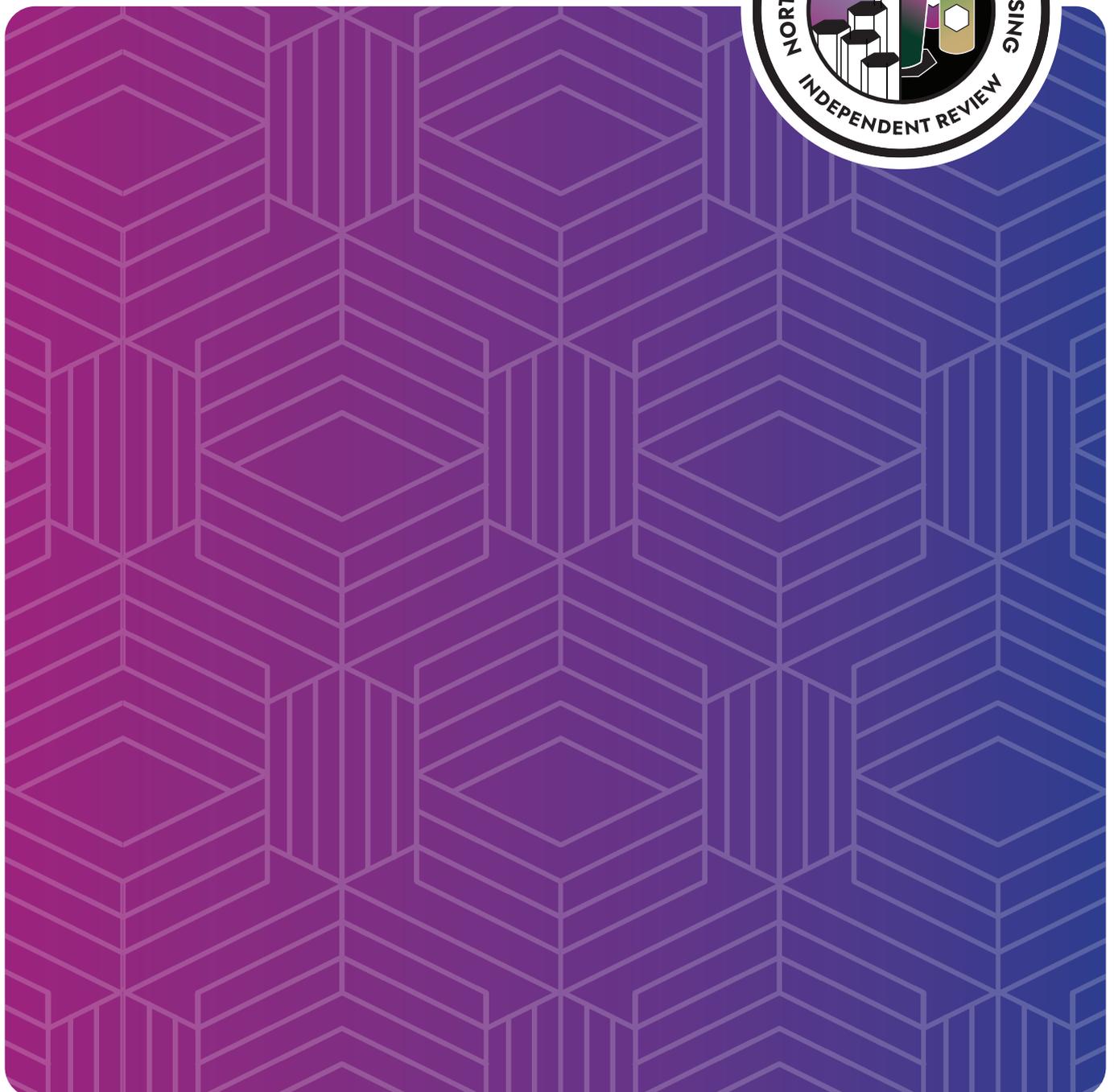


# Independent Review of the Liquor Licensing System in Northern Ireland including the Surrender Principle



August 2024



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## Final Report, August 2024

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## Contents

Acknowledgements .....	2
Index of Figures .....	4
Index of Tables .....	5
Appendices .....	6
1. INTRODUCTION.....	7
1.1 About this review .....	7
1.2 Methods .....	7
1.3 Background .....	9
1.4 Our approach .....	15
2. ALCOHOL AVAILABILITY IN NI: PATTERNS, MOVEMENTS AND TRENDS.....	17
2.1 Overall numbers and trends in pub and off-licences.....	17
2.2 Availability, density and geographical distribution of outlets .....	20
2.3 Licence movements under surrender principle .....	23
2.4 Accessibility and accuracy of licensing records .....	27
3. HEALTH, SOCIAL AND ECONOMIC OUTCOMES OF THE LICENSING SYSTEM .....	29
3.1 Alcohol consumption patterns in Northern Ireland .....	29
3.2 Alcohol harms .....	29
3.3 Economic impacts.....	38
4. STAKEHOLDER PERSPECTIVES .....	47
4.1 The surrender principle .....	47
4.2 The licence acquisition process (pubs and off-licences).....	56
4.3 Licensing system operation, transparency and access .....	59
4.4 Occasional licences .....	63
4.5 Entertainment licences .....	66
4.6 Alcohol market and premises operation .....	67
4.7 Enforcement.....	73
4.8 Impact of reforms under the 2021 legislation .....	76
5. LICENSING POLICY OUTSIDE NORTHERN IRELAND.....	82
5.1 Review of North American systems for capping retail availability of alcohol .....	82
5.2 International evidence regarding licensing system implementation gaps .....	86
5.3 Modelled outcomes of various policy options .....	88
6. DISCUSSION AND RECOMMENDATIONS.....	94
6.1 How we have set out our recommendations .....	94
6.2 The purposes and objectives of licensing .....	95
6.3 Health and economic impacts.....	95
6.4 Co-ordination, implementation and enforcement .....	97
6.5 Licensing records and accessibility .....	100
6.6 Applying for a licence .....	101
6.7 The surrender principle .....	104
6.8 Impacts on diversity and innovation.....	109
6.9 Occasional licences .....	112
6.10 A new licensing system for Northern Ireland: Outline framework.....	115
REFERENCES.....	117

## Index of Figures

Figure 1: Relative numbers of pubs and off-licences in NI 1977-2022 .....	17
Figure 2: Percentage change in pubs and bars in the UK and Northern Ireland 2001-2020 .....	18
Figure 3: Availability and density of public houses in Northern Ireland in 2022 .....	21
Figure 4: Availability and density of off-licences in Northern Ireland in 2022 .....	22
Figure 5: Movement of pub licences surrendered to off-licences since 2014 (by Local Government District).....	26
Figure 6: Alcohol-specific deaths UK and NI 2000-22.....	30
Figure 7: Total alcohol-specific deaths in NI 2012-22 by deprivation decile.....	31
Figure 8: Alcohol-specific hospital admissions in NI 2012-22 by age .....	34
Figure 9: Alcohol-specific hospitalisations in NI 2012-22 by income decile.....	34
Figure 10: Total alcohol-related crime in NI 2012-22 .....	36
Figure 11: Total real turnover by sector 2010-2022.....	40
Figure 12: Total employment by sector 2010-2022.....	41
Figure 13: Total employment in all sectors 2010-2022 .....	42
Figure 14: Alcohol retail employment as a percentage of total Northern Ireland employment..	43
Figure 15: Average hours worked in alcohol retail sectors in NI .....	44
Figure 16: Proportion of full-time workers in alcohol retail sectors in NI.....	44
Figure 17: Distribution of average earnings by sector in NI .....	45
Figure 18: On-trade survey response to question ‘Which of the following caused you to consider surrendering your licence?’ .....	49
Figure 19: The permitted rate of alcohol retail licences in on- and off-sales settings across jurisdictions in North America .....	84

## Index of Tables

Table 1 Licensing systems across the United Kingdom and Ireland .....	12
Table 2: Changing ratio of outlets per 10,000 population by urban / rural classification.....	23
Table 3: Licences confirmed as surrendered since 2014.....	25
Table 4: Geographical movement of pub-to-off licence by area type .....	25
Table 5: Age-standardised alcohol-specific death rates by Local Government District 2012-22 .....	31
Table 6: Relative risk of alcohol-specific death in areas of different outlet density .....	32
Table 7: Odds ratios for an alcohol-specific hospital admission by density quintile and outlet type.....	35
Table 8: Regression coefficients for alcohol-related crime rates per 100,000 people by density of pubs and off-licences combined in ward.....	37
Table 9: Regression coefficients for alcohol-related crime rates per 100,000 people by density of off-licences in ward.....	37
Table 10: Regression coefficients for alcohol-related crime rates per 100,000 people by density of pubs in ward .....	38
Table 11: Estimated changes in average alcohol availability for pubs and off-trade outlets in Northern Ireland under modelled scenarios for licensing reform.....	90
Table 12: Estimated changes in alcohol consumption under all modelled scenarios .....	90
Table 13: Estimated absolute annual changes in health outcomes for all modelled scenarios	91
Table 14: Estimated relative annual changes in health outcomes for all modelled scenarios ..	92

## **Appendices**

1. Measures of alcohol retail outlets
2. Availability and density of pubs in NI
3. Methods for estimating risk of hospitalisation and death from an alcohol-specific condition relative to the density of outlets
4. Method for modelling alcohol-related crime relative to density of outlets
5. Methods for Economic Analyses
6. Stakeholder and community perspectives: data gathering and analysis
7. Review of International Licensing Systems with Availability Caps
8. Implementation of Licensing Systems Literature Review Methodology
9. Modelling of Outcomes of Policy Options

# 1. INTRODUCTION

## 1.1 About this review

In 2021, the NI Assembly passed the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland). This legislation introduced a series of reforms to the licensing system, including changes to licensing hours, the easing of restrictions on opening at Easter, the creation of a new licence category for local producers, and the permitting of alcohol sales in cinemas. In addition, Section 23 of the Act required an independent review of the system for licensing the sale of alcohol to be carried out. According to the legislation, the review should include:

- An assessment of the operation of the surrender principle, an examination of options for reforming it and an assessment of the implications of those options for licence holders
- An analysis of the geographical distribution of licensed premises in Northern Ireland
- An analysis of the economic and social impact of the licensing system and the impact of the licensing system on personal and public health
- An assessment of the extent to which the licensing system meets consumer demand and local community needs, when set alongside the impact it has on personal and public health and on public order
- Whatever recommendations for improving the licensing system that the reviewer considers appropriate

Our team was commissioned to carry out the review in August 2022, and this report contains the findings of our research.

## 1.2 Methods

In order to answer the questions set out in the legislation, we carried out a mixed-methods study that included extensive review of licensing documents, stakeholder interviews, community focus groups, observations and area visits, evidence reviews and geospatial data analysis. Full details of the methods for each component of the review are contained in appendices. We structured our research around four key work packages (WP), which are described briefly below.

### **WP1: Stakeholder and community engagement**

For this element of the review, we held conversations with stakeholders across Northern Ireland as well as carrying out extended in-person visits to communities. This involved:

- 8 community visits, including
  - 11 focus groups, attended by a total of 101 community participants
  - 27 recorded interviews with elected representatives (both Members of the Legislative Assembly (MLA) and local authority) and local stakeholders including police, licence holders, council staff, producers, service providers and regulators

- Over 50 meetings with local employees including licence holders, managers, bar staff and shopkeepers
- Visits to over 60 pubs
- Extended interviews with 18 stakeholders with a Northern Ireland remit for the hospitality sector, off-trade, policing, producers, estate agents, lawyers, tourism and public health
- An online survey inviting views from holders of pub licences on the surrender principle.

## **WP2: Identification of options for reform and improvement**

For this element of the research, we reviewed licensing systems in other countries as well as drawing on expertise in licensing system design, implementation and outcomes. This involved:

- Meetings with an international panel of licensing experts recruited for this review, including specialists and academics from the UK, Canada, United States, New Zealand, Australia and Finland with additional input from a second group of experts (from UK, Canada, Finland, Australia, New Zealand) who attended a closed workshop to discuss our findings
- A summary review of the global evidence on licensing impacts and outcomes, based on available evidence reviews
- A bespoke, focused review of licensing systems across North America that apply formal controls on the number of premises that are licensed to limit availability of outlets by population
- A systematic review of the published literature on how licensing legislation is interpreted and implemented in practice, and associated challenges.

## **WP3: Geographical mapping of premises and impact**

We carried out an extensive and detailed review of licensing documentation, combined with geospatial mapping and an analysis of wider outcomes data. This involved:

- Analysis of all physical licence records held in courts across Northern Ireland. Over 1,700 records were checked manually during in-person visits to each court, with further searches carried out to identify licence movements, expiration and location accuracy
- Creation of a bespoke database containing information on licences by type, location, movement and expiration for the whole of NI
- Geospatial mapping of outlet densities across NI for 2017 and 2022
- Analysis of the relationship between alcohol-specific mortality for NI and the local density of outlets
- Analysis of the relationship between alcohol-related crime data for NI and the local density of outlets
- Analysis of the relationship between alcohol-specific hospitalisations in NI and the local density of outlets
- Analysis of the economic impacts of the licensed trade using secure data provided by the Office for National Statistics Labour Force Survey and Aggregated Interdepartmental Business Register.

## **WP4: Appraisal of reform options**

We also conducted modelling of the potential impact of increases in the numbers of pubs and off-licences on alcohol consumption and harms. Based on our findings across the three research work packages and this modelling, we considered a range of options for reform of the licensing system. Our recommendations are based on our analysis of all the evidence we have collected, and our resulting assessment of the likely impacts on both businesses and the wider community. While some of our recommendations call for immediate action, others set out next steps for consideration by the Northern Ireland Executive. It is our view that licensing regimes should be designed to support clear social goals. Those goals can tend towards a range of outcomes: consumer choice, public health, inward investment, trade protection, efficient administration, public safety, social diversity and so forth. Deciding which social goals a licensing system should prioritise is a political consideration, and one to be made by the people and government of Northern Ireland.

## **1.3 Background**

### **1.3.1 Alcohol licensing in Northern Ireland**

In most countries where the sale of alcohol is permitted, some form of licensing applies. Licensing systems take many different forms and enable varying levels of control to be applied to either the alcohol market as a whole or to subsectors within the market. For example, many European countries have different licensing systems or regulations for beer, wine and spirits, or for different types of retail outlet. Licensing exists because alcohol is both a potential source of revenue and a commodity recognised as having potentially negative social and health impacts. Licensing systems enable the state to assert a degree of control, often devolved to authorities at a local level, over both the scale of the alcohol market and how the trade is carried out in licensed premises. A licence is, fundamentally, a permission granted by the state to sell alcohol and, to a greater or lesser degree, that permission is contingent upon the retailer meeting or adhering to conditions designed to reduce potential harms (e.g. restrictions on permitted hours of sale).

The first major Licensing Act for England was passed in 1552. English licensing law went on to form the basis for the systems that were subsequently established in Ireland, Scotland and Wales. Originally, and until relatively recently, licensing powers were exercised by local courts with decisions on whether to grant licences being dependent on factors such as assessments of local 'need', assessments of the character of the applicant and the physical characteristics of the building. In 2003 (England and Wales) and 2005 (Scotland), sweeping reforms substantially changed the structure and principles of the licensing system in those jurisdictions (Nicholls, 2009; ). Under these reforms decision-making was shifted from courts to local authority sub-committees and assessments of 'need' were formally removed as a decision-making criterion. Instead, licensing decisions were to be made on the basis of whether permitting a premise to operate might undermine 'licensing objectives' set out in the law (see Table 1).

A key distinction between the licensing systems in Great Britain and in Northern Ireland is that the reformed systems in both England/Wales and in Scotland are permissive: they assume that applications will be approved unless representations, based strictly on the licensing objectives, are lodged. Specified 'responsible authorities' ('statutory consultees' in Scotland) are notified of all applications and can object. These include police, fire service and local health representatives. Objections can also be raised by members of the public (see Table 1). The 2003/5 reforms also removed fixed operating hours, requiring instead that decisions on hours of operation be made on a case-by-case basis. The English system includes the option of opening for 24 hours for both off-licences and on-trade premises, whereas the Scottish system retains fixed operating hours for off-licences, and includes a strong presumption against 24-hour licensing for on-trade venues.

The licensing system in Northern Ireland is substantially different. It retains key features of the prior courts-based system initially developed across the 19<sup>th</sup> century but formalised in the 1923 Intoxicating Liquor (Northern Ireland) Act. The 1923 Act was introduced at a time when licensing across the UK was orienting towards reducing the overall number of outlets, partly in response to historically high levels of consumption in the early 20<sup>th</sup> century and partly under pressure from an influential temperance movement (Malcolm, 1986; Nicholls, 2009). Licensing reforms had been established across the UK and Ireland in 1902 and 1904 aimed at reducing the density of alcohol outlets by strengthening the power of courts to refuse both new licence applications and applications for renewals in areas of high outlet density.

The 1923 Act retained the core features of these earlier reforms, including a requirement that any new licence should only be approved if two 'subsisting licences' (i.e. licences for businesses already selling alcohol) were surrendered to the court: thereby, creating a one-in-two-out mechanism for reducing outlet numbers. It also included powers to refuse renewals of existing licences solely on the grounds of excessive supply, and the provision of compensation for businesses that were closed this way. Under this regime, while a new outlet could open if it was in the immediate vicinity of a business that was closing, additional outlets could only open in wards where a 25% or higher increase in population could be proven. Further legislation in 1927 strengthened these provisions, requiring that surrendered licences in the immediate vicinity of new ones also had to be 'identical in character'. The 1923 Act also required that applicants be deemed fit and proper to hold a licence and that the building was considered appropriate for the purpose.

This system was updated and liberalised under the 1971 Licensing (Northern Ireland) Act. These reforms simplified the surrender principle such that a new application for a pub or off-licence had to provide just one surrendered licence of any type, with no restrictions on where the subsisting licence should be located. This meant licences could now move from on (i.e. pubs) to off (i.e. shops) and vice versa, and they could be transferred across different regions. At the same time, the need to demonstrate population increase was lifted but a requirement remained for applications to demonstrate that provision in the vicinity where the new outlet would be located was inadequate. Importantly, this adequacy test, which remains today, did not apply in cases where the new licence remained in the same vicinity as that which had been surrendered.

