

# **JUSTICE 2 COMMITTEE**

Tuesday 22 March 2005

Session 2

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## **JUSTICE 2 COMMITTEE**

**† 9<sup>th</sup> Meeting 2005, Session 2**

### **CONVENER**

\*Miss Annabel Goldie (West of Scotland) (Con)

### **DEPUTY CONVENER**

\*Bill Butler (Glasgow Anniesland) (Lab)

### **COMMITTEE MEMBERS**

\*Jackie Baillie (Dumbarton) (Lab)

\*Colin Fox (Lothians) (SSP)

\*Maureen Macmillan (Highlands and Islands) (Lab)

\*Mr Stewart Maxwell (West of Scotland) (SNP)

\*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

### **COMMITTEE SUBSTITUTES**

Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Mr Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Mrs Margaret Smith (Edinburgh West) (LD)

\*attended

### **THE FOLLOWING GAVE EVIDENCE:**

Mr Adam Ingram (South of Scotland) (SNP)

Councillor Gordon Macdiarmid (City of Glasgow Licensing Board)

Claire Menzies Smith (Scottish Parliament Non-Executive Bills Unit)

### **CLERKS TO THE COMMITTEE**

Gillian Baxendine

Tracey Hawe

### **SENIOR ASSISTANT CLERK**

Anne Peat

### **ASSISTANT CLERK**

Steven Tallach

### **LOCATION**

Committee Room 5

**† 8<sup>th</sup> Meeting 2005, Session 2—held in private.**



# Scottish Parliament

## Justice 2 Committee

*Tuesday 22 March 2005*

[THE CONVENER *opened the meeting at 15:07*]

### Licensing (Scotland) Bill

**The Convener (Miss Annabel Goldie):** I welcome everyone to the ninth meeting of the Justice 2 Committee in 2005. Papers have been circulated to members and item 1 on the agenda is the Licensing (Scotland) Bill. We have a full committee with no apologies, which is welcome.

I formally welcome to the meeting Councillor Gordon Macdiarmid from Glasgow City Council; perhaps more important, he is the convener of the City of Glasgow licensing board. We are glad to have him with us this afternoon. I also welcome Stephen Herbert from the Scottish Parliament information centre.

The committee has a set of questions to work its way through.

**Councillor Gordon Macdiarmid (City of Glasgow Licensing Board):** I shall do my best to assist by answering them.

**The Convener:** If you will be patient with us, we will try to make progress. You have Mr Butler to blame for your presence here—his commendation was so long that the rest of us could not resist the opportunity. We are grateful to you for appearing before the committee because we realise that in your role as convener of the City of Glasgow licensing board you are responsible for one of the busiest licensing areas in Scotland.

The Licensing (Scotland) Bill proposes a range of significant changes to the operations and procedures of licensing boards. A key issue for us is to assess the perspective of onlookers on the workability of the proposals in the bill as they relate to boards and the effectiveness of the proposals in tackling alcohol-related crime and antisocial behaviour. There is a perception that licensing boards are unwieldy and inefficient. Do you share that view?

**Councillor Macdiarmid:** Glasgow licensing board has a reputation for being more accessible and approachable than many other boards. It tries to conduct its business with a degree of humour, particularly in relation to objectors. The majority of applications are dealt with by professional solicitors who represent applicants, whereas objectors are likely to find the process most trying. It is certainly our intention to deal with objectors in a manner that is fair, equitable and, if at all

possible, humorous, and to put them at their ease. That approach would be borne out by the vast majority of objectors.

There is a certain inevitability that if one approaches 10 members of any elected body—that is the quorum in the case of the Glasgow licensing board—one is bound to feel a degree of trepidation. Part of the difficulty is that many objectors do not understand the structures or the restrictions that are placed on them by the Licensing (Scotland) Act 1976. The 1976 act does not include words such as “frivolous” or “vexatious”, which are used in the bill; under the act, we have a restricted set of criteria to define relevant objectors and relevant objections. For many members of the public, that is a difficult concept. They are simply not happy with the notion that there will be an off-licence—or whatever it may be—in their street and they do not understand the significance of the location of the proposed premises, measured as a certain number of metres, in relation to their premises.

For many members of the public, the process of appearing before the board is undoubtedly daunting, despite our best efforts.

