives already victims of Ireland's most common drug.

327,262 workdays were lost to alcohol related absenteeism in 2019.

Each year 60,000 teenagers will begin, all too early, a drinking career.

Forty percent of 15 years old children in Ireland drink.

Alcohol is a factor in half of all suicides in Ireland and 39% of driver fatalities had a positive toxicology for alcohol.

200,000 children's lives are being negatively impacted every day by problem parental drinking at home.

The total estimated cost of Alcohol Harm to Others (TCD/HSE: 2018) is €863m:

Nightclubs, late bars and Special Exemption Orders

Nightclubs and late bars operate on the basis of special exemption orders which are obtained from the District Court for premises to which an on-licence is attached. Such special exemption orders were originally intended for when a “special occasion” is taking place on the premises. However, in practice, a special exemption order is required for each and every late night opening. A special exemption order expires at 2.30 a.m. (1.00 a.m. where it extends to a Monday that is not a public holiday) unless the District Court, for stated reasons, grants the order for a shorter period. The cost of a special exemption order is €410 (i.e. €300 court fee and €110 excise duty).

What are your thoughts on this system (i.e. Special Exemption Orders)?

In our view, those who stand to gain the commercial rewards from alcohol sales must be, first and foremost, the one who pays the greatest contribution to alleviate the related harm. AAI have articulated this proposition in previous Budget submissions and more recently to the Tax and Welfare Commission.

We appreciate that sustaining any business is a challenge and that the state must be mindful of the cost to business of regulation. However, in this instance, where there is a direct co-relation between the sales of alcohol and the use of alcohol, those enriched must forfeit some of the gains to meet the loss to society.

What changes, if any, would you like to see made in this regard?

More widely, in the context of the current granting of late night special exemption, which facilitates alcohol use through to 02.30, AAI’s view is that this type of licensing ambiguity is unhelpful and that if the proposed reform were to establish the possibility of early morning openings, then this type of licence holder should pay a higher fee, reflecting the cost associated with extra policing, greater demand on emergency services and disruption to public order that will arise.

Trading Hours

Under current licensing law, a licence permits the sale of alcohol during the following hours:

- Monday to Thursday: 10.30 a.m. to 11.30 p.m.*
- Friday and Saturday: 10.30 a.m. to 12.30 a.m. on the following day*
- Sunday: 12.30 p.m. to 11.00 p.m.*

(Drinking-up time of up to 30 minutes after normal closing hours is permitted.)

Do you think the current permitted hours for licensed premises are appropriate?

In our view, the current permitted hours are adequate. However, AAI do recognise that in certain places, especially during particular times of public participation that later times of opening may be deemed commercially appropriate and/or necessary.

That said, a significant obstacle to our citizens, or visitors alike, enjoying a vibrant night-time economy is a fear of public drunkenness and related anti-social behaviour. The 2018 HSE/TCD study, 'The Untold Story', reaffirms that view, with 27% of people surveyed confirming being bothered by the drinking of strangers; 23% highlighting that they had been harassed on the street; and one in five feeling unsafe in public places.

What changes, if any, would you make? Please explain why.

In our view, it should become possible, and supported by planning laws, that venues are allowed to open later into the night but without the availability of alcohol. This may well facilitate the operation of music and dance, and variety of other cultural experiences, without the presence of a psychoactive substance that has the potential to disrupt such intimate experiences.

Any changes to facilitate the greater availability of alcohol especially in our towns and cities into the early morning will prove problematic.

In 2005, the UK, introduced the Licensing Act 2003 which relaxed licensing laws and amended trading hours and in theory allowed for 24-hour sale of alcohol. The measure, which was hoped would result in 'staggered closing times', was presented as means of reducing violence and disorder at fixed, peak closing times, one of the overarching aims of the Act [1]. However, to date there is no compelling evidence to suggest that alcohol related crime has reduced or changed as a result of the measures. [2,3]

Since the introduction of that legislation, changes observed include the shifting of crime and disorder further into the early hours, a subsequent strain on police resources, and a perceived increase in pre-loading. It has also been observed that the parallel infrastructure needed to manage the night-time economy - i.e. policing, enforcement, street cleaning, facilities, monitoring and decision-making by local authorities - was largely overlooked and under resourced. [4,5] In 2014-2016 in England and Wales, alcohol-related violent incidents made up 67% of violent incidents which take place at the weekend and 68% of those which take place during the evening and night. [5] There is no comparable dataset for Ireland.