The 1971 Act also lifted restrictions in the 1923 Act preventing alcohol from being sold alongside other goods – enabling grocers to sell alcohol in addition to specialist off-licences. However, alcohol sales in grocers had to be structurally separated from other goods or activities. These changes were retained, alongside other minor amendments, in the Licensing Order (Northern Ireland) 1990, which formed the next major iteration of licensing legislation.

The 1990 Licensing Order was repealed and replaced six years later by the Licensing (Northern Ireland) Order 1996. Among other things, the new legislation eased some restrictions on opening hours, and added three new licence categories (guest houses; conference centres and higher education institutions). It confirmed that objections to new applications could be raised by police, local authorities and ‘any person owning, or residing or carrying on business in, premises in the vicinity of the premises for which the licence is sought’. It also created a new 5-year ‘licensing period’ to replace the ‘licensing year’ that had operated previously. This meant that renewals were no longer annual, easing the administrative burden on licence holders but also increasing the interval between opportunities for objections to renewal to be raised e.g. by police. Although police applications for temporary licence suspensions between renewal periods remain an option, a licence may now only be revoked (through non-renewal) every five years. In 2011, amendments were introduced to ban irresponsible promotions and require proof of age checks, alongside the introduction of a new penalty points system. Legislation passed in 2014 and 2016 allowed the creation of pavement cafes and the licensed sale of alcohol at outdoor stadia.

Despite these changes, the underlying principles of the 1923 Act remained in place. Unlike England/Wales and Scotland, NI retains a court-led system in which it is assumed that licence applications will not be approved unless the court is satisfied that:

- A subsisting licence has been surrendered
- The applicant is ‘fit and proper’ to hold a licence
- The number of licences of the same category in the vicinity of the premises applied for is ‘inadequate’
- The premises are suitable and have the correct planning permissions

NI has also retained the principle of statutory operating hours, though these have been liberalised a number of times including under the most recent legislation. A detailed background to the history of opening hours in NI was produced ahead of the 2021 legislation, which we will not reiterate here (Licensing and Registration of Clubs (Amendment) Bill, 2020).

Table 1 Licensing systems across the United Kingdom and Ireland

System component	Northern Ireland	England and Wales	Scotland	Ireland
<b>Licences granted by</b>	Courts	Local authority licensing committees	Local authority Licensing Boards	Courts
<b>Renewals</b>	Every 5 years	Unlimited	Unlimited	Annual
<b>Mechanism for controlling for number and / or density of outlets</b>	Surrender principle (applies to pubs [5(1)(a)] and off-licences [5(1)(b)] only) Adequacy assessment	Locally defined Cumulative Impact Zones in which approval of application is no longer presumed	Compulsory assessment of potential 'overprovision'. Locally defined 'overprovision' areas in which approval of an application or an application of a certain type is no longer presumed	Extinguishment Provision (similar to surrender principle) for pubs and off-licences Adequacy provision in neighbourhood
<b>Objections can be raised by</b>	Local police Local district council Anyone 'owning, or residing or carrying on business in, premises in the vicinity' Anyone with a legal interest in / ownership of the licence being surrendered	Responsible authorities: <ul style="list-style-type: none"> <li>• Police</li> <li>• Fire service</li> <li>• Health and safety</li> <li>• Environmental health</li> <li>• Planning</li> <li>• Child protection</li> <li>• Public health</li> <li>• Trading standards</li> <li>• Immigration</li> </ul> Any member of the public – regardless of proximity to the proposed licence – can also submit a representation.	Statutory Consultees: <ul style="list-style-type: none"> <li>• Local authority</li> <li>• Any community council within whose area the premises are situated</li> <li>• Local Health Board</li> <li>• Police</li> <li>• Fire service</li> <li>• 'Any person'</li> </ul>	Local Superintendent of an Garda Síochána Anyone residing or paying rates in the civil parish In relation to public dancing licences, any person who appears, to the judge, to be interested in the application may be heard in opposition
<b>Licensing conditions</b>	Applicable to licences for: Places of public entertainment; Guest houses; Restaurants; Indoor arenas; Outdoor stadia; Non-seagoing vessels	Mandatory conditions apply to all licences with further conditions applied on case-by-case basis	Mandatory conditions apply to all licences with further conditions applied on case-by-case basis	No equivalent to conditions in England/Wales or Scotland
<b>Licensing objectives</b>	None	<ul style="list-style-type: none"> <li>• The prevention of crime and disorder</li> <li>• Public safety</li> <li>• The prevention of public nuisance</li> <li>• The protection of children from harm</li> </ul>	<ul style="list-style-type: none"> <li>• Preventing crime and disorder</li> <li>• Securing public safety</li> <li>• Preventing public nuisance</li> <li>• Protecting children and young persons from harm</li> <li>• Protecting and improving public health</li> </ul>	None
<b>Local Statements of Licensing Policy</b>	Not required	At least every 5 years	After every local government election (every 4-5 years)	Not required

The NI licensing system is not only substantially different to the rest of the UK, but unusual by comparison to the rest of the world. As part of our review, we carried out an analysis of international licensing regimes and found no other jurisdiction that operated the kind of one-in-one-out system for pubs and off-licences used in NI, except for (the Republic of) Ireland. A small number of countries and a number of states and provinces in both the United States and Canada apply rules that place formal limits on the number of licences that can be approved. These usually take the form of a limit on the number of outlets per head of population and can sometimes differ by type of outlet. We discuss these types of arrangements in more detail below. Partial abolition of the ‘extinguishment principle’ in Ireland was proposed in the Sale of Alcohol Bill (Department of Justice, 2022), removing it for pubs but retaining for off-licences. However, at the time of writing this report, this Bill had not been passed by the Dáil, and it is unclear if or how the proposed reforms will progress.

The key point in considering other licensing systems is that for NI the choice is not between the status quo and a free-for-all, or even the status quo and the kind of permissive (but still regulated) systems that apply in Great Britain. Licensing instruments and regimes come in a variety of forms, which are associated with a range of different outcomes. The key question in any jurisdiction is how legislation can best be designed to achieve the social goals that alcohol policy aims to achieve. Licensing systems, and the range of regulatory instruments available within licensing regimes, provide an array of approaches to achieving different goals. It is important, therefore, that the options available are not viewed as a simple binary between what is in place and no control at all.

While the surrender principle is generally viewed as the key distinctive element of the NI licensing system, and opening hours are an ongoing topic of debate, we note here a number of other characteristics that will also be discussed throughout the review. Firstly, under the NI system pub and off-trade licences do not generally come with conditions attached. This marks a significant difference to England/Wales and Scotland, where conditions (e.g. requirements for CCTV, age verification policies, disabled access, door staff etc.) are used widely to place additional requirements around business operations. Secondly, in NI objections to new licence applications can be lodged by existing businesses on the grounds of adequacy of existing provision. It was the view of many people we spoke to, and something noted in previous reviews of the NI licensing system, that this can create a range of perverse outcomes. We discuss these further below. Thirdly, while licences can be suspended and, in theory, renewals can be rejected there is no legal provision for the revocation of licences. In this respect, the NI system has fewer ‘teeth’ than the systems in Great Britain, which do include powers to revoke licences – albeit these are rarely used. Fourthly, licensing records are held in paper form and are not digitised such that they are easily accessible to the public. This is different to both Great Britain and (the Republic of) Ireland, where licensing records are digitised (though often inconsistently) on the principle that the public should, without cost, be allowed to access the register of businesses that the state has given permission to operate.

### **1.3.2 Previous reviews of the system**

The NI licensing system has been subject to periodic review. A summary of these reviews in relation primarily to opening hours is included in reports recently produced by the Committee

for Communities report (2022). However, prior reviews have also considered wider facets of licensing legislation and the surrender principle in particular. In the mid-1990s a review recommended abolition of the surrender principle, but the proposals were strongly opposed by both the existing trade and banks who cited risks to value of licences as security against loans as a key reason for retention. The mid-2000s saw concerted moves to reform the NI licensing system, partly in response to the major changes being introduced in Great Britain at the time. In 2005, following a review carried out by an inter-departmental team, a consultation entitled 'Liquor Licensing: The Way Forward' was published by the Minister of State for NI. It proposed moving licensing from courts to local authorities, abolishing the surrender principle while retaining strong adequacy assessments, and introducing licensing objectives. 98% of consultation respondents opposed abolition of the surrender principle and 93% opposed moving licensing to local authority control, including 12 of 15 councils, many of whom cited the lack of necessary resource to administer the system (Department for Social Development, 2005).

Nevertheless, in July 2006 the Minister announced proposals for reforms aligning the NI system with the new system in England and Wales (UK Parliament, 2006). These did not proceed as responsibility for licensing moved to the NI Executive in 2007; however, the following year Margaret Ritchie MLA announced plans to introduce many of the same measures, including transferring licensing to local councils, introducing licensing objectives, and simplifying the system of licence categories. As part of these proposals the consultancy firm Grant Thornton was commissioned to carry out a Business Impact Assessment of abolishing the surrender principle (hereafter referred to as the Grant Thornton Review). It concluded that, because no other jurisdiction globally had abolished a similar principle, and because of limited concrete evidence on the actual value of licences at the time, firm conclusions could not be drawn as to the economic impact of its abolition. Following a brief debate, the Assembly voted in Jan 2007 to call on the Minister to retain the surrender principle. In a statement in November 2008 Ritchie announced that proposed abolition would not be taken forward on the grounds that the Grant Thornton Review '*demonstrated that it was not possible to obtain robust evidence on which to base firm conclusions in respect of the financial effect on current licensees, potential licence applicants, or other stakeholders of retaining the surrender provision in its current form or of abolishing it en masse at a future date*' (Northern Ireland Assembly, 2008).

In 2012, the Department for Social Development launched a consultation on licensing reform, focusing mainly on changes to opening hours, which informed the drafting of the 2016 Licensing and Registration of Clubs (Amendment) Bill. This Bill was nearing the end of its consideration stage when it fell with the dissolution of the Assembly in January 2017. When a modified version of this legislation was reintroduced as the Licensing and Registration of Clubs (Amendment) Bill in 2020 it was felt that a further consultation was needed given the time that had elapsed. However, no consultation question was included on the surrender principle at this time.

Ahead of the 2021 Act, the Committee for Communities held a wide-ranging call for evidence that included 58 written submissions and 35 oral sessions (Committee for Communities, 2022). In addition to our primary research, we have considered the submissions and evidence provided to the Committee for Communities, as many of the key concerns and aspirations held

by NI stakeholders are discussed in detail there. However, we will not reiterate the content of those reports here, and would direct interested readers to the reports themselves for full details.

In that respect, this review does not seek to ‘reinvent the wheel’ or simply re-state views already laid out in detail elsewhere. Instead, we aimed to provide both new quantitative and qualitative analysis of the operation of the licensing system in line with the statutory requirements set out above.

## 1.4 Our approach

One of the fundamental purposes of liquor licensing is to mitigate the risks that arise from the sale of alcohol: whether those risks involve social disorder or health harms. The establishment of licensing as a form of market regulation is an acknowledgement that alcohol is a psychoactive substance which brings with it a range of short and long-term risks to both individuals and communities. As we discuss below, NI has seen an increase in alcohol-related health harms over recent years, as well as increases in some alcohol-related crimes.

### **Evidence on outlet density, alcohol price and harms**

Multiple systematic reviews of studies from around the world demonstrate that higher levels of alcohol availability, in both the on and off-trade, are associated with higher levels of both morbidity (ill-health) and mortality (Campbell et al., 2009; Gmel et al., 2015; Popova et al., 2009). These include studies of jurisdictions where alcohol retailing has been liberalised, and where that liberalisation has been associated with an increase in consumption and harms. International evidence also shows that the availability of cheap alcohol – often sold in the off-trade – can be a driver of harm in communities (Her et al., 2002; Holder et al., 1998; Karlsson et al., 2020). Importantly, the availability of alcohol is not simply about the number of outlets in a given community, but about the types of outlets and the price and strength of alcohol being sold.

We see the mitigation of these risks as a core function of licensing, and work from the principle that regulating where and how alcohol is sold is a critical responsibility of the state.

However, this review goes beyond a risk-reduction perspective. We also recognise that consumers value alcohol for a range of reasons, and that public spaces associated with the sale of alcohol can provide benefits to both individuals and communities. There is some evidence pointing to the potential role of pubs in addressing social isolation (Dunbar et al., 2017; Thurnell-Read, 2020; Thurnell-Read, 2024), and many venues supporting creative arts, performance and music currently rely on alcohol sales for economic viability. Therefore, in addition to its role of mitigating the known harms associated with alcohol consumption, licensing also provides a mechanism for supporting consumer choice in terms of both venues and products, and for shaping the places and spaces where alcohol is consumed.

While the ‘traditional pub’ has been a longstanding feature of social culture in NI, campaign groups such as Pub is the Hub (n.d.) have argued for rural and community pubs to be allowed to diversify their offer in order to protect their sustainability, something that would have licensing

implications. At the same time campaigners for music venues and other cultural outlets argue that licensing needs to be better geared to support the unique creative and social spaces they can provide (Free The Night, 2022). In our conversations with businesses, regulators, elected representatives, services and communities we invited comments on both positive and negative impacts of the sale of alcohol under the current licensing system. We also heard from many who felt that an alcohol market which was responsible, diverse and welcoming could play a significant role in supporting local communities and developing local economies. The challenge for any alcohol licensing regime, therefore, is to balance risks and benefits while ensuring as far as possible that business is fair, open and well-managed.

We are grateful to everyone who contributed to our research, and offered time, expertise and experience to support our work. It has been our privilege to engage with people from so many professions and communities across Northern Ireland, and to experience both the hospitality and commitment of the people working in this sector. We recognise that there are competing aspirations among those to whom we spoke, and that no system or set of proposals will meet the hopes of everybody equally. However, it has been our aim to deal fairly with all stakeholders and to arrive at conclusions that reflect a carefully considered and balanced view of the evidence, experiences, and opinion gathered by us in the past two years.

The views expressed here are those of the review team and not necessarily those of any other party, including the Department for Communities. Our findings were not shared with any stakeholders in Northern Ireland prior to the formulation of our recommendations. While we have been informed by input from our advisory and reference groups and by stakeholders taking part in the review, the interpretation and recommendations are ours alone.

## 2. ALCOHOL AVAILABILITY IN NI: PATTERNS, MOVEMENTS AND TRENDS

In this chapter we focus on availability of pubs and off-licences, as those are the premises that are subject to the surrender principle and which were the primary focus of stakeholder feedback and interest in this review.

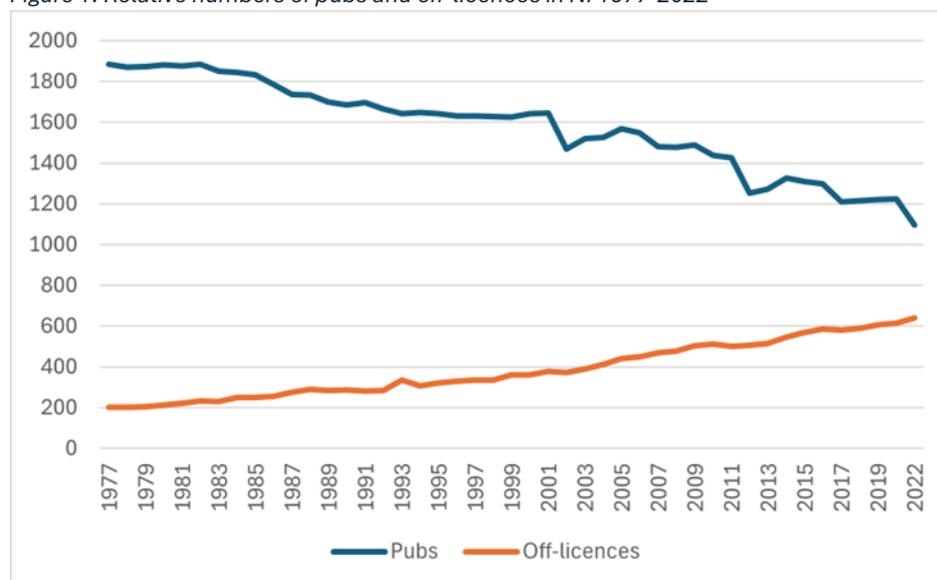
### 2.1 Overall numbers and trends in pub and off-licences

#### Key Points:

- In recent decades there has been a fall in the number of pubs (both in absolute numbers and relative to population), and an increase in both the absolute and relative numbers of off-licences across NI.
- Due to some licences expiring without being surrendered, most of which are pubs, there has been a steady decline in the combined number of licences subject to the surrender principle
- In the same period there has been a steady increase in the number of restaurants and other premises licensed to sell alcohol, which are not subject to the surrender principle.
- The overall number of premises licensed to sell alcohol (including those not subject to the surrender principle) has remained steady over the last decade.

In recent years, alcohol retail across much of the world has been characterised by a shift away from purchases in the on-trade (pubs, bars, clubs etc.) towards the off-trade (shops, supermarkets and online) (O'Connor & Waehning, 2023; Tomlinson & Branston, 2013). This is linked to a significant increase in the proportion of alcohol consumed in homes compared to that consumed in pubs. This shift in the proportion of pubs relative to off-licences has been occurring for a long time. Figure 1 shows relative numbers since 1977 in Northern Ireland (prior to this date the recorded numbers of pubs, hotels and restaurants were combined, so figures are not directly comparable).

Figure 1: Relative numbers of pubs and off-licences in NI 1977-2022



Source: British Beer and Pub Association and NISRA.

However, while a shift to off-trade retail and home consumption has been seen in many places, the change in pub numbers is more acute in Northern Ireland. Although the number of pubs has fallen everywhere, the proportion of pubs that has closed in NI is higher than the UK average (Figure 2).