**The Convener:** Do you consider the proposals in the bill to be an improvement?

**Councillor Macdiarmid:** Yes and no—that is perhaps an inevitable answer. One of our concerns is that the bill proposes that a licensing board should have 10 members and a quorum of three. That may well be satisfactory for many rural areas, but it is not satisfactory for a city the size of Glasgow. Traditionally, it has been argued that one of the strengths of the Glasgow board is that it comprises a cross-section of the population: the breadth of the city is represented, and therefore local knowledge can be brought to bear on all our decisions. It is hard to see how that could be sustained if there were a quorum of three. A panel with three members would be more approachable and less daunting as far as the public are concerned, but there would be difficulty with the expertise and breadth of experience that we would have around the table in addressing licensing applications throughout the city.

**The Convener:** What is your current quorum?

**Councillor Macdiarmid:** The quorum is 10 and there are 20 members.

**The Convener:** Would you like the bill to be modified on that point?

**Councillor Macdiarmid:** Yes. As I said at the Holyrood conference on licensing reform a few weeks ago, it is our contention that there should be a sliding scale of membership and quorum. A point that I made at the outset and, indeed, in representations to the Nicholson committee is that

we should not be constrained by a one-size-fits-all model. There must be recognition that licensing is a local function and therefore that different models are appropriate in different local circumstances. That remains the Glasgow board's view and we intend to make representations in that regard.

**The Convener:** Do you think that the proposals to help licensing boards to tackle antisocial behaviour and alcohol-related crime are an improvement?

**Councillor Macdiarmid:** We welcome many aspects of the bill. At the Holyrood conference, the minister, Tavish Scott, admitted that the notion of the continuity of pricing policy has been lifted more or less straight from the policy that the Glasgow board has employed for the past year. We felt strongly that we had to move on that issue for two principal reasons. First, we have the evidence of our own eyes. The Glasgow board goes out on night-time visits four times each year—before each of its quarterly meetings—on the 8 pm to 4 am shift, as it is affectionately known. We have seen plenty of evidence of people, particularly young women, being heavily under the influence of alcohol on the back of irresponsible promotions. We have seen them staggering round the various premises that have entertainment licences and clutching the multicoloured bottles—which are so easy to see—that they have bought up in large numbers over a short period of time. That has an impact on public health and safety. It also clearly involves an element of public disorder and violence, which Strathclyde police has reported to us.

15:15

In Glasgow, our relationship with the police force is excellent. The force provides us with statistical information every quarter. Part of the difficulty used to be that licensed premises were concerned about reporting anything that happened because they thought that they would get the blame for it. However, in the past year or 18 months, we have been able to persuade them that it is very much in their interest, as well as in that of the public, to report incidents as they happen and that incidents will not necessarily be held against them. We have been developing and improving our relationship with licensed premises, which means that we have what we regard as increasingly accurate statistical information from Strathclyde police. That, together with the evidence of our own eyes, led us to believe that there was a problem that needed tackling.

There are other on-going issues. We are in discussion with Strathclyde police on off-sales. The force and I would like test purchasing to be extended into the liquor-licensing sphere. That is

something that the Executive must decide—it is not a matter for local licensing boards.

**The Convener:** That is all to do with enforcement, and there is something of a public perception that licensing boards do not address with sufficient robustness concerns that are expressed about the conduct of licensees. Do you agree with that perception?

**Councillor Macdiarmid:** No. The evidence from the operation of the City of Glasgow licensing board gives the lie to that perception. At the normal quarterly meetings, the police force brings information before the board through the chief constable's objection or comment. Public concerns are voiced by individual objectors, and the board has consistently examined those. I have some statistical information on what has happened over the past 18 months to two years, if that is of interest to the committee.

**The Convener:** Could you leave that with the clerks, so that we can circulate it to committee members?

**Councillor Macdiarmid:** Certainly, but I will give you some figures for 2003 and 2004. We refused 13 off-sales licences in 2003 and one on-sale licence and five off-sales licences in 2004, on a combination of chief constable's objections and community objections. Over the same period, there were seven hearings before the board under section 31 of the 1976 act at the chief constable's request. Those hearings resulted in a variety of actions. In two cases, because we had already removed the regular extensions, the licensees were given warnings at the section 31 hearing rather than having further action taken against them. In the other cases, the licences were suspended for periods of between a month and a year—a year being the maximum suspension that we can impose.

As far as public perception is concerned, a much more significant problem is the fact that after objectors—whether they are members of the public or the police force—appear before the board and the board hands down a decision to suspend a licence, an application for appeal is inevitably lodged in the sheriff court and the premises trade on, pending the hearing of that appeal. In Glasgow, because the sheriff court is busy, it can take an inordinate period of time for the appeal to be heard. In such cases, the community—if community members have been the objectors—is left with the impression that justice has not been seen to be done because the premises trade on despite their objections and the board having upheld those objections and suspended the licence. That was one of the points that we made to the Nicholson review and we find it gratifying that, under the bill, there will be greater immediacy of punishment, more akin to that which

obtains under civic government legislation in other areas of licensing activity.

