

SUNDAY LICENSING - TIME FOR A CHANGE, PLEASE

Edinburgh Licensing Board has observed a policy which prevents premises selling alcohol prior to 12.30pm on a Sunday since the inception of the Licensing (Scotland) Act 2005, on 1 September 2009. Prior to that date the 12.30pm start was required under the old law as a matter of course, but the 2005 Act allows Boards to set their own "policy hours" and allows publicans to apply for the hours they want.

The debate continues as to the moral and public health implications for allowing the drinking public to have a pint or dram prior to 12.30pm on a Sunday in certain licensing board areas, the biggest being Edinburgh. There is a number of people who would object very strongly to the suggestion that licensing boards should allow premises to sell alcohol prior to 12.30pm, and I respect those views. But I cannot see why it is considered acceptable to be open for business on Monday to Saturday at 11am but not on a Sunday. We all know that the 12.30pm rule was imposed as a result of religious implications of alcohol consumption on a Sunday. Sunday drinking has, through the mists of time, been banned entirely and then banned for certain portions of the day. Some readers may fondly recall the days of "bona fide travellers" getting a local bus to a hotel to get a drink on a Sunday, clutching bus tickets for proof as they go.

Fast forward to 2013 and the 12.30pm rule persists in some areas not simply because of fears from certain political and moral forces that church goers might be molested on their way to 11am services, but because of much more simplistic reasoning: "this is the way it has always been". It is my view that the notion that there is some social obligation which should prevent consumption of alcohol prior to 12.30pm on a Sunday is anachronistic and no longer relevant in 21st century Scotland. Time for a change!

What Edinburgh drinkers may not realise is that the vast majority of

licensing boards across Scotland are perfectly happy with opening prior to 12.30pm on a Sunday. Some allow 10am, some 11am, some 12noon. One of the last bastions of the 12.30pm start was my home town, Glasgow. But the Glasgow Licensing Board changed its policy on this just prior to council elections in 2012, and 11am opening on a Sunday is now considered acceptable and hundreds of premises now enjoy this as part of their licence.

Edinburgh has remained staunch in its 12.30pm policy despite the plucky few seeking an exemption. I recall a hearing for a four star hotel client of mine in 2010 who had the bizarre experience of refusing service to an American couple who had asked for a glass of wine with their brunch at 11.30am one Sunday morning. At the table next to them, two businessmen were having beers. The businessmen were residents of the hotel and therefore the 12.30pm start did not apply to them (licence holders may serve residents outside of the licensed hours if they wish). Try explaining that to the tourists! My clients did their best to politely do so, and still received a complaint that they were made to feel like criminals because they were refused a glass of wine. This to me sums up the outdated logic of the 12.30pm start. The Board at that time was unwilling to move, and so my international four star hotel client was stuck with 12.30pm.

The good news is that Edinburgh is now, at last, moving forward on this. Discussions are ongoing with the Edinburgh Licensing Forum and I anticipate that a policy change may happen by summer 2013. The new convenor of the Edinburgh Licensing Board, Councillor Eric Milligan, is certainly in favour of it and has said so publicly and at licensing hearings. There are still some who object to the 12.30pm start. I had one case in early March 2013 where, in another board area, the police objected to an 11am Sunday start because it would lead to crime and disorder - without being able to say how or why.

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If the premises is responsible, and run in accordance with the licensing objectives, then what is the problem? The health lobby argues that an increase in the drinking hours (that extra 90 minutes on a Sunday) will automatically lead to increased death and destruction for Scottish society but I do not buy into that. Some people will drink irresponsibly. Opening a hotel or a pub at 11am on a Sunday instead of 12.30pm is not going to change that. Something more fundamental has to be done to deal with the social and intellectual poverty which leads people to abuse alcohol, but that is another article for another time.

Some Pints of View readers may also be interested to know that the issue of Sunday drinking has even ended up in the courts. In 2010 the secretary of the Stornoway Golf Club won an appeal following refusal of his application to allow the clubhouse to sell alcohol on a Sunday. The Western Isles has a considerably developed view of consumption on the Sabbath and the case suggests that the local councillors refused the application on those grounds rather than on the basis of any evidence. There was an objection from the Lord's Day Observance Society who argued, in brief, that extra hours meant extra drinking and extra detriment, and the Board effectively agreed. But on appeal the sheriff court rejected this logic - there was absolutely no evidence that selling alcohol on a Sunday would lead to detriment and the objection was a sweeping generalisation based on speculation rather than any tangible evidence which related to the golf club itself.

I congratulate the Edinburgh Licensing Board for showing a willingness to move on this issue and for not being afraid to support responsible businesses. Cheers.

Stephen McGowan

Stephen McGowan is one of Scotland's leading licensing solicitors and is Partner and Head of Licensing at TLT. He is also the Chairman of BIL Scotland and a CAMRA member.

Children in pubs

Since the demise of the old Children's Certificate which pubs could apply for, there is some doubt as to what the rules and regulations are regarding children in pubs. POV is grateful to Stephen McGowan one of Scotland's leading licensing solicitors and Partner and Head of Licensing at TLT, for the following clarification:

"The rules for children's access under the Licensing (Scotland) Act 2005 are entirely down to the terms of the individual licence. Under the old system there was a rule about not having under 14s in the bar area but that has been swept away. It is now down to each individual licence holder to ask for children's access as he wishes - but of course it is still up to the licensing board to consider whether to give what has been asked for. In some areas boards will have policies in which they expect to see certain rules for children's access and this may include something about preventing children from being in the bar area but there is no over-arching rule on this. Similarly, there is no mandatory requirement that children must be taking a meal - that is down to each licence holder and each local licensing board to decide on a case by case basis. Licence holders can apply to a board to vary rules for children's access and this would normally be dealt with at a hearing".



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