Figure 2: Percentage change in pubs and bars in the UK and Northern Ireland 2001-2020



Source: Foley, N. (2021). *Pub Statistics: House of Commons Briefing Paper 8591*.

In Great Britain the opening of an off-sales outlet may have no direct impact on the number of pubs (beyond creating increased competition for sales): pubs can open and close regardless, and independently, of what happens in the off-trade. In NI, by contrast, every new off-licence requires the surrender of an existing licence – and most of these, as we will discuss further below, are surrendered from pubs. Therefore, most additional off-licences mean one less pub. However, it is important to note that observed changes in the ratio of pubs to off-licences do not take account of other factors, such as changes in population numbers, movement of people from rural to urban areas, or changes in the number of restaurants, hotels or registered clubs, which may also influence the trends presented. It is unlikely that the surrender principle is uniquely responsible for higher rates of decline in NI compared to the rest of the UK.

In this review, we focused significant effort on an in-depth investigation of these trends, and we present our findings in detail below. In the analysis below we consider the degree to which the surrender principle may exacerbate declines in pub numbers, and report on the perceptions of those to whom we have spoken about this issue. NB: what we refer to throughout as the ‘pub’ licence is granted under Article 5(1)(a) of the 1996 legislation; off-licences are granted under Article 5(1)(b). It should be noted that a 5(1)(a) licence allows for sale of alcohol for consumption both on- and off- the premises, while 5(1)(b) is for off-sales only. Many pubs have separate facilities for off-sales, and in a small number these are of quite significant size. Some also provide home delivery. Therefore, while in the vast majority of cases the primary purpose of a 5(1)(a) licence is on-sales, the distinction between these and 5(1)(b) operations is not always hard and fast.

In theory, the current licensing system maintains the same number of licences subject to the surrender principle over time. In reality, the total number of such licences across NI has declined, both in absolute terms and relative to the population. We discuss recent trends in more detail below; however, looking across a longer period we see a steady decline in the number of total outlets, and pubs in particular, per capita. Between 1981 and 2021 the total number of licences subject to the surrender principle fell by around 270, with about 680 pubs being lost and 415 new off-licences opening. Over the same period the adult population grew by around 200,000.<sup>1</sup> As a result, the number of pubs has fallen from around 14 pubs per 10,000 adults to 7.7 per 10,000. in the last 40 years. Meanwhile, the number of off-licences per population increased from around 1.6 per 10,000 adults to 4.2 per 10,000. For comparison, in England and Wales there are currently around 8 pubs and 11 off-licences per 10,000 adults. In Scotland there are 7.6 pubs and 9 off-licences per 10,000 adults. Note that the ratios are higher when we add all premises licensed for the sale of alcohol (e.g. restaurants and hotels), and when we combine on- and off-sales, as we discuss further below.

The falling number of pubs does not necessarily mean that the overall availability of alcohol has fallen – in fact, it can mean the opposite. A significant number of the off-sales licences created over this period will have been for supermarkets, which are able to sell considerably more alcohol, and a wider variety of products, than a pub. In this respect, although the surrender principle maintains a cap on – and, indeed, is associated with a fall in – combined pub and off-licence numbers per capita, it does not necessarily place a limit on the volume of alcohol that may be available for purchase.

Restaurants, guest houses and all other premises selling alcohol are not subject to the surrender principle. There was a net increase of around 100 licensed restaurants between 2010 and 2020. The number of registered clubs fell in the same period by almost 100. In general terms then, the *total* number of outlets selling alcohol has remained roughly similar in NI over the last decade – at around 19 per 10,000 adults – even though the number of pubs has fallen. The major change has been an increase in off-licences and restaurants, and a fall in pubs and clubs.

The fall in pub numbers is not only due to surrender. In our manual analysis of licensing records, we noted every outlet that had: no record of surrender, had not renewed its licence in either 2017 or 2022, and was closed (which we confirmed via extensive online checks). While over 50 licences were not marked as having been renewed in this period, those which we confirmed were still operating were excluded – and we can only assume they are late renewals or subject to inaccurate records. Including only those premises that we could confirm were no longer operating, we can say with a reasonable degree of confidence that 36 pub licences have expired without having been surrendered to another business since 2012.

If prior records are accurate, this suggests that the number of licences being lost to the surrender system has slowed over time. Between 2002 and 2012 the total number of pub and off-licences fell by 72. However, it confirms that licence expiration (and a consequent reduction

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<sup>1</sup> For these calculations ‘adult population’ means people aged 15 and above. This is because Northern Ireland Statistics and Research Agency (NISRA) groups census age data into 5-year bands, of which the first including adults is 15-19. For consistency, we applied a cutoff of 15+ for England and Wales census data.

in the total number of licences subject to surrender) continues to be a feature of the NI licensing system. This is something we will return to below.

## 2.2 Availability, density and geographical distribution of outlets

### Key Points:

- The availability of alcohol is not evenly spread in Northern Ireland. There are some areas with high concentrations of outlets per population, and others where this is much lower.
- Some of the highest levels of outlet density per population occur in some of the most deprived areas
- There is a more pronounced trend of falling pub density in affluent areas.
- Pub densities per population are falling in urban and rural areas, while off-licence densities are increasing in more rural areas.

While the overall figures presented in section 2.1 show general changes of availability by outlet type, they do not take account of the geographical distribution of outlets or how this has changed over time. To understand this better, we carried out a detailed analysis of the density of outlets across Northern Ireland at small geographical levels.

The density of alcohol outlets is a key issue, because extensive research shows outlet density is associated with levels of alcohol-related harm (Babor et al., 2022). Many different methods of measuring outlet density have been developed; however, these fall into three main categories (Angus et al., 2022; Campbell et al., 2009; Gmel et al., 2015; Trangenstein et al., 2021):

- the raw number of outlets per population within a given area (e.g. the number of pubs per 10,000 people in an electoral district);
- the proximity of outlets to each other; or
- the proximity of outlets to where people actually live, and how many there are within a given distance of dwellings.

In our analysis we analysed availability using both the number of outlets per population within a given area, which we refer to as ‘availability’; and a measure called ‘Kernel Density Estimation’ (KDE; see Appendix 1) that takes account of both the spatial distribution of outlets and their proximity to where people live across NI. We refer to this measure as ‘density’. Density measures based on KDE provide a more realistic assessment of the effects of alcohol outlet clustering, as they are not constrained by geographical boundaries (such as counties or postcode areas) that don’t affect people’s actual behaviour. For instance, someone may live on the edge of a postcode area with few alcohol outlets, but very close to an adjoining area with much higher density which they travel into routinely to purchase alcohol.

Measurement of availability and density is complex. The Centre for Disease Control (CDC) in the United States has published a guide on measuring alcohol density, recognising advantages and disadvantages of various methods (Centers for Disease Control and Prevention, 2024). While we use both ‘availability’ and ‘density’ in this report, we favour the latter as it is more sensitive to people’s true level of access to alcohol and takes better account of outlet clustering. Therefore, we use ‘density’ in all of our health analysis. Where we do use the

‘availability’ measure (i.e. outlets per population in a defined area) we report it as a number per 10,000 to ease interpretation.

### 2.2.1 2022 Geographical distributions

Figure 3 shows the availability and density of pubs in NI using Northern Ireland Statistics and Research Agency (NISRA) data for 2022 (maps based on 2017 data are provided in Appendix 2). Figure 4 shows the equivalent for off-licences. Using the ‘availability’ measure, we see relatively high numbers of pubs per resident in Belfast, the north Antrim coast, parts of Fermanagh and Tyrone among others. However, the areas of high ‘density’ seem to be clustered around particular locations (central areas of Belfast and other major cities and settlements, Derry/Londonderry, Newtownards, Strabane, etc.). This is because some areas have relatively high numbers of pubs spread out across a low and dispersed population (which will show up in the ‘availability’ measure), but it is only when multiple outlets are in close proximity to people’s homes that they show in the ‘density’ maps.

Figure 3: Availability and density of public houses in Northern Ireland in 2022

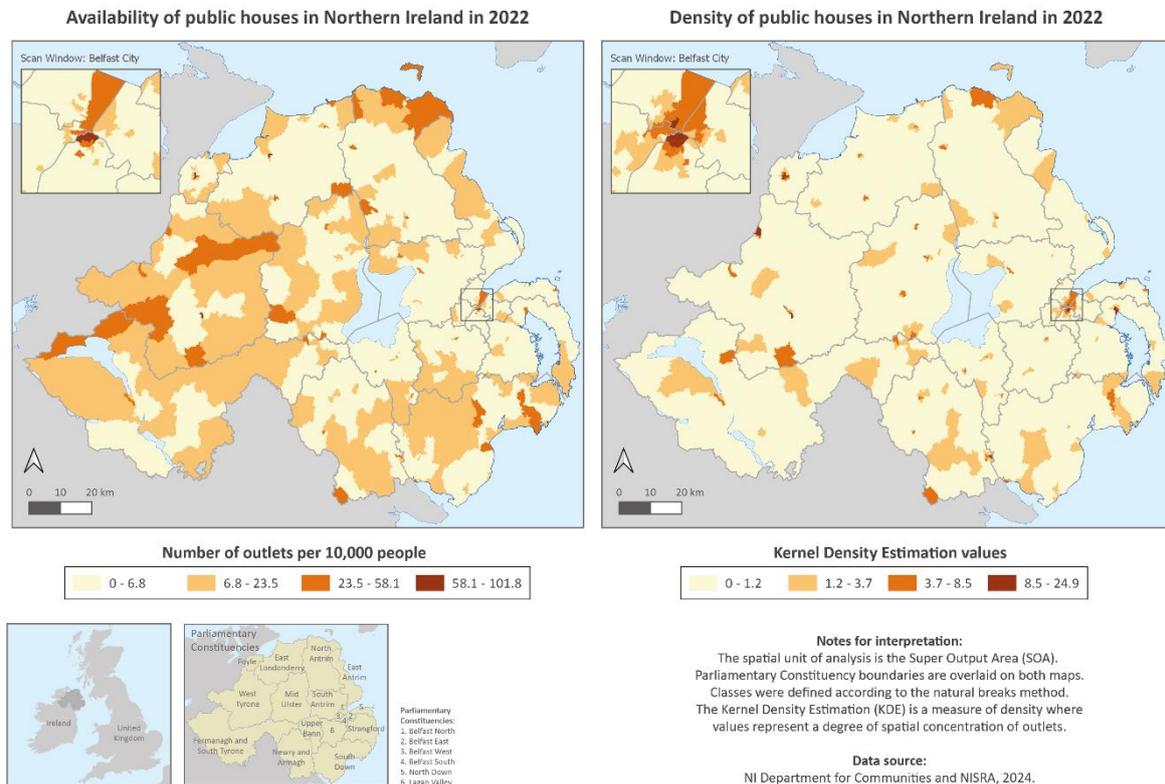
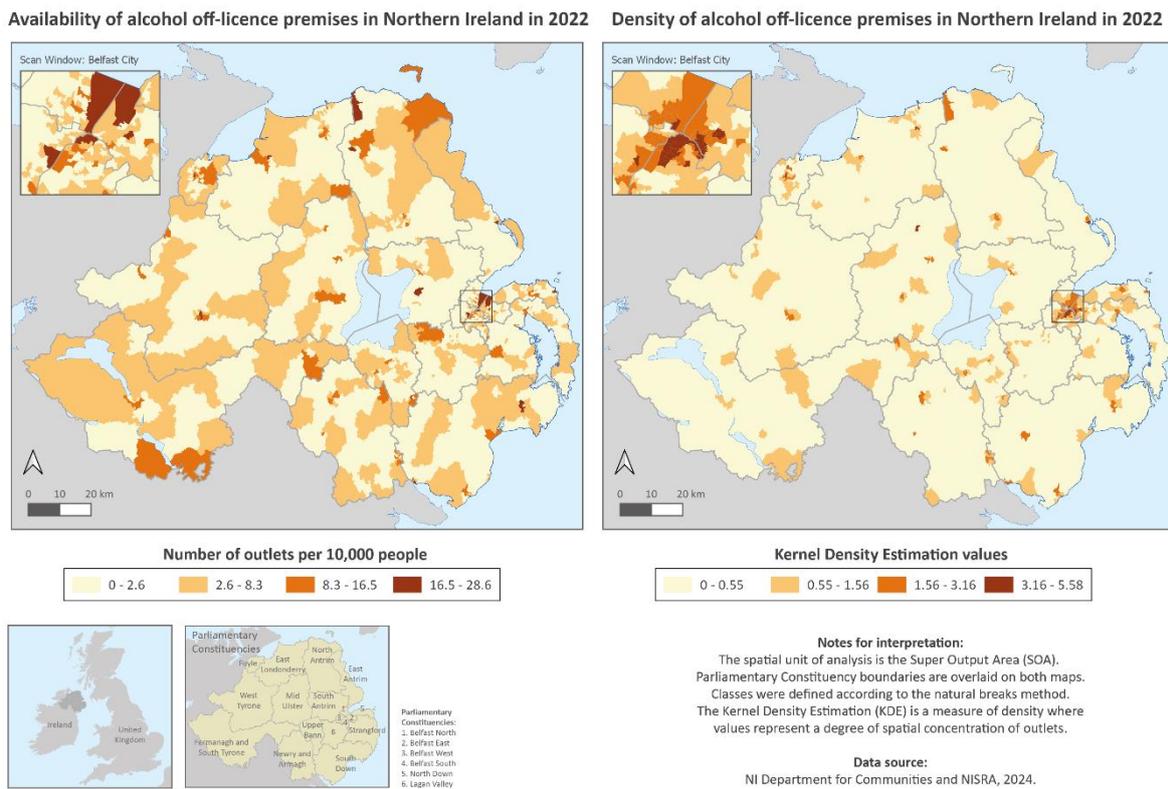


Figure 4: Availability and density of off-licences in Northern Ireland in 2022



### 2.2.2 Distribution and trends by affluence/deprivation

A key trend that we observe in this data is that, while overall numbers of pub/off-licence outlets per population has reduced over time, this is not spread evenly. In particular, we see that the number of pubs per population increases by deprivation, and that the level of availability in the most deprived areas is many times higher than in the most affluent. This is also true for off-licences, but the rate of difference is less marked. We also see that the reduction in the number of pubs per population between 2017 and 2022 is more pronounced in more affluent areas compared to the more deprived. Trends for off-licences are more mixed.

### 2.2.3 Distribution and trends by urbanicity/rurality

The decline in numbers of pubs per population is more pronounced in urban than rural areas, whereas the number of off-licences per population has decreased in urban areas and increased in rural areas (Table 2).

Table 2: Changing ratio of outlets per 10,000 population by urban / rural classification

Urban / rural status	Number of outlets per 10,000 persons								
	Public Houses			Off-Licences			Public Houses + Off-Licences		
	2017	2022	% Change	2017	2022	% Change	2017	2022	% Change
Urban	5.7	5.2	-8.1	3.7	3.3	-8.8	9.3	8.5	-8.4
Mixed	4.1	3.7	-11	2.4	2	-11.8	6.5	5.7	-11.4
Rural	8.5	8.4	-0.9	2.5	2.8	+11.2	11	11.2	+1.8
p-value	<0.001	<0.001	-	0.002	0.047	-	0.044	0.003	-

The number of pubs per population is falling in all areas – but the fall is much steeper in urban areas compared to rural. At the same time, trends for off-licences are the opposite. The number of off-licences per population has fallen in urban and mixed areas, while it has increased in rural areas. Changes for both outlet types are more pronounced in affluent areas.

NB, it is important to note that the changes in absolute numbers over the time period analysed here are very small. For instance, the 11.2% increase in the per population number of off-licences in rural areas seen in Table 2 only reflects an increase from 2.5 to 2.8 outlets per 10,000 people. Therefore, these figures need to be interpreted with caution, and only to understand general trends rather than pointing to dramatic changes.

## 2.3 Licence movements under surrender principle

### Key Points:

- Physical licence records show that around 130 pubs surrendered their licences in the last 10 years. Of these:
  - Around two thirds have been surrendered to off-licences
  - Just over 20 were surrendered to a newly opened pub.
  - Almost a quarter expired without being surrendered
- Both rural and urban pubs are surrendering their licences. Many of these have been acquired by small and medium sized grocers, usually owned by a multiple, franchise or symbol group, and generally located in smaller towns, rural areas or at service stations.
- A smaller number of off-licences have been surrendered in this period, the vast majority of which have gone to other off-licences

### 2.3.1 Licence numbers from court (paper) records

The analysis presented in 2.1 and 2.2 above is based on the aggregated licensing data collated by NISRA, which allows for a broad assessment of availability and density and is sufficiently robust for us to develop estimates around health and social outcomes reported in Chapter 3. However, it does not contain the level of detail about each licence needed to drill down into patterns of licence movement, such as from which premises, and where, did a new premises obtain its surrendered licence. This makes it impossible to assess precise patterns in the movement of licences from routinely collected data alone.

In order to address this, we manually checked every paper licence record held in every court across NI and created a new database containing key information for each licence. Some information (e.g. address, date of grant or renewal dates) is recorded on the licence card held in court but other important information is not systematically or consistently recorded. Most importantly, records for a newly granted licence do not always say what licence was surrendered to enable the new licence to be granted. Similarly, records for surrendered licences often don't say where it was surrendered to. Finally, un-renewed licences are almost never marked clearly as 'extinguished'. By matching across records on our bespoke database (which included surrender information for all licences where it could be found) and using further online checks, we were able to determine a much more precise description of actual licence movements in recent years than has previously been conducted. We were also able to identify some errors and anomalies in the high-level figures provided by the Northern Ireland Courts and Tribunal Service (NICTS) and reported by DfC.

Using this approach, we found a combined total of 1,789 pub and off-licences in operation. This is 25 more than are reported in the most recent publicly available figures, which show a combined total of 1,764 (Department for Communities, 2024). Of these, we found 29 more pubs (1,138 compared to 1,109) and four fewer off-licences (651 compared to 655). These discrepancies may be due to lags in registering renewals in 2022-3, closure of some pubs between our data gathering and the collation of official figures, or small errors in reporting.