**The Convener:** I should have apologised for the delay in starting the meeting. We were held up prior to the start, so I am sorry that you were kept waiting.

**Maureen Macmillan (Highlands and Islands) (Lab):** I will ask about the bill's objectives, which are: preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children from harm. Are those the correct principles that should be at the heart of the bill, or is there anything that Councillor Macdiarmid would like to add?

**Councillor Macdiarmid:** By and large, Glasgow licensing board supported the principles as outlined by Nicholson, which develop the thinking behind the existing four grounds for refusal under the 1976 act. My greatest personal concern was about the protection of children. As Bill Butler knows, I was a teacher for 25 years—we shared some professional experience. I have worked with young people in Renfrew, which is a nice little microcosm of most urban cities, so I have seen the good, the bad and the ugly, if I can put it that way, in relation to alcohol there.

I feel—I might as well say so, as you have given me the opportunity—that the Executive has missed the boat with regard to children as far as the bill is concerned. The opt-in or opt-out has been much discussed. We would have preferred an assumption in the licence that premises would meet the required standards to accommodate children and that all premises should be welcoming in that regard. Our reason for thinking that was that we currently attach all sorts of conditions to children's certificates, which allows us to drive up the standard of premises.

Laying aside premises that provide adult entertainment—there is a given that those are not the sort of premises where one would seek to admit children—I believe that there was an opportunity to drive up standards and, at the same time, create a fundamental change in people's attitude. That attitude was, "Dad is in the pub and we're outside," or "Mum is in the pub"—let us not be sexist—"and we're outside." We could have made more premises child friendly. I have an eight-year-old son, and one of the things that we welcome when we journey abroad is the fact that families are automatically admitted to premises and the standard is welcoming to families. That demystifies alcohol, and I hope that my eight-year-old is being brought up with a responsible attitude to alcohol. Fundamentally, it does not matter what legislation we have; unless we can change attitudes, we will not change the core problem in

Scotland, which is the cultural tradition of being a hard-drinking nation.

**Maureen Macmillan:** Do you think that, if children are allowed into pubs and if pubs are child friendly, that will have an effect on the regular customers?

**Councillor Macdiarmid:** An onus should be placed on operators and licence holders to have premises that are child friendly. That creates a specific atmosphere and ambience, and I believe that that is desirable in all premises. The assumption should have been that that is the requirement, and licensees should have to opt out of that, particularly in the case of adult entertainment premises. In its proposals in the bill, the Executive has gone for the reverse situation, which leaves the door open for those who do not want children on their premises and for those who do not want higher standards to be required of them in the operating plan that we would naturally look for if children were to be on the premises.

**Maureen Macmillan:** That is an interesting point that we will no doubt pursue as we go along.

Do you think that the bill's provisions—leaving aside what you have said about children—are sufficient to tackle the problems of binge drinking, which often leads to alcohol-related crime?

**Councillor Macdiarmid:** I have already said that the Executive's proposals on the continuity of pricing followed the Glasgow model, and although the Executive has gone for 48 hours rather than 24 hours, I do not think that that makes much of a difference at all. On the remaining area that concerns us, we have no superior wisdom when it comes to tackling the off-licence problem. Test purchasing is one solution, or one part of the solution.

We are in discussions with Strathclyde police on taking an experimental approach within the east end of the city of Glasgow. Strathclyde police have come to us with maps that show that incidents of public nuisance and disorder can be plotted and that they occur around certain licensed premises. Their approach is to ask, "If we can demonstrate clearly to the board that we can attribute those elements of public nuisance and public disorder to those licensed premises, is the board prepared to act on them?" That has always been a difficult and vexatious issue, but it is one that we intend to move on.

I have no answers when it comes to the large discounts that supermarkets offer on liquor sales. I have heard suggestions that the placing of liquor at the immediate entrance to the supermarket for display purposes should be banned. However, people who seek to purchase alcohol at a discounted price will find it, whether it is at the

front of the store, the back of the store or anywhere else.

