

Ministry of Justice, New Zealand

Drinking Hours/Trading Hours

(MoJ, n.d.[b])

Of the 400 submissions received, comments were made by 149 in respect of on-licence trading hours, 157 on off-licence trading hours and 117 on the issue of club licence hours. The Advisory Committee took the following issues into consideration:

- opening times (hours/days);
- increased intoxication and violence;
- flexibility in the current legislation;
- impact of the Resource Management Act on trading hours;
- role of the community;
- the role of DLAs;
- the role of the LLA.

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End of the 6'o clock swill

There was a strong belief expressed by most who opposed the current provisions in Parts I, II, and III of the Act, that freeing up the licensing hours has affected the drinking patterns of certain sectors of the population, thus increasing the incidence of intoxication and violence. We were, however, not presented with any detailed evidence to substantiate this belief.

Discussions about the extent to which the use of alcohol is a cause of violence has led us to the conclusion that alcohol may often be the symptom rather than the cause of such problems. A local study [Bradbury 1984] recorded in the Laking Report concludes that, while violence is often associated with alcohol consumption, much alcohol consumption does not result in violence. It also showed that, while in the 1970s a correlation existed between alcohol consumption and offences against the person, the point often omitted in discussions about alcohol use and alcohol related problems is that a correlation is not the same as a cause.

While the number of offences against the person has continued to increase steadily, information produced by ALAC shows an increase in alcohol consumption until 1978. Since then it has been steadily declining. Total alcohol consumption has decreased by 22 percent over this period. Beer consumption showed the biggest decline, falling 7.4 percent between March 1986 and March 1994. Spirits consumption fell by 6.8 percent during this period, but wine consumption increased by 11.7 percent.

In their submission, the New Zealand Police report a trend whereby there has been a displacement of alcohol-related offences from before midnight until the early hours of the morning. This was also reflected in the Land Transport Safety Authority's submission.

To assist the Police with their responsibilities under the Act and to ensure they reflect the community view, they have been part of a partnership approach with community groups, licensing inspectors, and other agencies dealing with alcohol-related issues. To this end, a booklet has been produced entitled "Working Together - A Guideline for Liquor Liaison Groups", which has been endorsed by the LLA and other agencies and widely distributed. In one community, Police, licensees, and other stakeholders, met and developed strategies to deal with patrons leaving hotels after the Police had finished duty for the night.

5.1 - On-licences

There is flexibility in the current legislation in that hours of trading for any form of on-licence premises are not specified. Currently, the applicant selects proposed hours of opening, and the LLA determines hours to suit local conditions. Each application is dealt with on a case by case basis. Section 13 of the Act sets out the criteria for on-licences, while section 14 of the Act sets out

conditions that may be applied.

Those groups which supported retention of the current flexibility were generally local authorities and other council-affiliated organisations, licensing trusts, inspectors, and the liquor industry. Most were of the view that the flexibility of the current provisions had worked reasonably well.

Of the 75 submitters opposed to the current provisions of the Act permitting 24 hour on-licensing, over half supported a set closing time of not later than 3.00 am. Support for abolition of 24-hour on-licence trading came from health and church groups, and individuals.

From a total of 1200 on-licences granted, over three hundred have 24-hour licences. However, the LLA advises that very few premises that have 24-hour licences actually open for this period of time.

A submission from the Dunedin City Council reports that Dunedin enforcement agencies believe the current provisions of the Act in terms of drinking hours are manageable and enforceable, and are not in themselves a contributor to alcohol related harm. On the contrary, the liberalising affect of the 1989 Act has reduced such behaviours that were known as initially the six o'clock swill, and then latterly the 10 and 11 o'clock swills. Dunedin has experienced problems over the past few years due to the inadequate management of licensed premises (as has every centre). These problems have stemmed from the inadequate management of the premises rather than the operating hours, and they believe that there is provision within the Act to appropriately deal with such issues. The Dunedin enforcement agencies endorse this aspect of the current Act.

5.2 - Off-licences

The current legislation, (section 37 of the Act) does not prescribe any set hours of trading for holders of off-licences. As a consequence, the LLA has adopted a general policy of requiring stand-alone off-licences to close at 11 p.m. unless there are exceptional circumstances.

Submissions representing mainly local authorities, other council affiliated organisations, licensing trusts and inspectors, and the liquor industry, favoured retention of the current provisions of the Act permitting 24-hour trading.

Information provided by ALAC report that people establish their drinking patterns at a young age. Although the Act prohibits the sale of alcohol to those under 20 years except in certain circumstances, some young people establish their drinking patterns well before they reach this age, and often buy alcohol from off-licence outlets, or consume alcohol on licensed premises while underage. The LLA advises that there appears to be little or no concern over current legislation in this area as most, if not all, off-licences close by 11.00 p.m., except for some supermarkets.

5.3 - Club Licences

Under the current legislation, the trading hours of a club are determined after an assessment of a club's activities in terms of the purposes of the Act. By virtue of section 59(2) of the Act, the predominant purpose of the club cannot be the consumption of alcohol.

From some of the submissions received, it is apparent that the consumption of alcohol especially in some sports clubs provides a source of income on which they are dependent if they wish to keep the club's prime activity viable.

We note that many submissions received from city and district councils detail that they have established trading hour rules in district plans which are open for comments by any interested party in the area. Other city and district councils deal with the matter in a less formal manner and arrive at a "Local Policy on Open Hours" which has the support of the councils.

In view of the fact that we have recommended in Chapter 4, issues concerning different types of licenses, that club licences be abolished, and that they be authorised to obtain an on-licence, it is concluded that the LLA will set hours of trade and conditions and subject clubs to the same controls as other licensees authorised to sell liquor for on premises consumption.

We note from general comments made by the HANZ that:

Customer demand in conjunction with commercial viability has become the most important regulator of trading hours and local communities through their DLAs and council committees have also had a considerable impact on the hours that premises can be open in their areas.

The Ministry of Justice Discussion Paper notes:

Accordingly, it would appear that in general the current legislation is working satisfactorily.

Because of these factors, we therefore see no reason to constrain the present flexibility conferred upon the LLA.