There were also 8 new producer's licences in operation during the period of our analysis. This is a very small number proportionally, but our searches were carried out only shortly after these licences became available so low numbers are to be expected. We are aware that several more producer's licences have been taken out since our data-gathering concluded.

### **2.3.2 Licence surrenders – transfers between licence types**

As part of our manual checks, we noted every licence marked as either surrendered or newly granted since January 2014 (Table 3). For each of these, we carried out a detailed investigation to identify where the licence was surrendered from / to. NB a large number of licences marked as surrendered were, in reality, the same premises applying for a new licence to allow major alterations. These are recorded on our database, but are not included in the analysis of licence movement. Based on this analysis, we found that 132 pub and 43 off-licences had been surrendered between January 2014 and our final court visit in February 2024 (our analysis of court records was completed over a 9-month period, so a small amount of additional movement may have occurred during this time). Of these:

- 100 pub licences were surrendered to new off-licences and 23 were surrendered to a new pub
- 38 off-licences were surrendered to new off-licences, and two were surrendered to new pubs
- In 12 cases, we could confirm that a licence had been surrendered but were unable to identify where the licence went to.

A further 4 pubs were confirmed as closed via online checks, but their renewals were up to date and there was no record (at the time of our court visits) of their licence having been surrendered. We also identified 17 new licences (13 off-licences and 4 pubs) for which it was not possible to locate the surrendered premises. It is possible that these match the surrendered licences with no acquiring premises identified, but this cannot be ascertained from the available records.

Table 3: Licences confirmed as surrendered 2014-24

Type of licence surrendered (total number surrendered)	Surrendered to an off-licence	Surrendered to a pub	Surrendered to unknown premises
Pub (132)	100	23	9
Off-licence (43)	38	2	3

### 2.3.3 Licence surrenders – transfers between locations

We then analysed the geographical movement of the 100 pubs that we could confirm as having been surrendered to off-licences since January 2014 (Table 4). This showed that the largest number of surrenders (n=37) were from pubs in small towns or rural areas being surrendered to off-licences that were also in small towns or rural areas, often the same town or area. Beyond this the general pattern was for pub licences in larger towns or cities being surrendered to off-licences in smaller towns or rural areas. 19 licences went from pubs in large towns (population 10,000 or above) to off-licences in small towns or rural locations. A further 7 went from either Belfast or Derry/Londonderry to off-licences in small towns or rural locations. The licences of only 14 pubs in small towns or rural locations were surrendered to off-licences in large towns or cities.

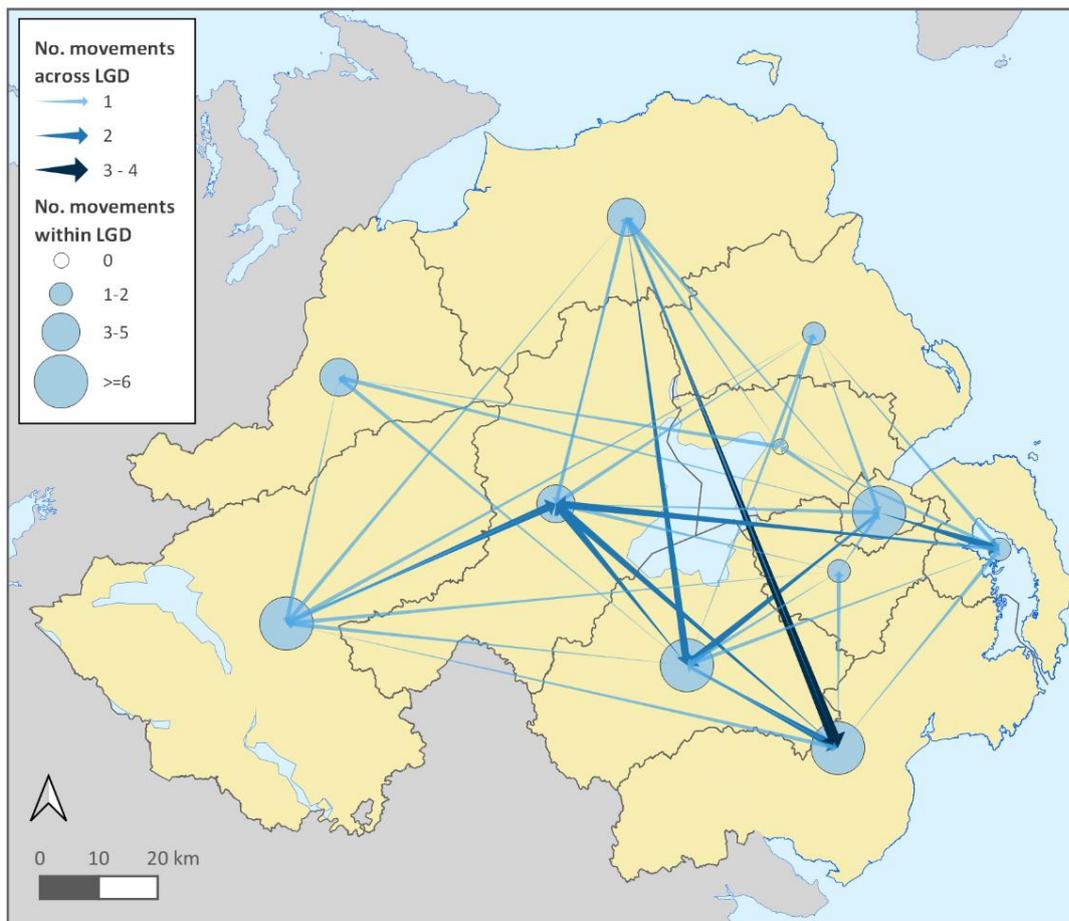
Table 4: Geographical movement of pub-to-off licence by area type

Movement type	Large town/city to small town/rural	Large town/city to large town/city	Small town/rural to large town/city	Small town/rural to small town/rural
Pubs to off-licences	26	23	14	37

*Large town=10,000+ population.*

In terms of court areas, the largest numbers of pubs being surrendered to off-licences were in Omagh (20), Newry (13) and Dungannon (13), with the lowest being in Lisburn (2) Antrim (3) and Ballymena (3) (Figure 5). Figure 5 shows this movement in visual form, using Local Government Districts as the geographical area.

Figure 5: Movement of pub licences surrendered to off-licences since 2014 (by Local Government District)



It is also important to note that the majority of off-licence purchases have not been by large supermarkets. In 2007, the Grant Thornton Review reported that a significant number of surrendered licences had been purchased by large supermarkets, which reflects the fact the large supermarket chains entered the market from the mid-1990s and would have started acquiring licences around then. That appears to no longer be the case. Of the 100 pub licences surrendered to off-licences in this period, over a third went to a Spar or Eurospar; Centra and Mace acquired around a quarter between them and most of the remaining went to a range of small or medium-sized outlets including Costcutter, Supervalu, Vivo, Nisa, M&S and Winemark. A significant number were at service stations. The 13 new off-licences that we identified, but for which we could not find the surrendered licence, were also mostly made up of small to medium sized outlets, although they also include a small number of Lidl stores. Most are also located in small towns or rural areas.

Overall, then, our analysis suggests that over the last 10 years NI has lost in the region of 150 pubs, of which at least two thirds have been surrendered to off-licences and almost a quarter have expired. At the same time around 25 licences have moved from a closed pub to a newly opened one. If a trend can be observed, it is not that rural pubs are being lost to urban supermarkets; rather it is that pubs across a range of locations are being lost to small and medium sized off-licences, usually owned by a multiple, franchise or symbol group, and which are generally located in smaller towns, rural areas or at service stations.

## 2.4 Accessibility and accuracy of licensing records

### Key Points

- The system for maintaining licence records is archaic and relatively inaccessible, placing an additional burden on those working in the system and those seeking to understand it, and making omissions and inaccuracies more likely.
- Records do not enable the tracking of licence movement under the surrender principle. Records of new premises do not routinely show the location of the surrendered licence acquired by that new premises; and records of a surrendered licence do not routinely show the location to which it was surrendered.
- Licensing records are not currently available for public inspection easily or free of charge

Our manual review of licensing records was enabled by supportive and diligent staff at all the relevant courts. However, it is in the nature of the record-keeping system that an exercise such as this will identify inconsistencies and anomalies. We are reassured that the overall number of licences we identified, and the number reported by the Department for Communities, are very similar; however, we remain concerned that our database shows a different ratio of pubs to off-licences. This needs to be checked, and all records updated if the anomalies identified by us are confirmed. We also found a small number of duplicate licences; licences for addresses where no premises appeared to exist; licences for the same premises appearing in the records of more than one court, and licences recorded as surrendered to more than one new premise. A process of digitising the records would create an opportunity to check and tidy these anomalies.

The system for maintaining licensing records in NI has not been substantially modernised for some time. Licence records are held in the relevant courts in paper form, though each court also keeps an Excel spreadsheet containing the key, basic information for internal purposes. A licence itself is a small booklet which contains details of the licensed premises address, licence holder and any amendments to the licence. The details of each licence (usually date of issue, any changes to the licence, renewals etc.) are separately recorded and stored on a dedicated file card in the issuing court, usually held in a ring binder alongside all other cards for that jurisdiction. Further paper documentation, sometimes including the licence itself or, more often, a photocopy of the key pages, is held in a folder which is usually stored in a secure cabinet alongside folders for all the licences in the area.

When surrendered, the original licence booklet is marked as surrendered alongside the date. The file card is also marked as 'surrendered'. Once the new licence is granted, a new booklet is then issued and a new file card created, which is stored in the new issuing courtroom. In some cases, the location of acquiring premises is included with the surrendered licence, or the location of the surrendered licence is provided with the new documentation. However, this is not routine and the level of information provided varies considerably across the courts. In most cases, we were not able to find information about where licences came from, or were surrendered to, from the file cards alone. In many cases we could not find it by looking at the original licence, or the surrendered licence, either.

This reflects the archaic nature of record-keeping in the NI licensing system, the lack of consistency in terms of what information is recorded where, and the limited amount of information that is recorded as a matter of course. As the defining characteristic of the NI system is the surrender principle, we recommend that information on the location and type of the surrendered licence should be recorded as a matter of routine on the relevant file card. Importantly, this information should also form part of routine reporting on licensing data to the Department for Communities.

Finally, while we were given full access to the court records, members of the public may only access licence registers on payment of a fee to the courts. As of 2023, it costs a member of the public £31 for each inspection of licensing registers, and a further £15 for each copy of all or any part of an entry taken from the register. There is no centralised, publicly available, database showing the location of all licences – such as that provided in (the Republic of) Ireland. Nor do local areas maintain a publicly available online database of licences, as is the case for many local authorities in Great Britain. For comparison, Birmingham City Council (2024) provides an online register for all its licences, including 3,500 premises licensed to sell alcohol, which includes location, type and grant date as well as other relevant information for each outlet.

## 3. HEALTH, SOCIAL AND ECONOMIC OUTCOMES OF THE LICENSING SYSTEM

### 3.1 Alcohol consumption patterns in Northern Ireland

#### Key Points:

- Alcohol consumption in Northern Ireland is similar to that in England, with about half of adults drinking on a weekly basis and about 1 in 5 drinking above the weekly low-risk guidelines.
- Those living in more affluent areas drink more frequently than those in more deprived areas.

In its most recent substance use strategy, the NI Department of Health identifies alcohol as ‘*the most significant drug of choice for citizens across NI*’ (NI Department of Health, 2021: 4). Data from the NI Health Survey (Corrigan & Scarlett, 2023) shows that 77% of adults in NI drink alcohol, 50% of whom drink at least once a week. This is comparable to England, where 79% report drinking in the last 12 months and 49% report drinking in the previous week (NHS England, 2022). 25% of men and 9% of women in NI report drinking above the weekly low-risk guideline of 14 units per week, compared to 28% of men and 15% of women in England. In NI, drinkers over 45 were also more likely to drink 3+ times per week compared to those aged 18-44. As in the rest of the UK, those living in more affluent areas report drinking more frequently than those in the most deprived areas.

### 3.2 Alcohol harms

#### Key Points:

- Even after controlling for deprivation, urban / rural status, sex and age there is a clear correlation in NI between outlet density and alcohol-specific mortality, alcohol-specific hospitalisations, and alcohol-related crimes.
- This holds whether looking at density of pubs, off-licences, or both combined; however, it tends to be most pronounced in areas that have the highest density of both types of outlets combined.
- While areas with no pubs or off-licences are relatively unusual, we see a clear increase in risks across the areas as density increases – not just when comparing the highest and lowest density areas.
- There is a stronger relationship between outlet density and mortality rate for off-licence premises than for pubs; and a stronger relationship between outlet density and alcohol-related crimes for pubs than for off-licences.

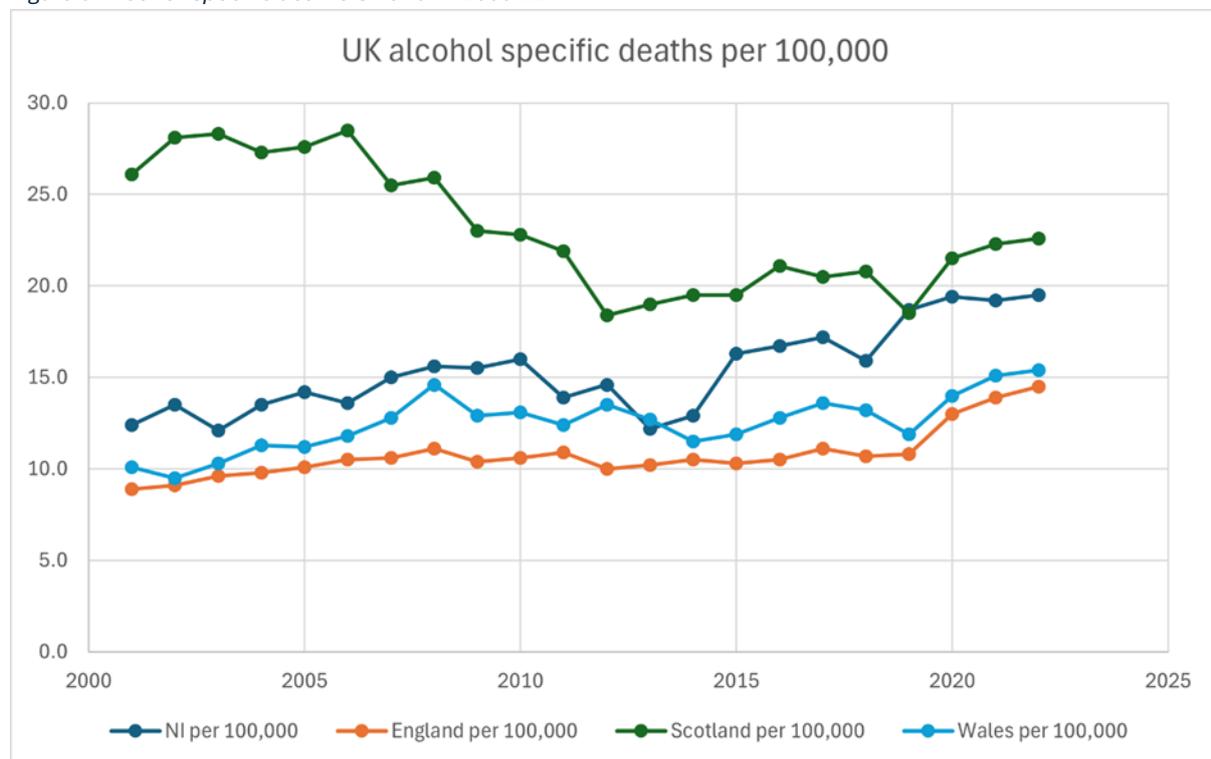
#### 3.2.1 Alcohol-specific mortality

Both deaths and hospitalisations caused by alcohol fall into two categories: ‘alcohol-specific’, which is the total number caused by conditions wholly attributable to alcohol (e.g. alcoholic liver disease); and ‘alcohol-related’, which is calculated based on conditions where alcohol is a contributory factor (e.g. high blood pressure, which may have various causes but in a proportion of cases will be due to, or made worse by, alcohol). We only use alcohol-specific mortality and hospital admissions below because we can be certain that each death or

hospitalisation in this category was caused by alcohol, making the estimates very precise. However, it should be noted that alcohol-specific conditions only account for a proportion of the total number of alcohol deaths and hospitalisations in any given population, and they tend to occur among the very heaviest drinkers. Therefore, while our analysis will be precise in terms of geographical trends, the absolute numbers involved will be much higher.

In 2022, Northern Ireland had an alcohol-specific death rate of 19.5 per 100,000 population<sup>2</sup> (Figure 6). This is an increase of 44% on the figure in 2002, marking a very considerable rise over a 20-year period. The alcohol-specific death rate in Northern Ireland is currently 34% higher than in England. Scotland continues to have the highest rate in the United Kingdom; however, the Scottish rate has fallen by 20% in the same period, while the rate in NI has steadily increased.

Figure 6: Alcohol-specific deaths UK and NI 2000-22



Source: ONS (2024). Age-standardised alcohol-specific deaths in the UK: registered in 2022.

Mortality rates vary by region in NI, with the heaviest burden falling on Belfast, Derry City and Strabane, and Fermanagh and Omagh (Table 5). Since 2012, the age standardised mortality rate (ASMR) for alcohol-specific deaths has risen in all Local Government District areas, but with particular increases in Fermanagh and Omagh (133%), Mid and East Antrim (125%) and Mid Ulster (95%).

<sup>2</sup> We use Office for National Statistics figures here in order to show the comparison with England, Scotland and Wales. Northern Ireland Statistics and Research Agency (NISRA) and Health and Social Care Northern Ireland (HSCNI) figures differ slightly, likely due to the timing of registration of deaths.