We have not come up with any clever ideas about how to handle liquor sales through the supermarket tills. However, we can address the issue of off-licences by using test purchasing and working with the police on public nuisance and public disorder. There is a third string, as it were, to that bow. One of our concerns has consistently been that people get wrong impressions about where alcohol has been purchased from. I will give an example from my own ward. As a throwback to the old veto poll situation, I represent an area that has a population of nearly 6,000 people but one off-licence. We are about to undergo a massive regeneration, as part of which the single row of shops in the Penilee scheme, where the off-licence is located, will be replaced. When we displayed the regeneration proposal, a number of the more elderly members of the community said, "Great, councillor. Does this mean that we can get rid of the off-licence, because there are youngsters in the scheme who drink and cause all sorts of antisocial behaviour problems?" I told them that the proposal would give them that opportunity, but that they were wrong, as the drink did not come from that off-licence, which operates very well. The manageress's car has been damaged because she consistently applied a policy of repelling both the youngsters and those who were trying to be agents for them. I told people that the drink came from an immediately adjacent ward and that the police were on top of the issue and were dealing with it.

We must be careful about public perception. It is too easy to say that if youngsters have drink it must come from the nearest off-licence. In Penilee, drink also came from a flat, where supplies were brought in from the continent and sold from the flat, rather than from the off-licence, which in the public perception was the root of all evil. An education exercise must be conducted to get it through to people that not all off-licences are de facto sources of annoyance for the community.

I presume, convener, that members will come on to over-provision, but I am not sure whether it—

**The Convener:** We have a raft of questions and we should perhaps let members work their way through them as that will enable you to comment on some of the areas that concern you.

**Councillor Macdiarmid:** I shall stop at that point and deal with the other points later.

**Mr Stewart Maxwell (West of Scotland) (SNP):** You commented on test purchasing, in which I am interested. I have been in correspondence with the Lord Advocate on test purchasing in a range of areas. You will be aware that he has now come out with views on test purchasing of certain

products that have an age limit, such as tobacco, but not alcohol. I wrote to him about that, and he said that under the 1976 act it is effectively an offence to buy or sell alcohol in such circumstances, so he could not use test purchasing. The phraseology is repeated in the bill. Should we amend the bill to allow test purchasing?

**Councillor Macdiarmid:** The important issue is the outcome. We should use whatever methods we can to deliver a more effective control to stop youngsters getting access to alcohol. That is what I would like to be achieved. If the legislation is to be successful in terms of public perception, it has to be framed in such a way that it reflects what people want. By and large, people have no qualms about the accessibility of alcohol to people who are over 18, but they want to stop access to it for those who are under 18. If test purchasing is a way to achieve that, I would go down that road.

**The Convener:** Quite a few of the questions will be susceptible to a yes or no answer. Please feel free to respond in such a way, because there is a lot of ground to cover and it would be good if we could get through it.

**Colin Fox (Lothians) (SSP):** I turn Councillor Macdiarmid's attention to sections 10 to 12, which cover the local licensing forums. The bill proposes that each local authority should establish such a forum to review the bill and the operation of the licensing board. Do you have any experience of such forums? Do they currently exist in Glasgow? If so, what is your opinion of the way in which they function?

15:30

**Councillor Macdiarmid:** The forum that currently exists in Glasgow—we were ahead of the game—is 36-strong. It represents a huge range of public interests and has two directly elected members of the public—we allowed community councils to nominate, and the members were elected from the names that the community councils put forward. The forum works very well. I chair it, which would not be allowed under the bill's proposals.

So much of what has been achieved in Glasgow has been achieved on a collegiate basis. Before the forum was set up, we had a nightclub forum, at which we met entertainment operators and others. Over the years—my predecessors have to take a lot of credit for this—we have had a strong body of interaction that works well. The remit is huge. At present, one of the big issues in Glasgow is clearing the city centre. We are examining whether that is achievable using taxis, private hires and buses, or whether we have to move beyond that to taxibuses, for example. All the interest groups,



such as the health board, are represented. The forum is a significant body.

My major concern is that the forum would be restricted to 10 members under the bill. That goes back to my initial comments about a one-size-fits-all approach. It is not appropriate in a city the size of Glasgow to restrict the forum to 10 members. I seek greater flexibility.

**Colin Fox:** The bill states that the forums would meet at least once a year. How often does yours meet?

**Councillor Macdiarmid:** At present, it meets quarterly.

**Colin Fox:** As far as you are concerned, it is a marked success.

**Councillor Macdiarmid:** That is my view, and it is the view that is being voiced by everyone. We do not take an exclusive approach; we have an inclusive approach. People have said to us, "We're operating in this field. Can we come on to the local licensing forum?" and the answer is invariably yes.