Two Australian studies found that late trading was associated with increased levels of alcohol consumption in and around Perth 'public houses' during the period following the introduction of extended trading permits. [6,7] Chikritzhs and Stockwell's Perth study showed a 70% increase in assaults in premises with later trading (1 or 2 additional hours of trading after midnight) and late trading was associated with both increased violence in and around Perth 'public houses' during the period following the introduction of extended trading permits. Similarly research from Norway in 2012 suggested that each additional 1-hour extension to the opening times of premises selling alcohol was associated with a 16% increase in violent crime.[8]

A study from New Zealand also found that greater geographic access to alcohol outlets was associated with increased levels of serious violent offending across study areas.[9]

In Ireland, An Garda Síochána have already highlighted an increase in alcohol-related offences, which they attribute to a buoyant night-time economy. In 2017, Gardaí reported that public drunkenness offences in Dublin were 40 per cent higher than in 2016, and that public-order crime had increased 14 per cent.[10] In 2019, Deputy Commissioner Twomey, said that the number of crimes against the person, including assaults, tends to increase in the summer months, which he believed was related to the consumption of alcohol.[11]

Alcohol-related presentations are already a significant burden on EDs and ambulance services, especially in the early hours of Sunday mornings.[12]

Furthermore there should be no consideration given to equalising opening hours for both on and off-trade retail operators. Over two-thirds of all alcohol use is sourced in the off-trade, where hyper discounting and widespread, convenient availability are drivers of excessive consumption. In our view, to further relax availability of alcohol products from the off-trade would be a deeply regressive step.

Extinguishment requirement

A notable aspect of the current licensing system is the requirement that an existing public house licence must be extinguished in order that a new public house licence or full off-licence may be granted.

Do you think the current law regarding the extinguishment requirement is appropriate? In our view, since the liberalisation of licensing laws, as result of the Intoxicating Liquor Act, 2000, our society has become awash with drink, with alcoholic beverages widely available at every retail convenience store, post offices and petrol stations.

This expansion of alcohol availability through the off trade has had, in our view, a detrimental effect not only convenient availability of a harmful substance but in driving hyper competition on price that has sustained extraordinary affordability of alcohol over two decades.

History shows that liberalising or reforming licensing laws has real consequences, and while commercial operators will benefit the societal burden of alcohol related harm will grow.

Would you like to see this mechanism retained?

No comment

Are there any changes you would like to see made to this requirement? Please explain why.

No comment.

Online Delivery/Sales

There is no dedicated licence for online sales or the delivery of alcohol but licensees of licensed premises may engage in such sales subject to certain conditions.

Do you think this current legislative/licensing system is appropriate? What, if any, changes would you make?

AAI supports the focus of ICAAN for regulation of drink delivery services to close any legal loopholes relating to alcohol delivery services and greater clarity and regulation of a number of practices are required, including point of sale, age verification and legal hours of both sale and delivery.

Additional Comments

As outlined, current public health alcohol policy is enacted within the framework of the Public Health Alcohol Act, which has the primary objective of bringing about a 20% in alcohol use across the whole of population. Its principal measures tackle the drivers of consumption namely: price, promotion and availability and the provision of accurate information to the public of the risk of alcohol use.

To date (January 2022) a number of measures have been implemented however four significant measures – Sections 12, 13, 18 and 19 - remain outstanding. The cohesion of effective action is diminished while measures lie dormant.

In this context, and mindful of the expediency now being afforded the proposed licensing reform, AAI would propose that any reform that may undermine progress made in curbing alcohol availability is not undertaken until such time as the full suite of measures and the desired public health objectives have been achieved.

The Department of Justice previously delayed action on alcohol availability when, in working with the licence holders, it chose not to implement Section 9 of the Intoxicating Liquor Act, 2008. This delay was partially corrected, twelve years later, when Section 22 of the Public Health Alcohol Act was implemented in November 2020.

Alcohol availability is an important determinant of alcohol use and alcohol-related harm, along with pricing and promotion. Restrictions on the availability of alcohol is one of the most effective approaches to reducing alcohol-related harm.

The WHO has consistently identified restrictions on alcohol availability as a highly effective and cost-effective 'best-buy' for the prevention and reduction of alcohol harm. The WHO's SAFER initiative identifies five key policy action areas for Governments, the first of which is strengthening the restrictions on alcohol availability.

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