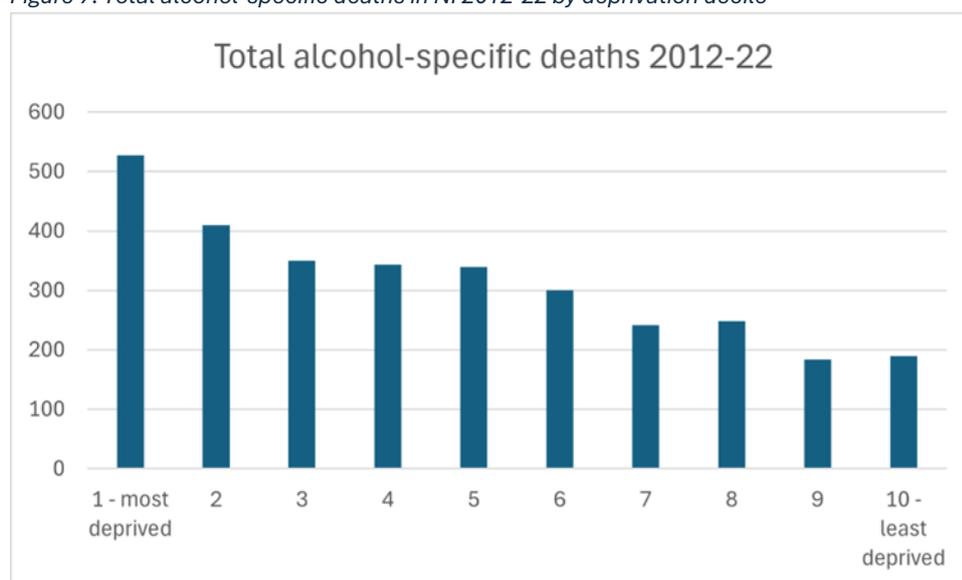
Table 5: Age-standardised alcohol-specific death rates by Local Government District 2012-22

Local Government District	Alcohol-specific deaths per 100,000 population (2012)	Alcohol-specific deaths per 100,000 population (2022)	Percentage increase
Ards & North Down	11	12.4	+13%
Newry, Mourne & Down	12.8	18.8	+47%
Mid Ulster	7.5	14.6	+95%
Mid & East Antrim	6.9	15.5	+125%
Lisburn & Castlereagh	12.5	18.7	+50%
Fermanagh & Omagh	10.6	24.7	+133%
Derry City & Strabane	25.8	28.1	+9%
Causeway Coast & Glens	7.3	9.6	+31%
Belfast	25.9	30.1	+16%
Armagh City, Banbridge & Craigavon	13.3	16.5	+24%
Antrim & Newtownabbey	14.6	16	+10%

Source: NISRA (2024). Alcohol-Specific deaths in Northern Ireland, 2022.

There is a significant body of research demonstrating that alcohol harms fall most heavily on deprived communities, even when average consumption in those communities is lower than elsewhere (this is sometimes called the ‘alcohol harm paradox’) (Bloomfield, 2020; Boyd et al., 2022). Figure 7 shows that deaths are more than twice as high in the most deprived 20% of communities compared to the least deprived 20%. In a 2021 study of sociodemographic factors associated with alcohol-related deaths, NISRA found that higher risk of death was associated with being male, having low education, being unemployed, experiencing mental illness, and living on social rented accommodation (NISRA, 2021: 12).

Figure 7: Total alcohol-specific deaths in NI 2012-22 by deprivation decile



Source: HSCNI (2012-2022).

### 3.2.2 The relationship between alcohol deaths and outlet density

While alcohol-related health harms are shaped by a variety of factors, with deprivation being one of the most significant, the overall availability of alcohol for purchase, and the price at which alcohol is sold are key contributory factors.

In order to assess the relationship between outlet density (as explained in section 2.2 above) and alcohol harms in NI, we overlaid individual level mortality data provided by HSCNI and NHS-provided health data onto the density maps presented in Figures 3 (pubs) and Figure 4 (off-trade). We used super output areas (SOA) as our unit of measurement (HM Government, n.d.). SOAs are small geographical areas used for population-level data gathering in NI. There are 890 SOAs in NI, each with between 1,300 and 2,800 residents. Using a range of analytical methods (see Appendix 3) we estimated the extent to which the risk of dying from an alcohol-specific condition increased or decreased relative to the density of outlets in any given SOA. All health data (mortality data and hospitalisation data) was accessed via the Honest Broker Service (HBS) that provides a secure data environment for access to health and social care data in Northern Ireland. All analysis of the health data was conducted using the secure e- research platform and all outputs were authorised by the HBS.

Our findings are shown in Table 6 below. The data show that people living in areas with the highest density of pubs and off-licences combined have a hazard ratio of 1.78 compared to areas with no outlets. This means that there is a 78% increase in the chance of dying due to alcohol specific reasons in areas with the highest density of alcohol outlets compared to areas with no outlets. There is a 35% increase in areas with the highest density of pubs only, and a 50% increase in areas with the highest density of off-licences.

Table 6: Relative risk of alcohol-specific death in areas of different outlet density

	<b>1 – highest density</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5 – no outlets</b>
<b>Pubs</b>	1.35**	1.14**	0.91	0.96	1 (reference)
<b>Off-licences</b>	1.5***	1.21***	1.21***	1.01	1 (reference)
<b>Pubs and off-licences combined</b>	1.78***	1.39***	1.28**	1.18*	1 (reference)

\* p < 0.10, \*\* p < 0.05, \*\*\* p < 0.01. Values presented are Hazard Ratios

#### Interpretation

Importantly, we used areas with no outlets to provide our ‘reference’, which is the baseline level of risk against which areas of higher density were compared. However, we recognise that areas with no outlets at all may be unusual for a range of reasons, so it is important to also consider the degree to which risk increases between the remaining density ranges. Doing this, we see that areas of low pub density do not have a significantly higher mortality risk than areas with no pubs, but that risk starts to increase in areas of higher density.

For off-licences the increasing risk is more pronounced and more consistent. This is even more stark when we combine pub and off-licence densities. Areas with highest density include some

outliers, which have considerably higher densities than the average. Again, these areas of very high density may face other health challenges that magnify the effects of alcohol availability alone. Nevertheless, the data shows a clear relationship between higher levels of density, especially for off-licences, and the risk of alcohol-specific mortality.

In establishing this estimate, we accounted for a range of potentially confounding factors, including neighbourhood income, whether living in an urban or rural area, age, and sex. However, we still cannot rule out the possibility that other unmeasured factors, or particular combinations of factors (such as higher outlet densities occurring in areas where other factors, such as poverty, poor diet, lack of access to healthcare etc. also apply) play a role in shaping the results. We also cannot rule out the possibility that more outlets tend to operate in areas where consumption is already high. Nevertheless, the findings show a trend in which higher densities are associated with higher risk of alcohol-specific mortality, and that this is highest in areas that have the highest density of pubs and off-licences combined.

### **3.2.3 Alcohol-specific hospital admissions in Northern Ireland**

Using hospitalisations data provided by the Honest Broker Service (the secure data service for Health and Social Care in NI), we estimated the odds of having at least one alcohol-specific hospital admission between 1st Jan 2012 and 31st Oct 2022 by:

- Sex
- Age
- Neighbourhood income
- Whether living in an urban or rural area, and
- Density of alcohol outlets

Our analysis is based on the total of 1,976,925 people over the age of 15 who have lived in Northern Ireland between 1st Jan 2012 and 31st Oct 2022 (the number is higher than the population at any one time because it includes all people who lived in NI at any stage over the 10-year period). Of these, 45,968 (2.33%) had at least one alcohol-specific hospital admission within that period. 56% were male and 44% were female. The largest proportion of admissions were among people aged 55-64 and 65-74 (Figure 8). As with alcohol deaths, there is a clear skew towards people living in the most deprived area compared to the most affluent (Figure 9).

Figure 8: Alcohol-specific hospital admissions in NI 2012-22 by age

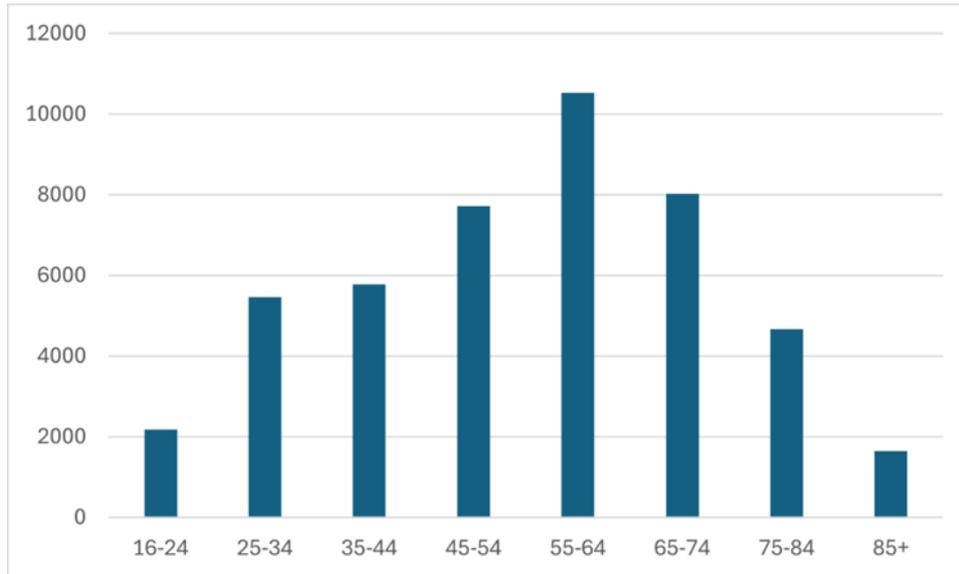
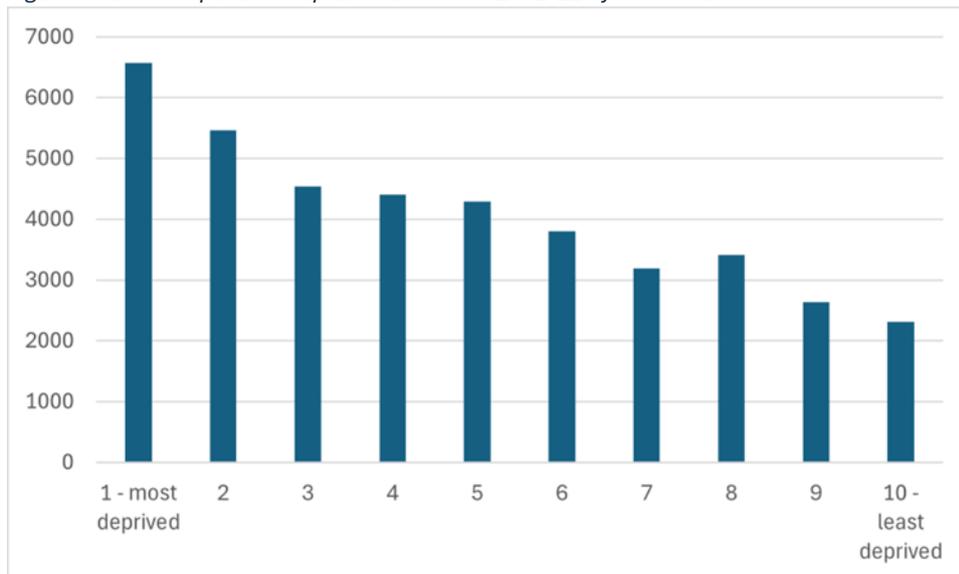


Figure 9: Alcohol-specific hospitalisations in NI 2012-22 by income decile



This pattern reflects what we tend to see elsewhere: alcohol health harms being higher among middle-aged men, and among people living in more deprived neighbourhoods. As with mortality data, these patterns are likely to be caused by factors associated with lifestyle, health access and the wider impacts of poverty and social exclusion, in addition to alcohol consumption.

### 3.2.4 The relationship between alcohol hospitalisations and outlet density

We analysed the relationship between outlet density and alcohol-specific hospital admissions, using similar methods as for mortality, again adjusting for sex, age, neighbourhood income deprivation and area urban/rural status (see methods in Appendix 3). Unlike death data, a significant proportion of alcohol admissions will be the same people attending hospital repeatedly, and these are likely to be among the highest-consuming individuals. However, we

use figures for numbers of *people* who have an alcohol-specific hospital admission, rather than the number of *admissions* in our analysis, to avoid skewing the findings in this way. We therefore report here on the extent to which the risk of experiencing an alcohol-specific hospitalisation increased or decreased relative to the density of outlets in any given single output area (see section 3.2.2 above).

Table 7 shows that people living in areas with the highest density of pubs and off-licences combined have an odds ratio of an alcohol-specific hospital admission of 2.2 compared to areas with no outlets. This means that people living in areas with the most pubs and off-licences combined are more than twice as likely to be hospitalised because of alcohol compared to people living in areas without any such premises. The increased risk of hospitalisation is similar (an 80% increase, indicated by an odds ratio of 1.8) in areas of high off-licence density as it is in areas of high pub density, compared with areas with no such outlets (Table 7). This is somewhat different to the comparative rates for alcohol-specific deaths as reported above (Table 6). The same caveats regarding outlying areas apply as previously, but we still see a clear increasing level of risk as density increases.

Table 7: Odds ratios for an alcohol-specific hospital admission by density quintile and outlet type<sup>†</sup>

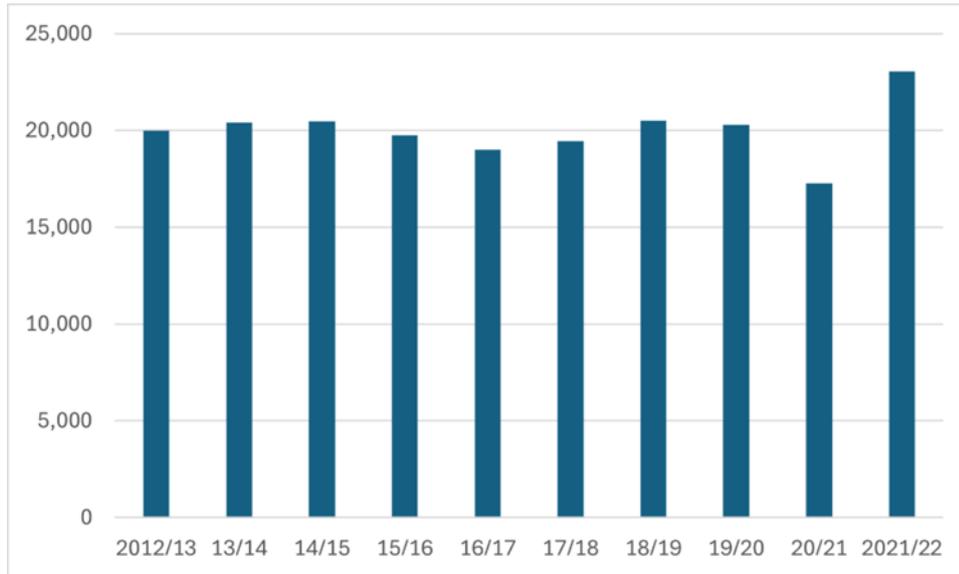
	<b>1 – most density</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5 – least density</b>
<b>Pubs</b>	1.8 (1.7 - 1.8)***	1.4 (1.3 - 1.5)***	1.3 (1.3 - 1.4)***	1.1 (1.1 - 1.2)***	1.0 (reference)
<b>Off-licences</b>	1.8 (1.7 - 1.8)***	1.6 (1.5 - 1.7)***	1.4 (1.3 - 1.5)***	1.2 (1.1 - 1.2)***	1.0 (reference)
<b>Pubs and off-licences</b>	2.2 (2.0 - 2.3)***	1.7 (1.6 - 1.9)***	1.5 (1.5 - 1.7)***	1.3 (1.2 - 1.4)***	1.0 (reference)

<sup>†</sup>KDE=800m, 2017 and 2022 average. 95% Confidence Intervals in brackets. \* p < 0.10, \*\* p < 0.05, \*\*\* p < 0.01. Values presented are odds ratios.

### 3.2.3 Alcohol-related crime

The Police Service of Northern Ireland (PSNI) provided us with anonymised data for all alcohol-related crimes from 2012/13 to 2021/22. In police recording, an ‘alcohol-related crime’ is any crime where it is perceived by the victim or any other person that the effects of alcohol consumption on the offender or victim was an aggravating factor. Alcohol-related crimes are classified by PSNI into different types, including violence with injury, violence without injury, sexual offences, and robberies among others (see Appendix 4 for more details). In that period the total number of alcohol-related crimes (of any type) increased by 15% (from 19,195 in 2012/13 to 23,046 in 2021/22) as shown in Figure 10.

Figure 10: Total alcohol-related crime in NI 2012-22



Beneath these headline figures, trends in specific crimes have moved in different directions. For example, over the data period the number of alcohol-related offences involving violence with injury have fallen (-15%) as have the number of alcohol-related robberies (-25%). At the same time recorded instances of violence without injury has increased by 43%, while recorded harassment has increased very significantly (887%) and sexual assault has doubled.

Notably, the most recent data from the Northern Ireland Safe Community Telephone Survey (Beggs, 2024) finds that the proportion of respondents reporting that public drunkenness is a 'very' or 'fairly' big problem fell from 25% in 2005 to 15% in 2020. This may be due to changes in the proportions of crime that involve public disorder compared to other crimes, such as sexual assault and domestic violence, that are less visible.

To assess the relationship between recorded alcohol-related crime and outlet density in NI, we used data at the level of electoral wards from 2014 instead of Super Output Areas, as this is how crime data is aggregated by the PSNI. There are 462 electoral wards across NI, each covering an average population size of 4,000 residents.

For the purpose of our analysis, we aggregated alcohol-related crimes into two main groups of crimes: 1) violence against the person (including both with and without injuries, such as assaults, homicides, unlawful driving, among others) and 2) sexual offences. Using a range of analytical methods (see Appendix 4) we estimated the extent to which the rate of alcohol-related crime increased or decreased relative to the density of outlets in different wards. To do this, we took the average number of crimes falling under these aggregated categories per year from 2018 to 2023. We split the wards into 5 groups according to their level of outlet density (as defined in section 2.2 above). The wards with the lowest density were areas containing no outlets of the relevant type, with the remaining areas split evenly into 4 categories (quantiles). We then calculated the crime rate per 100,000 people in each ward and estimated (using a negative binomial regression, see Appendix 4) to what extent these rates are higher in areas

with the highest alcohol outlet densities as compared to the areas with no outlets. The results are shown in the tables below.