**Colin Fox:** You said that there are 36 members of the forum. Five types of people are referred to in paragraph 5 of schedule 2, including the chief constable, licence holders and young people. Can you give me an idea of where the 36 members of your forum come from? You said that two community representatives are directly elected. Where do the rest come from?

**Councillor Macdiarmid:** They come from a wide range of interest groups. The forum is not an organ of the council—it stands independently—but the chair and vice-chair of the licensing committee are members. We work together on licensing issues. There are representatives from the health board, taxi firms, private hire firms and Strathclyde Passenger Transport Executive. The health board representatives include an accident and emergency consultant. We also have representatives from Alcohol Focus Scotland and other alcohol interest groups and from colleges, training groups and so on.

Part of the reason for my view that we should go wider than the bill proposes is that many people have an interest in the area, and there is a desire not to replicate work that is being done by others. One issue that has come out of the forum is that people have recognised that they are doing the same work and have suggested that they work together, saving resources by working in a collegiate manner, rather than a number of people working in isolation.

**The Convener:** Is the bill's formula too restrictive?

**Councillor Macdiarmid:** A wider cross-section of people have an interest in the area than is mentioned in the bill.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I have a question on the proposed reform of the types of licences, from seven down to effectively two. Do you have a comment on the existing system? What impact will the reforms have?

**Councillor Macdiarmid:** The existing system has certain historical anomalies and difficulties. Having a simplified system would be an improvement. However, my concern in that regard relates to the issue of over-provision. We need to compare apples with apples and eggs with eggs. If you designate somewhere as an area of over-provision, you are saying that all the licences for that area have gone. People will not be happy if that means that a new Sainsbury's will not open in the area because the company is unable to get a licensed part in its superstore. What people are concerned about is the corner shop that seeks a licence.

I foresee difficulties for licensing boards in terms of how they use the new system to make assessments. However, the situation will certainly be a lot better than it is at the moment. At present, people are unsure whether they should be applying for a refreshment licence, a restaurant licence, a public house licence or whatever, and if those poor souls do not get the answer right, they will fall foul of the system. Often, those people are the ones who are keen to operate appropriately within the law. The people who most often fall into that trap are those who seek to save themselves money by not using a specialist licensing solicitor.

Having two categories will be infinitely preferable. The concern that we have about the personal licence is that there has to be a national register to prevent people from transporting their licence from one area of the country to another. We will run into difficulties unless we are able to access a national register that will let us know whether a person is a fit and proper person. That is the general view of everyone to whom I have spoken about this matter, from people on licensing boards to the lawyers who are involved in this area.

**Bill Butler (Glasgow Anniesland) (Lab):** You are aware of the range of national conditions that will apply to premises licences and personal licences and the proposal to create a national licensing forum. Does the bill allow sufficient flexibility for licensing boards to take account of local conditions? Will the prescribed national conditions hinder licensing boards in operating as local decision-making bodies?

**Councillor Macdiarmid:** The basic plea that I have made from the beginning of the process is this: do not box us in. The people who are best able to assess the licensing situation in the locale are the people on the local licensing board. There are certain areas in which it is absolutely appropriate to have national conditions—

**Bill Butler:** What areas?

**Councillor Macdiarmid:** For speed, I will give you only one example. We would certainly welcome national conditions being imposed in the area of adult entertainment. In Glasgow, there has been controversy in that regard. We now have a draft scheme of conditions that we hope will largely accord with that which will come down nationally.

In other matters, however, the local knowledge that licensing boards have is invaluable and there has to be flexibility and trust in the system. The bill, as a whole, trusts licensing boards but there are one or two areas in which I would like there to be greater flexibility.

**Bill Butler:** What are the salient demerits of what you would construe as being an inflexible national approach?

**Councillor Macdiarmid:** The definitions of over-provision should not be subject to a national approach. Glasgow's licensing board has consistently been of the view that, given the number of people who are out enjoying themselves in the city centre of a Friday or Saturday evening, there is no over-provision in that area. It would be absolutely impossible to define an area in which one more licensed premises would be one licensed premises too many, or one less would be too few.

Our concern is with standards. If there are 100 premises that are all of a good standard, are all well managed and all operate within the rules and conditions, you do not have a problem. Conversely, if you have five premises, three of which do not meet those criteria, you have a problem.

I am a bit concerned that we might get a national definition of over-provision that might be acceptable for rural areas but not for city centres such as Glasgow's. From listening to colleagues in rural areas—I do not know whether the committee will take evidence from them—I know that they have the converse concern. They are concerned about what will happen in little rural communities where the garage is also the local shop from which people get their drink. If that cannot happen under the bill, what will happen in small rural communities? National guidelines have the potential to create anomalies in cities and rural areas, but there are areas in which they would be absolutely appropriate.

**The Convener:** Will it be difficult for licensing boards that want to address over-provision to define what that means?

**Councillor Macdiarmid:** It will be extremely difficult for boards to be proactive in defining over-provision. However, I will be comfortable with an assessment in which, for example, the licensing board in Glasgow is allowed to determine over-provision by comparing the number of premises operating in the city centre with the numbers not of residents but of socialisers and people out enjoying themselves on a Friday and Saturday night.

Our licensing board did a similar exercise for Ashton Lane and Byres Road. Over a period of time, we considered extensively whether there was over-provision in that area, but we decided that we were relaxed about over-provision there. We have also been relaxed about allowing what otherwise would be called city-centre hours in that area because of its particular ambience.

I checked whether over-provision in the city centre has been an issue. Over the past two years, outside the merchant city, we have had no over-provision arguments other than trade objections. As Bill Butler is well aware, the merchant city is a unique part of Glasgow that has all sorts of problems. However, no arguments other than trade objections have been placed before the board about over-provision in the rest of the city centre in the past two years.

**Bill Butler:** The merchant city is quite a sizeable chunk of Glasgow city centre. How many cases of over-provision have been argued by residents of the merchant city?

**Councillor Macdiarmid:** Such arguments have been made consistently. I must be careful what I say—the board has occasionally taken a different view from the council—but the core matter is that the council defined the merchant city in planning terms as mixed use, whereas the residents and the community council argue that it is residential. That is the core of the conflict. Obviously, the approach that is taken in mixed-use areas is different from that which is taken in areas that are essentially residential.

At present, planning and licensing are totally separate and there is no proposal to change that. We often find ourselves in the situation of having a solicitor appear before us who says, "Your honours, my client has gone through all the appropriate processes and has the planning certificates in place. There is nothing in the city plan to say that the proposed use is inappropriate for this area." However, the local community will still object because it feels that enough entertainment licences have already been granted

in the merchant city, which they argue is a residential area. We need the wisdom of Solomon.

**Bill Butler:** Are such cases a regular occurrence only in that discrete section of the city centre?

**Councillor Macdiarmid:** Yes, they happen regularly only in that part.

**The Convener:** We move to our next question. I ask members to keep their questions focused.

**Mr Maxwell:** You may have touched on this issue already, but will you clarify the extent to which you think that alcohol pricing policies, such as drink promotions and happy hours, contribute to the binge-drinking problem that we hear about and the consequent antisocial behaviour?

15:45

**Councillor Macdiarmid:** We have consistently taken the view that that is a major issue. For years, we sought, but were denied, byelaw powers from the Executive and its predecessor the Scottish Office to tackle binge drinking. When I became chair of the licensing board some two years ago, I immediately entered into discussions with our then clerk, with a view to constructing a policy that was designed specifically to tackle binge drinking and happy-hour promotions. The advice that I got, which has subsequently been proved to be correct, was that price fixing was ultra vires. That explains our choice of policy, which has been highly effective in sweeping away such promotions in Glasgow.

We went out on our March quarterly visits just three weeks ago. We do not see the same numbers of youngsters staggering around with multicoloured bottles that we saw before. In fairness, we have had a lot of support from the drinks industry. Its members' cry was that they wanted a level playing field. They said that although they did not want to deep-discount, they had to do it because Fred Smith up the road did it. To a large extent, the industry came with us on our binge-drinking policy. We have linked that with other initiatives, such as that which is aimed at getting glass out of city centre premises; only plastic, aluminium and toughened glass are allowed.

**Mr Maxwell:** In a nutshell, your view is that pricing policy has a direct effect on the binge-drinking problem.

**Councillor Macdiarmid:** Absolutely.

**Mr Maxwell:** Do you think that the new system of licences will be more effective than the current system is in tackling alcohol-related crime and antisocial behaviour?

**Councillor Macdiarmid:** My experience is entirely limited to Glasgow. What is proposed nationally mirrors what happens there. We recently visited 30 premises from Ashton Lane in the west through to Dennistoun in the east, some of which were in the city centre. The most unsatisfactory thing that we found that evening was a lack of toilet paper in one ladies' loo. That represents a huge improvement.

At the end of the night, when we were saying that things were a lot better, one of my colleagues suggested that that was perhaps because we had got much better at dealing with the situation by bringing in policies that were designed to eradicate binge drinking and happy hours and by changing the environment, not just on the licensed premises. Earlier, I spoke about working with our colleagues on the licensing committee, who have brought in prohibitions and terms relating to—*[Interruption.]* Everything is moving in the right direction.