Our analysis shows the highest densities of both pubs and off-licences are associated with statistically significant higher frequency of alcohol-related crime rates, including both violence and sexual crimes. Areas with the highest densities of pubs and off-licences had almost 4 times higher frequency of violence, and 3 times higher frequency of sexual crimes compared to areas with no outlets. Areas with medium levels of alcohol outlets also had 1.7 times higher frequencies of crime compared to areas with no outlets. However, this was not the case for sexual crimes. Although a higher frequency of crimes was found in areas with the highest alcohol outlet density, no statistically significant differences were found between areas in quantiles 3 or 4 versus quantile 5 (see Table 8). Noticeably, the patterns are similar when comparing the density of pubs or off-licences only (see Tables 9 and 10), though the overall frequency is higher in areas with the highest density of pubs compared to off-licences.

Table 8: Regression coefficients for alcohol-related crime rates per 100,000 people by density of pubs and off-licences combined in ward<sup>†</sup>

<b>Pubs and off-licences combined</b>	<b>1 – most density</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5 – least density</b>
Violent crime	4.0 (2.9-5.3)***	2.1 (1.5-2.8)***	1.7 (1.2-2.2)***	1.3 (1.0-1.8)*	1 (reference)
Sexual crime	2.9 (1.7-5.1)***	1.4 (0.8-2.4)	1.22 (0.7-2.1)	0.9 (0.5-1.5)	1 (reference)
Combined	3.9 (2.9-5.2)***	2.0 (1.5-2.7)***	1.7 (1.2-2.2)***	1.3 (1.0-1.7)	1 (reference)

†KDE=800m, 2017 and 2022 average. CI95% shown in brackets. \* p < 0.10, \*\* p < 0.05, \*\*\* p < 0.01. Values presented are regression coefficients.

Table 9: Regression coefficients for alcohol-related crime rates per 100,000 people by density of off-licences in ward<sup>†</sup>

<b>Off-licences only</b>	<b>1 – most density</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5 – least density</b>
Violent crime	2.7 (2.1-3.4)***	1.7 (1.4-2.1)***	1.4 (1.1-1.7)***	1.3 (1.0-1.5)**	1 (reference)
Sexual crime	2.6 (1.8-3.8)***	1.4 (1.0-1.1)*	1.1 (0.9-1.6)	1.0 (0.7-1.4)	1 (Reference)
Combined	2.7 (2.1-3.4)***	1.7 (1.4-2.1)***	1.4 (1.1-1.7)***	1.2 (1.0-1.5)**	1 (reference)

†KDE=800m, 2017 and 2022 average. CI95% shown in brackets. \* p < 0.10, \*\* p < 0.05, \*\*\* p < 0.01. Values presented are regression coefficients.

Table 10: Regression coefficients for alcohol-related crime rates per 100,000 people by density of pubs in ward<sup>f</sup>

<b>Pubs only</b>	<b>1 – most density</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5 – least density</b>
Violent crime	3.5 (2.9-4.1)***	2.0 (1.7-2.4)***	1.5 (1.3-1.8)***	1.4 (1.1-1.7)***	1 (reference)
Sexual crime	2.8 (2.1-3.8)***	1.7 (1.2-2.3)***	1.1 (0.8-1.5)	1.0 (0.8-1.4)	1 (reference)
Combined	3.4 (2.8-4.1)***	2.0 (1.7-2.3)***	1.5 (1.2-1.7)***	1.4 (1.1-1.6)***	1 (reference)

†KDE=800m, 2017 and 2022 average. CI95% shown in brackets. \* p < 0.10, \*\* p < 0.05, \*\*\* p < 0.01. Values presented are regression coefficients.

As described previously, areas with the highest densities will contain a wide variation in actual concentrations of outlets, since they include a small number of outlier areas that contain very high concentrations of pubs and off-licences. Also, as with health data, we need to be cautious in assuming a direct line of causation since other factors may have an influence. However, and in line with health and mortality data, the general picture is one in which wards with higher densities of outlets – both pubs and off-licences – are associated with higher rates of both violent and sexual crime.

### 3.3 Economic impacts

#### Key Points:

- Available data on alcohol-related sectors in Northern Ireland is limited in scale and precision, so estimates need to be treated with caution.
- Employment in pubs has fallen from an estimated 1.4% of total NI employment in 2017 (c. 8000 jobs) and now stands at around 0.8% of total employment, with around 6,000 people directly employed in the pub sector.
- Taken together the licensed trade, excluding grocers and supermarkets, directly employs an estimated 27,500 people in Northern Ireland and sustains around 36,000 jobs overall.
- The pub sector is shrinking as off-trade and restaurant sectors continue to grow.

#### 3.3.1 Data availability

There is limited available data on the economic impacts of the licensed trade in NI. For our analysis, we obtained individual-level microdata from the UK Data Service and business data from the Office for National Statistics Nomis service, including:

- Labour Force Survey (which contains data on earnings and employment hours)
- Aggregated Interdepartmental Business Register (which contains data on employment and turnover)

Our methods are set out in Appendix 5. Importantly, we used 5-digit Standard Industrial Classification (SIC) codes to identify specifically businesses involved in the licensed sale of alcohol. This means that, in regard to the restaurant sector, we only gathered data for ‘Licensed

restaurants'. These are the businesses relevant to an analysis of the impact of the licensing system. By contrast, previous analyses of the hospitality sector, described in section 3.3.2 below, were based on the 4-digit SIC codes, which includes the much broader category of 'Restaurants and mobile food service activities'. This may explain why the figures we present for restaurants, and by extension the sector as a whole, are significantly lower overall than those set out in earlier reports. Our figures are also adjusted for inflation to January 2022, using the Consumer Price Index. This may explain some further differences in figures we report compared to previous analyses.

It is important to note that because of the way data is gathered in these surveys, some of the sectors analysed may contain businesses which do not sell alcohol, and the importance of alcohol across sectors will be variable. Furthermore, data related to alcohol sales via grocers and supermarkets is not collected separately by the ONS, and so is not included in this analysis. 'Specialised stores' in the analysis below refers to specialist off-licences only (i.e. only selling alcohol and other drinks, not food etc.). The survey data collected does not provide sufficient detail to specifically identify alcohol-attributable employment/turnover (i.e. to separate it entirely from other economic activity that may take place within sectors, such as the provision of food in pubs).

The results presented here should therefore be interpreted as the total direct economic impact of sectors which are relevant to the licensed sale of alcohol, all of which is not wholly derived alcohol sales. It is also important to note that the descriptive analysis presented here only captures the direct impacts of alcohol-related sectors on the NI economy (see Appendix 5 for further discussion), and therefore represent a conservative estimate of the full impact of alcohol on the Northern Ireland economy. Alcohol retailers generate economic activity through the demand for inputs of goods and services from the supply chain, generating further employment and income. Where the supply chain is located in Northern Ireland rather than abroad, this additional economic activity represents a further, indirect, positive impact of alcohol sales on the economy of Northern Ireland which is not captured in the analysis presented here.

### 3.3.2 Previous estimates

Previous analysis (based on an updated 2015 report produced by Oxford Economics, originally commissioned by Hospitality Ulster) stated that for NI in 2017 hospitality (pubs, food outlets, hotels and events management) accounted for an estimated £1.6bn contribution to the economy (or 4% of Gross Value Added (GVA)), of which

- 20% was from pubs (equating to 0.8% of GVA),
- 32% from hotels,
- 48% from restaurants (including outlets not licensed to sell alcohol).

In terms of employment, the report estimated that hospitality provided 49,151 jobs in 2017 of which

- 16% (8,071) were in pubs,
- 21% (10,548) were in hotels,
- 62% (30,375) were in restaurants (including outlets not licensed to sell alcohol).

In total, the report estimated that in 2017 hospitality represented 8.7% of all jobs in Northern Ireland, bringing in £88.4 million in tax revenue (Stennet, 2020).

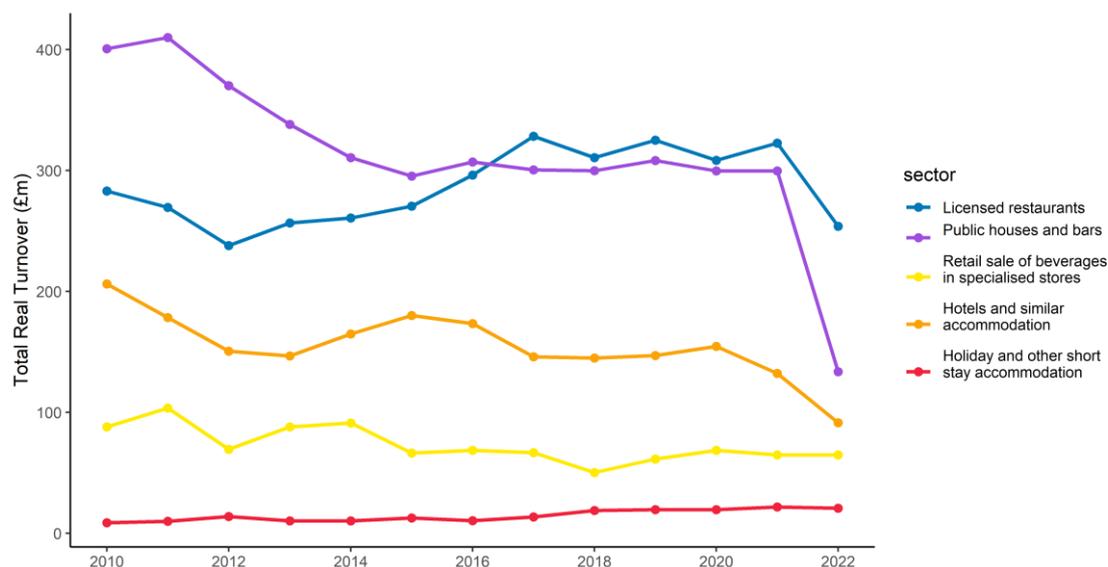
Our findings suggest there has been a fall in economic activity across the sector more recently. As noted above, our figures for the restaurant sector are not directly comparable to prior estimates as we only analysed figures for restaurants licensed to sell alcohol. Overall figures for all sectors may differ from previous analyses due to adjustments for inflation. Importantly, all sectors were impacted by Covid.

The data we analysed (see Figure 14) suggests total direct employment in licensed alcohol retail is around 27,500. As noted above and below, this figure needs to be treated with caution given the nature of data-gathering methods, and it does not include employment in licensed grocers and supermarkets. Previous analyses of the hospitality sector have estimated that direct employment represents 75.1% of the total employment associated with the sector when indirect and induced effects are accounted for (Stennet, 2020). Applying this 75.1% to our estimate of direct employment, we arrive at an estimate for total employment by sector (excluding licensed grocers and supermarkets) of around 36,000.

### 3.3.3 Turnover

Figure 11 shows total turnover across alcohol retail sectors over the period 2010-2022. All turnover figures are adjusted for inflation using the Consumer Price Index (CPI) and a base period of January 2022.

Figure 11: Total real turnover by sector 2010-2022



Figures adjusted for inflation to January 2022 prices using the Consumer Price Index (CPI)

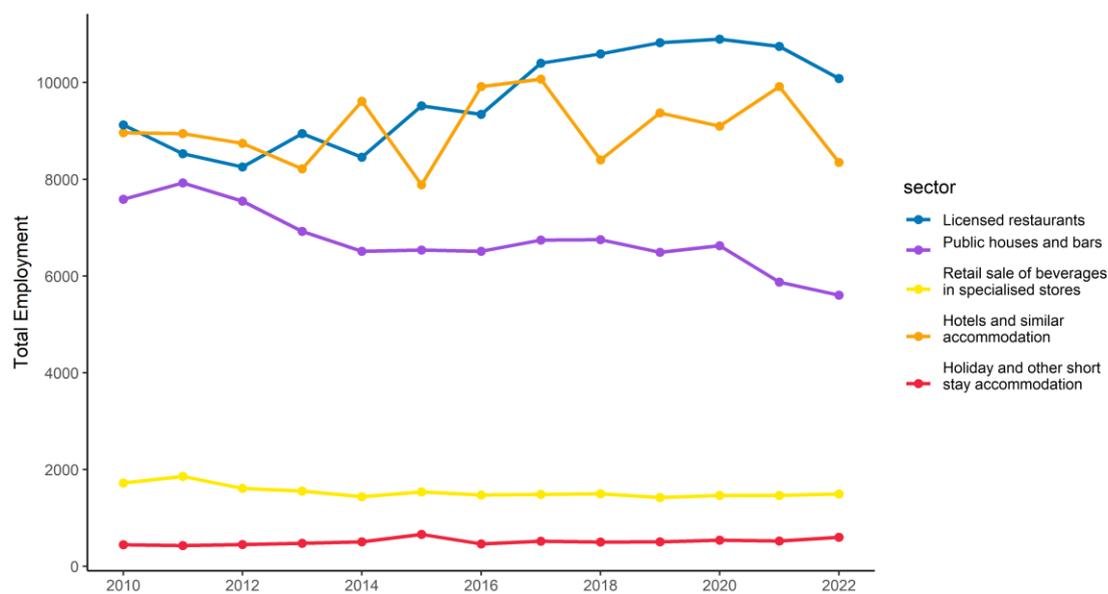
Between 2010 and 2015 reported turnover in pubs and bars fell by around 25%, from £400m to £300m in real terms. It then remained at around £300m until a fall of around 50% in 2022 related to the Covid-19 pandemic. Licensed restaurant turnover increased from 2012 to 2017, then remained steady until Covid. The hotels sector has also seen a 50% decline in total turnover over the 2010-2022 period, from around £200m to £100m), though half of this decline

occurred during the pandemic. Turnover in specialised stores fell consistently to 2018, after which it increased slightly. This may be due to competition from mixed retailers (i.e. shops and supermarkets that sell alcohol as part of a wider offer). However, due to the statistical uncertainty around the estimates of turnover, the figure for specialised stores is not statistically significant. Also, as noted above, this data does not include figures for supermarkets and grocers, so the actual value for off-sales will be significantly higher than is suggested here. Note that this data does not appear to show any adverse impacts of the pandemic on turnover until 2022. There are several potential reasons for this, which are described in further detail in the limitations section of Appendix 5; lagged reporting of turnover in survey data, figures are annual vs monthly, methodological limitations, and statistical uncertainty. These limitations mean estimates of economic impacts of these sectors during the pandemic should be interpreted with caution.

### 3.3.4 Employment

Figure 12 shows changing employment in each of the alcohol licensing sectors.

Figure 12: Total employment by sector 2010-2022

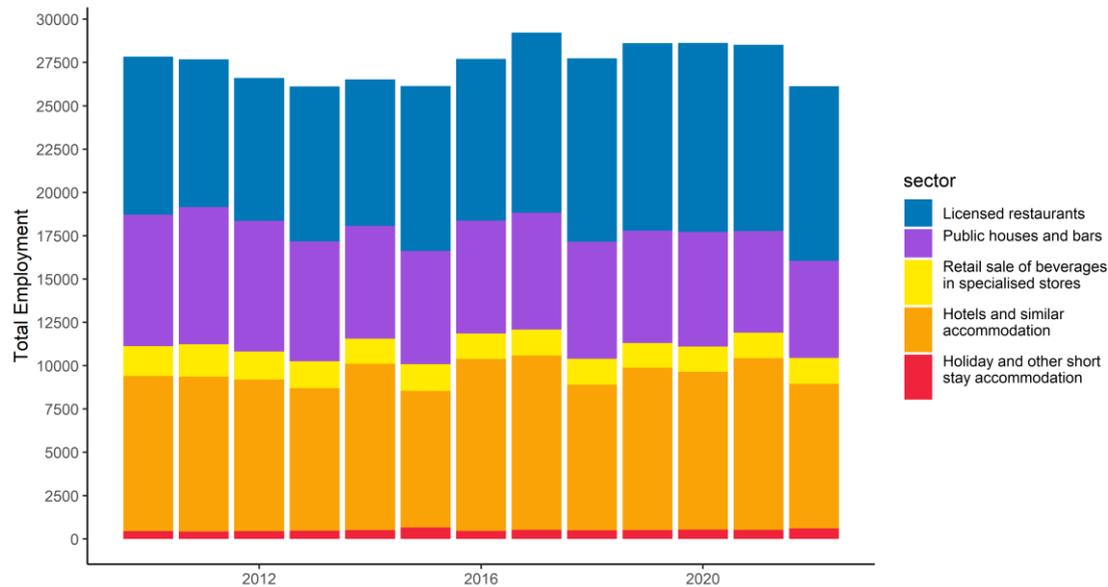


Overall, employment has fallen by around 25% in pubs and bars since 2010, from around 8,000 (as estimated in previous reports) to around 6,000. Hospitality Ulster estimate that 67% of jobs in the pub sector (c4,000 of the total reported here) are part-time. Note that there is considerable uncertainty in the reported figures for employment in pubs and bars and the observed trends are not statistically significant, so need to be treated with caution. Employment in licensed restaurants increased steadily to 2020, while hotel employment has shown more fluctuation.