**The Convener:** Yes, but Stewart Maxwell asked whether the new system of licences would be more effective. You seem to be saying that the existing system, if it is well managed, works fine.

**Councillor Macdiarmid:** No. I am saying that we found ways of improving on the existing system. What is proposed would take that further.

**The Convener:** That is fine.

**Jackie Baillie (Dumbarton) (Lab):** I have a quick question about part 7, which is on control of order. Do you think that the proposed measures—exclusion orders and closure orders—are sufficient? Are they better than what we have at the moment? Would you amend them or add to them in any way?

**Councillor Macdiarmid:** The short answer is that I think they are an improvement. For me, the key element is immediacy.

**Jackie Baillie:** Thank you.

**The Convener:** Part 8 deals with offences that relate mainly to young people. It contains quite a list of offences. The committee was a little unclear about whether those offences differ from the current offences.

**Councillor Macdiarmid:** Yes, they do. That brings us back to the key area of how we change the culture. I can well understand the thinking behind a number of measures in the bill, but the key element remains how we encourage young people to adopt good social drinking behaviour in a family context. I am not sure that statutory measures will achieve that, unless we ensure that premises are children friendly and that it becomes the social norm for children to learn about drinking in those premises in a family context. That is more

important than the specific measures that you are talking about.

**The Convener:** Do you think that some of the new offences will support the development of the culture that you favour?

**Councillor Macdiarmid:** I think that they will, but my concern is that the bill stops short of moving on what I regard to be the most essential element. It should be a requirement that all premises are of a standard that will allow them to welcome children and which will create an environment in which children and young people can learn about drinking in a family context. That is the key, and it will happen not in a generation, but in a number of generations. However, we must make a start.

**Colin Fox:** What are the resource implications of the bill for your licensing board?

**Councillor Macdiarmid:** So far, it has been said that the bill must be self-funding and self-financing. However, the work for the board and its officers will increase significantly. For example, at present we have one liquor licensing standards officer, but we will probably need four or six.

**Colin Fox:** Do you have one officer for the whole of Glasgow?

**Councillor Macdiarmid:** Yes, but we will need four or six. The clear implication is that we will be able to deal with the bill only by addressing it properly in staff and other resource terms and by passing on the charge to licence holders in licence fees. That is the answer that I have given to members of the trade. There will be a major increase in our workload, which will have significant financial implications.

**Colin Fox:** You said that what is proposed nationally is a mirror image of the current picture in Glasgow.

**Councillor Macdiarmid:** Only in the area of continuity of pricing.

**Maureen Macmillan:** We have covered the ground fairly well. Is there anything that you want to add before we end the session?

**Councillor Macdiarmid:** Not really. This has been a good discussion, and I am grateful for the opportunity to give evidence to the committee. From the beginning, my plea in this exercise has been for the Parliament to give us a licensing system that will stand the test of time and be accepted by the people, rather than something to which their response will be, "They would say that, wouldn't they?" The arguments have been well made, but my overriding concern is about everyone being pushed into one set of parameters. I do not think that the system can operate in that way. There must be flexibility

across a nation such as Scotland, which is disparate in community types. We must allow local licensing boards the trust that the bill clearly demonstrates to do what is appropriate in their local circumstances.

**The Convener:** I thank you on behalf of the committee for your forbearance. We have all found it immensely helpful to hear from someone who represents an area with such a significant presence of licensed premises of such a diverse nature. Your experiences have assisted us greatly. We are grateful to you for making time to appear before us this afternoon.

I declare a break of five minutes before we proceed to the next item.

15:52

*Meeting suspended.*

15:59

*On resuming—*

## Proposed Civil Appeals (Scotland) Bill

**The Convener:** Agenda item 2 is the proposed civil appeals (Scotland) bill. I welcome Adam Ingram, who is the proposer of the bill, and Claire Menzies Smith, who is from the non-Executive bills unit. Members have been issued with a paper concerning the bill. Adam Ingram is here solely to discuss the technical issue of consultation; I remind members that the committee will consider only his statement of reasons, not the principles or content of the bill. Do you have any further points that you would like to make to the committee?

**Mr Adam Ingram (South of Scotland) (SNP):** Not really, convener. The bill was one of those that were caught up in the changeover in procedures with which one or two members of the committee might be familiar. The original proposal was out to consultation over last summer, and the purpose of today's technical session is to get the committee's approval of my reasons for not putting the proposal out to consultation again.

**The Convener:** Thank you. Do members have any questions?

**Jeremy Purvis:** I do not know whether this is a declaration of interest, but I currently have a proposal for a member's bill out to consultation. Is there anything quantifiably different in this proposal from what was in the proposal that went out to consultation, and in which other bodies would, in your view, have an interest?

**Mr Ingram:** Not in my view. The area has been the subject of much consultation. There has been consultation on the United Kingdom Constitutional Reform Bill and we had the Justice 2 Committee's inquiry on that bill last year, as well as my consultation exercise. The subject has been well trawled.

**Jeremy Purvis:** The consultation paper that we have in front of us asked four questions. I understand why those questions are fairly broad, but would it help to ask more specific questions about the more specific proposal that you now have, rather than the four broad questions that were in the original consultation paper?

**Mr Ingram:** The next step for me is to work up the draft proposal to a final proposal. I want to take on board the responses that I have received—not just the nine responses that I got from the various bodies that returned detailed responses, but the evidence that has been referred to me by the likes of Lord Cullen, who has referred me to the evidence that he provided for the Justice 2

Committee's inquiry. I have a lot of material to use to refine the draft proposal into a final proposal.

**Jeremy Purvis:** Would you consider carrying out, if not a formal consultation process, an informal process of getting back in touch with those whom you consulted or who responded to the original proposal with regard to your more specific proposal?

**Mr Ingram:** I refer the matter to Claire Menzies Smith. [*Interruption.*] I am advised that, once the results of the analysis of the consultation are known, I can circulate them to get a further response.

**Claire Menzies Smith (Scottish Parliament Non-Executive Bills Unit):** The non-Executive bills unit will conduct an analysis of the consultation responses. Adam Ingram can draw his conclusions from those responses, and that information will be made public. Any issues that are drawn out—whether technical or legal—will be refined in the drafting of the bill, which will come back to the committee for scrutiny. The committee can then take evidence on the bill and will have a chance to go into the detail of the proposal at that point.

**The Convener:** In fairness to Adam Ingram, we should make it clear that it is not that he has not consulted; the issue for the committee to consider is whether he should consult further. There is evidence of significant consultation.

**Jeremy Purvis:** Are the first four entries on the list of consultees four consultees or just two? I do not know whether you have a copy of the list.

**Mr Ingram:** There were 59 consultees.

**Jeremy Purvis:** The first name on the list is "Glasgow Caledonian University"; the second is "Department of Accountancy, Finance & Law"; the third is "The Robert Gordon University"; and the fourth is "Department of Law". I was just wondering whether they are the departments of those universities. You have counted them as four, rather than two. It is a minor point.

**Claire Menzies Smith:** The proposals would probably go to different people within the bodies. I think that perhaps a mistake has been made. Sorry.

**Jeremy Purvis:** It makes the number 57 rather than 59.

**The Convener:** That is a seismic shift.

**Jackie Baillie:** The committee should be content with the statement of reasons; the bill should not need to proceed to further consultation. I take the point that Jeremy Purvis made. I hope that, in developing the bill, Adam Ingram will adopt the inclusive style that Jeremy Purvis seeks, particularly as he works through some of the

detail. I recommend that we say that we are content with the reasons that Adam Ingram has supplied for not consulting further.

**The Convener:** I am grateful to you. Is that agreed?

**Members** *indicated agreement.*

**The Convener:** In that case, the committee is satisfied with the level of consultation that has been undertaken. I am sorry for keeping you waiting on the sidelines, Adam. The discussion was interesting; I do not think that we have ever had a member's bill to consider before. The novelty made it worth while.

## Subordinate Legislation

### **Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2005 (SSI 2005/93)**

### **Advice and Assistance (Scotland) Amendment Regulations 2005 (SSI 2005/111)**

16:07

**The Convener:** Agenda item 3 concerns two negative instruments.

**Jackie Baillie:** We are agreed, convener.

**The Convener:** Although I admire the alacrity of your co-operation, I must at least get to the instruments.

**Jackie Baillie:** We read them in advance of the meeting.

**The Convener:** For the sake of the *Official Report*, we are considering the Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2005 (SSI 2005/93) and the Advice and Assistance (Scotland) Amendment Regulations 2005 (SSI 2005/111). I note an interest as a solicitor enrolled with the Law Society of Scotland. Is everyone content with the instruments?

**Members** *indicated agreement.*

**The Convener:** Our next meeting is on 12 April at 2 pm. I wish everyone a restful recess.

*Meeting closed at 16:08.*

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