Figure 13 shows total employment across alcohol retail sectors. In 2010, total employment across each of the sectors was around 27,500 and is at a similar figure in 2022. The overall employment figure for alcohol retail sectors shows no overall trend over this period, although underlying this largely constant level of overall employment is a change in the composition of

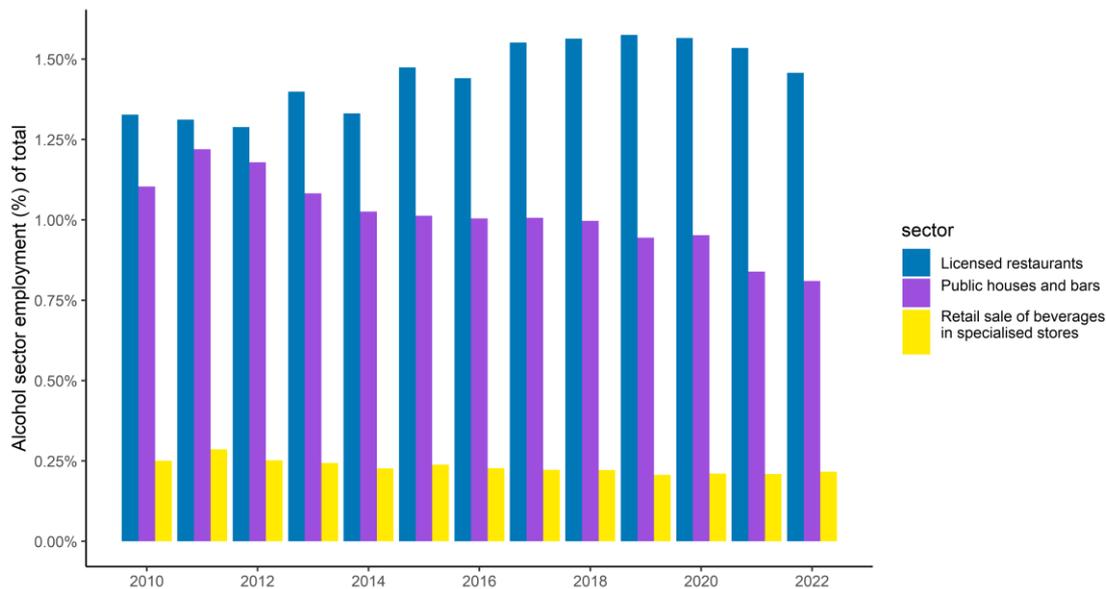
licensed alcohol retail employment away from pubs and bars and towards licensed restaurants.

Figure 13: Total employment in all sectors 2010-2022



While the proportion of employment drawn from licensed alcohol retail has remained at around 4% for a number of years, the share represented by pubs has fallen from around 1.25% to 0.8% (Figure 14). The share from specialised stores has remained constant at around 0.25%. The steady 4% of employment made up of all of the alcohol relevant sectors as a whole therefore obscures a relative shift towards less employment in the sub-sectors in which sales are more predominantly alcohol focused. These trends mirror those of the absolute numbers in employment shown in Figure 13 and show that the relative importance of alcohol in employment in Northern Ireland is decreasing over time.

Figure 14: Licensed alcohol retail employment as a percentage of total Northern Ireland employment



### 3.3.5 Hours and earnings

Data on hours and earnings is taken from the Labour Force Survey (LFS). The LFS only collects data at SIC four-digit code level, so in the following two charts pubs and bars are combined with licensed clubs (the term for registered clubs used in the LFS), and licensed restaurants are part of the broader restaurants and mobile food activities sector. Further limitations to using LFS data for NI are discussed in Appendix 5. Based on the information available, however, we find that relative to the NI average (36.33 hours), individuals working in alcohol retail work fewer hours. Figure 15 shows that in each of the five sectors, average hours per week are below the NI average at almost 10 hours fewer per week in the specialised stores sector.

Figure 16 shows that around half of those employed in the direct alcohol sales sectors are part-time workers. This is somewhat lower than the estimate of 67% provided elsewhere, but this may be due to differences in reporting and the aggregation of different outlet types under the 4-digit code. We can say with confidence, however, that somewhere between half and three-quarters of people working in licensed premises do so part-time.

Figure 15: Average hours worked in licensed alcohol retail in NI

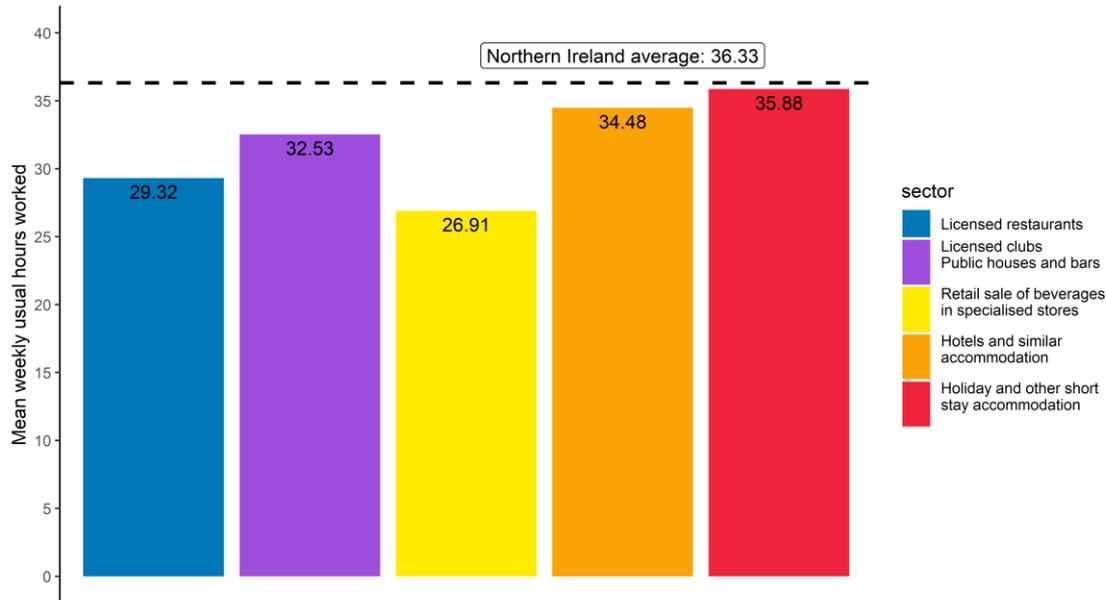


Figure 16: Proportion of full-time workers in alcohol licensing sectors in NI

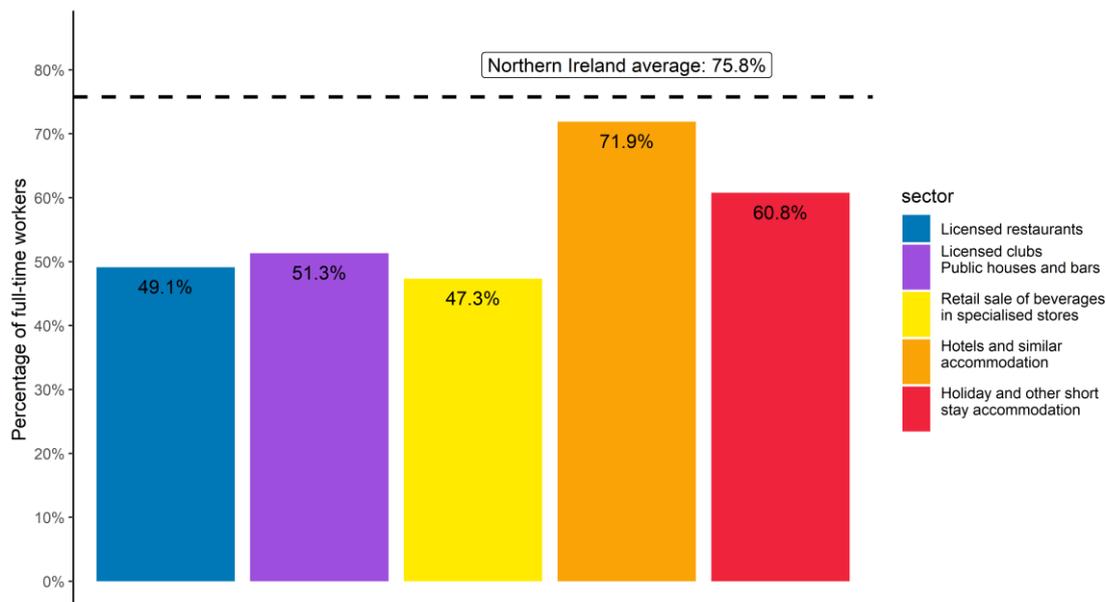
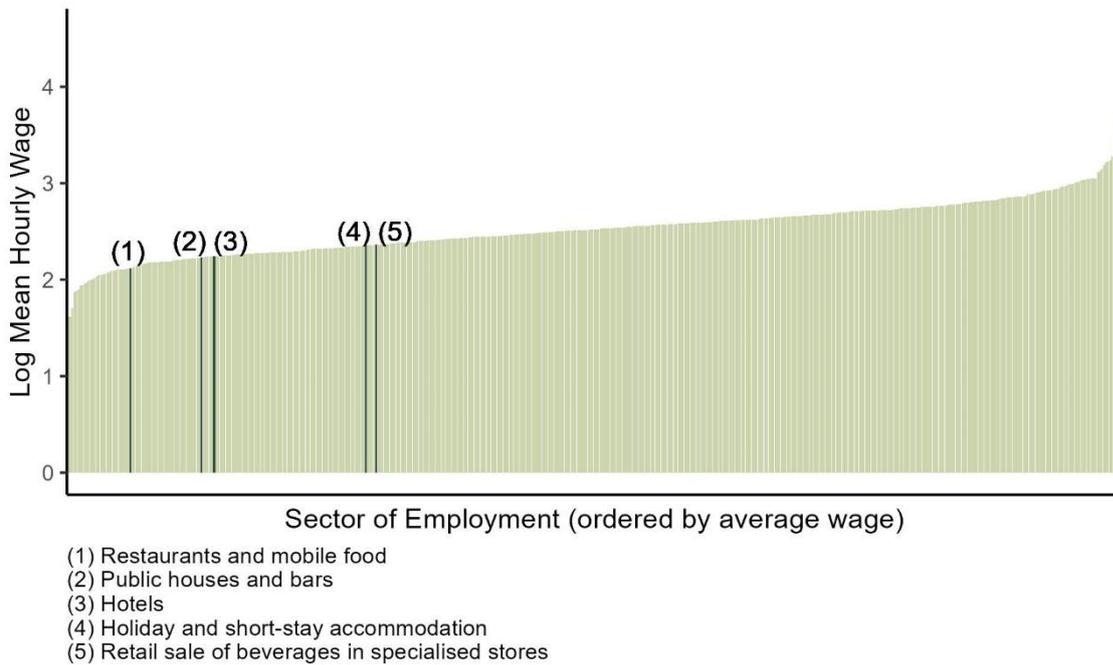


Figure 17 shows the distribution of sector-average wages in Northern Ireland across a total of 513 4-digit SIC sectors, pooled over the years 2010-2022 and inflation-adjusted to 2022 real terms using the consumer price index (CPI) measure of inflation. The dark shaded bars indicate the positions of the alcohol retail sectors within the overall wage distribution.

Figure 17: Distribution of average earnings by sector in NI



Hourly pay is below average in all these sectors. Within the sectoral wage distribution each of the five sectors are in the bottom third. The highest paying of the sectors (specialised stores) is at the 29th percentile of the distribution, with a mean hourly wage of £10.60. This compares to an average real wage for all employed in Northern Ireland of £13.23 per hour. The remaining three sectors all lie in the bottom quintile of average pay, and the restaurants sector is a particularly low-paying sector at only the 6th percentile with an average hourly wage of £8.32.

### 3.3.6 Contribution of the brewing sector

The vast majority of beer sold in pubs in NI is supplied by a very small number of producers. We did not have access to commercially sensitive data on precise numbers of taps controlled by brewers or on volume sales. However, anecdotally we were told by many people we spoke to that more than 95% of the taps in NI pubs were controlled by major producers (many put the figure at 99%) (see section 4.6.1 below). Of these Diageo and C&C / Tennents were the major suppliers, with Molson Coors and Heineken making up most of the remaining supply.

None of the major producers have brewing facilities in NI. However, Diageo (2022) owns a packaging plant in Belfast which employs around 150 people, and Heineken owns United Wines in Craigavon, which employs around 50 people. We did not have access to precise details on numbers employed in the range of associated businesses directly or indirectly dependent on large brewers, but these will include wholesalers, delivery drivers, sales representatives, maintenance staff etc.

Therefore, the major contribution of alcohol to the Northern Ireland economy is through supply, not production. The NI brewing sector currently supplies only a small fraction of the beer sold

locally. The distilling sector is growing, with a number of new producers opening, many of whom are targeting potentially significant export markets as well as seeking to attract tourists via distillery tours. We heard from many distillers, as well as from people supporting trade and tourism, that this sector had significant potential to expand. Some felt the licensing system could better support brewery and distillery tours by lifting some of the restrictions on sales and samples under the new producer's licence. We discuss views of small producers on the impact of the producer's licence so far in section 4.8.4 below.

### **3.3.7 Gain and loss of licence values**

The specific economic effects of reforming the surrender principle, and the business impact of reducing the assumed market value existing licences, remain impossible to determine precisely. In part this is because of the lack of transparency regarding the prices paid for subsisting licences. As will be discussed in more detail below, the range quoted by participants in our study is very large. Furthermore, prices are responsive to market conditions so a firm value cannot be fixed. Finally, as the Grant Thornton Review noted previously, licences will have been purchased for significantly different prices over time, meaning the loss of investment value will differ considerably among licence holders. As they further note, 'licences were not purchased with a guaranteed exit value, rather they were purchased to confer on the licensee the right to sell alcohol and thus generate profit from this activity' (Grant Thornton, 2007, p.8). It is also important to note that any loss of licence values would not be a direct cost to the economy, since the loss of value to the holder also represents a loss of expenditure to a possible purchaser. It would, in this sense, represent a series of individual losses but not an aggregate economic cost.

### **3.3.8 Likely economic impacts of changes in alcohol purchasing**

Weighing up the economic benefits and costs of greater or lesser alcohol availability and consumption is not easy. We do not know precisely how consumers will respond to changes in availability, or what money not spent on alcohol will be spent on instead. In modelling the potential economic effects of changes in alcohol consumption in a UK-wide scenario, the Fraser of Allander Institute (2018) found that, depending on assumptions about what consumers would do with money not spent on alcohol, the effects of a 10% reduction in consumption on GVA could range from +£1025 million to -£1711 million, and employment impacts could range from +49,500 new full-time jobs to -54,500. However, they concluded that in the most plausible scenarios the net effect on GVA would be positive as money not spent on alcohol would be reallocated to other, more GVA intensive, goods and services. They also modelled a simple switch from purchasing in the on-trade to the off-trade. In this scenario they found that because the on-trade is more labour and GVA-intensive a switch of 10% in spending from on- to off-trade would lead to a £1.5 billion reduction in GVA and a loss of 40,270 full-time jobs. In other words, while the contribution of alcohol sales to the economy is significant, 1) reduced spending on alcohol will likely be spent elsewhere, so does not necessarily imply a net economic loss, and 2) spending in the on-trade generally produces more jobs than spending in the off-trade, and it contributes more to GVA. We note, however, that this is only one study and that it is based on its own estimates and assumptions. We present it here for illustrative purposes only.

## 4. STAKEHOLDER PERSPECTIVES

A key goal of our review was to hear the perspectives of people directly affected by the licensing system as well as of wider communities and their representatives. In our interviews and focus groups we addressed a wide range of issues, which are set out in this chapter. The full methodology for our data gathering and analysis is set out in Appendix 6. In order to protect the anonymity of interview participants, we identify the sources of quotes below using broad sectoral descriptors.

### 4.1 The surrender principle

#### Key Points

- Opinions remain divided on the benefits or other impacts of the surrender principle. Most current licence holders and their representatives are in favour of retention, while views amongst other stakeholders and community members were less positive.
- For current licence holders, the surrender principle both gives protection from competition and creates a market value for licences. As a result, there is widespread opposition to reform and significant anxiety (acknowledged by opponents of the principle) over what the business and financial impacts of any changes may be.
- Supporters of the surrender principle argued that it ensures pubs maintain high standards, that it promotes independent pub ownership, and that it prevents a ‘race to the bottom’ in terms of price competition.
- The surrender principle was not felt by participants to be causing or exacerbating the closure of rural pubs, as most felt pubs tended to close due to lack of viability. However, there were concerns the surrender principle prevented pubs that were lost to off-licences from being replaced.
- Opponents of the surrender principle argued that it constituted a significant barrier to entry to the pub market, given the cost of acquiring a licence; and that it contributed to wider market failure by stymying the competition needed to reinvigorate a declining pub sector.
- Innovative and creative venues felt the surrender principle constrained their ability to open licensed premises, leading to a lack of diversity for people seeking alternatives to traditional pubs and clubs.
- Many independent producers argued that the surrender principle prevented latent demand for craft and independent drinks from being fairly tested (see also section 4.6.1).
- Health stakeholders were keen to contain alcohol harm by avoiding any increase in the overall availability of alcohol through pubs and, in particular, off-licences.

#### 4.1.1 Arguments for retention of the surrender principle

Among individuals and businesses that held licences and the bodies representing incumbent licence holders, there was very strong support for retention of the surrender principle in its current form. By far the most common reason we were given for its retention was the risk that reform or abolition would reduce the assumed market value of the licences currently held.

Because of their scarcity value, 5(1)(a) and 5(1)(b) licences sell for significant sums of money. Inevitably, the market value varies over time, and the review team were not privy to the details of specific purchases. However, among those we spoke to the broad figure given for licences sold in recent years was between £70,000-120,000. In its evidence to the Communities Committee in 2020 (Committee for Communities, 2022, p. 32) the NI Retail Consortium

suggested one licence had changed hands for as much as a £1 million, a figure we were also given by some people. However, other businesses holding multiple licences told us they were valued at closer to £70,000 for accounting purposes. There is no public register of licence prices and the figures we were given were often based on perception and hearsay rather than hard data. This lack of transparency regarding the market value afforded to licences, and the extent to which rumour can influence the reported going rate, is marked feature of the system as it stands.

Supporters of the surrender principle made the case that licences are an asset that their holders have, at some point, paid for and which they purchased in expectation that the value would be retained. Individual licence holders often reported that the assumed value of their licence had been used to secure loans, that it was a financial safety net, or that it represented money with which they hoped to retire. Larger businesses told us that the assumed market value of the licences they held were a significant component of their overall assets and were assessed as such in accounting. We were told that licensees '*have always looked upon their licence as a long-term retirement investment*' [Survey respondent]. The assumed value of existing licences was variously described to us as a '*nest egg*', a '*pension pot*', '*get out of jail card*' and '*the golden ticket*' [Focus Group 3, Belfast; Focus Group 8, Ballymena].

*It's a big investment. And [...] that's why the licence then is like an asset. So I suppose those people are, in some way, comforted by the fact that they have something there that could be sold, or could be used, that has a value rather than all that cost for nothing.* [Interview 3, Licensing Stakeholder (Private Sector)]

One estate agent told us that the asset value of existing licences was especially significant in the case of pubs that were no longer viable as businesses, and in which valuations based on turnover would make selling the business as a going concern difficult. However, the licence value was not only viewed as important for its worth as an asset that could be sold at a later date, but as a source of collateral against which loans could be secured.

*A lot of the small pubs would say that the value of their liquor licence is what keeps them afloat because that's the only collateral they have. You know, and if you take away the surrender principle, it's just all... They've nothing on which the banks will lend them any money over.* [Interview 23, Licensing Stakeholder (Public Sector)]

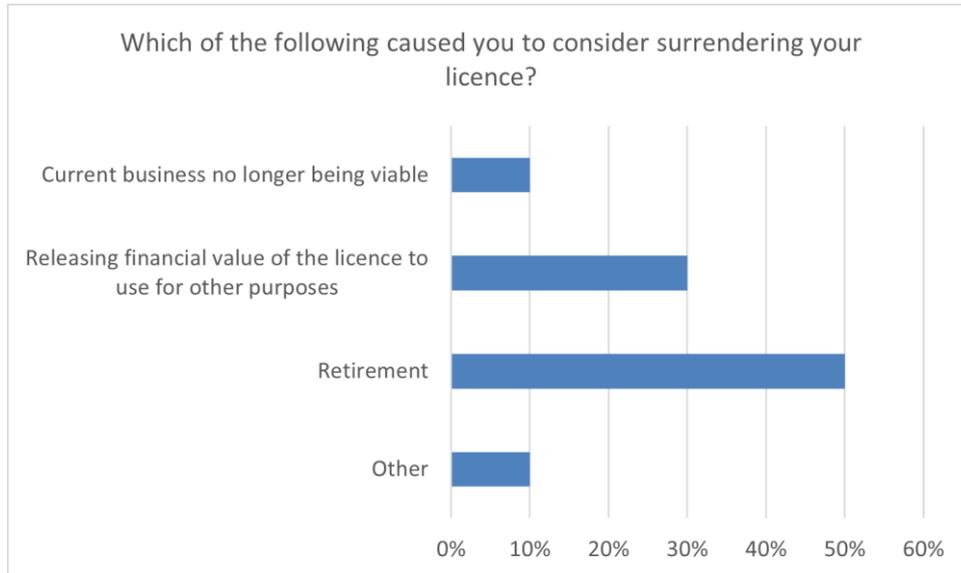
*The surrender principle is a vital asset for all licensees. Valuation of any current public house will be destroyed and the business plans the bars were based on will be meaningless.* [Survey respondent]

*The value of existing licences held by on-licence holders must not be devalued. Any changes to the current surrender principle that would reduce the value would impact on licence holder's financial prosperity and cause irreversible financial hardship.* [Survey respondent]

For larger multiples, there was a concern that, taken together, a significant asset in the balance sheet would be removed if the assumed value of the held licences was reduced.

We asked respondents to our survey of on-licence holders if they had recently surrendered, or considered surrendering their licence(s). Among those respondents with a single licence who had previously considered surrendering, most cited retirement as the reason they had considered doing so. It should be noted, though, that only 15% of respondents reported they had considered surrendering at all, so the number of responses to this question was very small.

Figure 18: On-trade survey response to question ‘Which of the following caused you to consider surrendering your licence?’



Anxieties over loss of licence value were reported many times, and we were told that even reviewing the system had the potential to impact market activity. One participant reported that ‘a lot of [licensees] now are trying to sell off their licences because there is a rumour that, they’re suggesting that the closed shop might come to an end in the next few years’ [Interview 27, Police].

Protecting the value of the licence was not the only reason given for retaining the surrender principle. It was also argued that because it created an additional cost to market entry, the system helped maintain quality and ensure outlets were well run. A number of participants argued that a British-style licensing system would allow large numbers of lower quality outlets to open, and for outlets to compete more aggressively on price. By contrast, it was suggested that the current system contributed to relatively high numbers of independently-owned pubs, which had a stronger connection to their local communities than might be the case for outlets owned by multiples.

*The surrender principle is a means of keeping alcohol consumption under control and avoiding abusive acts to the wider community. If we followed in line with mainland UK, what is stopping someone obtaining a licence to sell from any type of shop or private premise?* [Survey respondent]

It was also argued that lowering barriers to new pubs would further exacerbate the closure of existing pubs by creating additional competition. All participants acknowledged that pubs were in decline across Northern Ireland, and that the sector was facing challenges. However, many

of those in support of the surrender principle felt that a key role of the licensing system was to protect remaining pubs:

*Given the decline in numbers and trade around the city centre, creating more licensed premises would effectively make operating a bar or a club unsustainable. There aren't enough customers to go around at present. Introducing even more operators would be disastrous. [Survey respondent]*

*Trading times are tough enough currently without a proliferation of new licences on offer. [Survey respondent]*

There was also support for retention of the surrender principle among some health professionals who felt it acted as an effective mechanism for limiting the availability of alcohol in communities, ensuring that *'it puts those parameters around the number of licensed premises so we don't find ourselves in a situation where we have exuberant numbers of applications'* [Interview 7, Health]. Some also felt that the licensing system should not have the effect of simply increasing the relative availability of cheap alcohol through shops and supermarkets.

*There's so many off-licences. Like there was one person..., he worked out a route from his workplace to home, I can't remember how many off-licences he passed, but it was a huge number. So, he worked out a route that was taking twice as long to avoid the off-licences, certainly in the earlier stages of stopping to use alcohol, until he felt stronger. But there were so many, driving past, that he just stopped to get a bottle of vodka. [Interview 21, Health]*

While the majority of licence holders and trade bodies that we spoke to felt that the system was not in need of any further reform, not all supported retention.

*So, the fact that you have to purchase an existing licence to carry on a licence is just really strange. It doesn't seem conducive to any economic growth. [Interview 16, Producer/On-trade]*

Our survey aimed at pub licence holders also illustrated that many but not all licence holders support retaining the surrender principle. 50% (n=35) of those who responded to the question 'What do you think of the surrender principle in its current form?' said they felt the surrender principle should be retained in its current form. However, 14% (n=10) said it should be abolished, 9% (n=6) said it should be retained but amended, while 27% (n=19) said they were undecided. We discuss the views of stakeholders opposed to the surrender principle further below.

It should be noted that the response rate to the survey was low. Also, while the online survey did not permit multiple responses from any IP address further checks were not possible to verify respondent IDs. Therefore, the results should be treated with some caution.

### 4.1.2 Opposition to the surrender principle

Opposition to the surrender principle centred around arguments about its impact on access to market, diversity and consumer choice, particularly the types of products on offer and the types of venues available.

As one legal specialist told us, acquiring an alcohol retail licence is a ‘*very high stakes*’ business, involving considerable investment and significant risks of delay and litigation. Furthermore, there may be no expectation of a full return on investment for a number of years. Trade interviewees reported that the costs included not only around £100k to purchase a licence but tens of thousands of pounds in legal fees. One publican estimated they spent around £145,000 in total to acquire a licence, while a legal specialist we spoke to said that additional costs (on top of the price of the licence itself) could rise to £100,000 if an application was challenged and went through full appeal. While larger operators may be in a position to absorb such costs, we heard from many who felt that this high cost of market entry prevented smaller providers, or those seeking to test the market for a premises style or type outside of the mainstream, from introducing new premises concepts, innovations and products.

*I mean it's the costs of licences. It's crazy. It's nuts. I mean that's definitely preventing people opening up places or trying to do that. And you chat to people on the mainland and tell them how much a licence costs over here, and they just don't understand. They can't believe it, that licences cost the amount that they do. [Interview 30: Trade (Other)]*

One survey respondent commented that the surrender principle ‘*created a cabal of licensees who are dominating the industry at the expense of smaller start-up businesses*’. A number of focus group participants felt that the surrender principle contributed to a lack of diversity in the types of outlets available, especially for younger people and people from minority groups.

*There's no variety of where to go out. There's nothing catering for different groups of the community. No cocktail bars, no wine bars, nowhere... [Focus Group 10, Derry/Londonderry]*

*I don't mind watching the sports but [...] there is a gap in terms of that more typically childfree, maybe LGBT positive group who don't want to sit in the typical men's bar. [Focus Group 4, Belfast]*

*If you think about young people as well, there's nowhere here [in this community] for young people having a drink. [Young people] are going to have to go into town, try and battle through taxis, battle through everything else. That's not safe. [Focus Group 5, Carryduff]*

*So the cost of the licence does put off, you know, small tradespeople wanting to open pubs. And that's a real shame, 'cause you lose a lot of character in a town whenever you've just got, you know, like, they're not multinationals but they're, like, franchise-type pubs. [Focus Group 7, Ballymena]*

*My initial thoughts on this, does this [the current licensing system] not just absolutely extinguish any grassroots music, rave culture, dancing? [Focus Group 2, Belfast]*

Lack of diversity did not emerge as an issue in all communities where we conducted focus groups, and we are not suggesting that there is no diversity in venue types across Northern Ireland, or that customers do not appreciate and frequent high-quality venues. However, the relative preponderance of traditional, sports-based or ‘old man’ pubs [Focus Group 7, Ballymena] compared to other outlet types was raised as an issue by many participants that we spoke to, and in many different settings. So too was the lack of nightclubs and music venues, especially for younger people. As one elected member put it: in their area ‘*there is nowhere for young people to go and dance like no-one is watching*’ [Interview 28, Politician].

In our many visits to Northern Ireland and in the time we spent in the eight communities, our observations were in line with many of the comments above. We further observed that many premises tend, on average, to be relatively large.

Organisations representing, and advocating for, live and electronic music venues also argued strongly that the surrender principle created barriers to diversity in the night-time economy. Their core argument was that the cost of purchasing a licence made it very difficult to open creative, alternative or ‘pop-up’ style venues, especially when the margins for operating venues reliant on paying for performers were very low.

*But it is very prohibitive, and I think that you aren’t able to enable the diversity in the organisations if you have such a high bar, such a closed, like shop, if you will.* [Focus Group 11, Licensing Stakeholders]

We were told that a number of grassroots music venues operate under a 5(1)(h) licence (‘places of public entertainment’). This was necessary because of the high cost of purchasing a 5(1)(a) licence. However, under a ‘places of public entertainment’ licence alcohol can only be sold 30 minutes before and after a performance, as well as during the performance itself. We were told that these restrictions limited the scope for bar takings to cover costs, and reduced the ability to attract customers. We heard that the costs of putting on music events (paying artists, PA hire etc.) meant that ticket sales alone were rarely sufficient to cover expenses. According to figures provided to us by the Music Venue Trust (2023), across the UK in 2023 the cost of putting on music events came to c£248 million, but only £131 million of this was recouped through ticket sales.

Music venues are therefore reliant, to a large degree, on bar sales, particularly of alcohol, to make up the shortfall and generate profit. Furthermore, while organisations such as Free the Night have made a case for better supporting alcohol-free venues, and while we heard that young audiences were less driven by the alcohol offer than may have previously been the case, running events without any licensed bar at all made them less attractive and risked weakening ticket sales.

*People like the start-ups, people like that who don’t have a lot of capital behind them [...] shouldn’t have to have that £100K outlay before you even get into objections [to the licence application] and the process to even start. How could somebody who wants like a novel idea...what they would say? It’s probably stymying a bit of creativity, a bit of difference.* [Interview 4, Licensing Stakeholder (Private Sector)]

Many of the elected officials we spoke to emphasised the importance of tourism to their local economies. In no cases was it suggested that simply increasing the number of outlets would improve the tourism offer; however, there was a strong feeling that increasing the diversity of the offer was important. This was not necessarily because the existing pubs were viewed as low quality: in many areas, elected officials felt that the existing pubs were a significant attraction, and it was widely recognised that the ‘*traditional*’ Irish pub was popular with visitors [Interview 24, Politician]. The easing of restrictions in the 2021 Act was seen by many as improving the offer for tourists by allowing more flexibility at key periods. However, we also heard from focus group attendees who felt the lack of diversity and later night options was off-putting for younger visitors.

Participant 3: *So many people I know do not come here because there’s nothing really outside of pubs. It’s...there’s nothing [...] just pubs.*

Participant 1: *Now some pubs have [...] things going on. But it’s not quite the same.*

Participant 3: *Yeah, but they’re, kind of, more like you know, singer songwriter [...]*

Participant 1: *I miss that so much.*

Participant 7: *It was amazing. All those live music bars...*

Participant 1: *Yeah, it was brilliant.*

Participant 7: *...are all gone.*

[Focus Group 3, Belfast]

*I do think that there could be more quirkiness put in the system so that you have a richness of your arts and culture as well. You could have a whole mix of offerings, and I think that there has been a little bit...again, it’s lack of investment, to be honest with you. A lack of alternative places to go. But also like that nightclub feel. I think that that’s really important for a city. We want economic investment to come here. We want to grow our higher education. We want to grow our student population. But in order to do that there’s a set of expectations that the city is going to be...there’s going to be a buzz in the city. [Interview 28, Politician]*

### 4.1.3 Lack of product range

As discussions ahead of the 2021 Act demonstrated, one claim made against the surrender principle is that it exacerbates barriers to market entry for independent drinks producers, and thereby reduces the range of consumer choice. We discuss the recently introduced producer’s licence’ below (section 4.8.4). In committee evidence gathered ahead of the 2021 Act, local producers said they felt ‘*locked out*’ (Committee for Communities, 2021a) of the pub trade and that it was ‘*nigh on impossible*’ for them to compete with multinational producers on a level footing. (Committee for Communities, 2021b). We found very similar arguments in our conversations with the independent producers’ sector.

Many independent producers (and a number of participants in community focus groups) argued that the surrender principle exacerbated existing barriers to wider market access, limiting their ability to compete with multinational producers on a level footing, and therefore reducing consumer choice. Two main barriers were discussed.

Firstly, as noted above, the cost of a licence simply created a barrier to market entry that could not be met by, for instance, a local brewer or an independent retailer wanting to set up a small, specialist outlet. Secondly, it was argued that high entry costs often mean potential licensees require loans from large producers, and that these loans are tied to supply agreements that make it very difficult or impossible for other producers to get their products into pubs ‘on tap’, thus shutting out competition. It is not possible to know exactly how many such loans have been provided and how they are structured from our data, and we acknowledge this as a limitation. We will return to the question of supply agreements and their impact on consumer choice in section 4.6.1 below.

*Even though access to market is one of the key issues facing breweries in GB its nothing compared to what we face in Northern Ireland. The access to market is completely taken away. We have no way of getting in. [Interview 2, Producer/On-trade]*

*But in terms of taps [in pubs], it's a horror show in terms of available craft taps, free taps [taps through which licensees are free to serve any beer they choose, which sit outside of any supply agreement] that there are in Belfast and Northern Ireland, in general. [Interview 30, Trade (Other)]*

Some in the established trade – both trade bodies and a number of bar managers and licensees – argued that there is little or no demand for craft products, due to drinkers in Northern Ireland having an established, and fixed, preference for lager and stout. By contrast, craft producers argued that they did not have ample opportunity to bring their products to market and, therefore, were unable to fairly test whether the taste profile of consumers in NI was due to innate preferences or lack of exposure to alternatives.

Craft and independent producers were strongly in favour of reform to the system, though not all were in favour of abolishing the surrender principle. Some did not view licence costs as prohibitive to selling independent products, but rather an idiosyncrasy of the system that any new retailer had to factor into their business planning.

*You know, if you want to do anything, if you want to become a brewer you have your brewery to buy, you know, which can be in excess of fifty to any figure, two hundred, three hundred thousand pounds. So, if you're wanting to buy a pub, effectively it comes with a price. You have to buy the building, you know? As I say, what is a pub if it hasn't got a licence? It's just a building, you know what I mean? So [...] if you wanted to buy a business that allows you a direct route to market, you know, you buy your product and you can sell it at x amount of percentage mark-up, I think the figure's justified. [Interview 15, Producer/On-trade]*

We were told that around 30 pubs in NI offer some independent beers on tap, and a very much smaller number could be described as specialist craft beer pubs. This further suggests the current system is not entirely prohibitive; however, it is a very limited offer by comparison to what is usually available in England, Wales and Scotland. The range of beers available in Northern Ireland pubs is clearly less than is the norm in many other countries where craft beer is a firmly established part of the expected offer.

#### 4.1.4 Perceptions of the impact of the surrender principle on licence movement

Among our participants, there was a general view that the surrender principle played some part, though not necessarily a decisive one, in the closure of rural and community pubs. As we show in section 2.3, this perception is not entirely accurate. The pattern is more one of pubs in both urban areas and small towns and villages closing with more small and medium-sized grocers opening. This was also the perception of people involved directly in the sale of licences:

*It's mainly pubs seeking to sell their 5(1)(a) liquor licence and invariably the buyers of those licences are off-sales operators in petrol filling stations [...] The amount of pubs that would have been in towns has decreased massively you know. The on trade is disappearing. Where you had 10 pubs there's probably 1 or 2 now. And probably those pubs – the 1 or 2 – they're probably struggling as well now, you know, and they're probably only trading Friday, Saturday and Sunday, and maybe not opening Monday to Thursday, or not opening until 6 o'clock on a Monday to Thursday or whatever. So that whole on-sales, especially in the rural towns and stuff like that, is decimated. [Interview 5, Licensing Stakeholder (Private Sector)]*

A number of participants suggested that the system for on- and off-licences should be separated to help address the shift from pubs to shops.

*But yeah, I think they have sensible provision of alcohol at supermarkets without it having to harm the provision of pubs and clubs, which I think should be treated totally separately. I mean, I think the surrender principle, there's lots of issues with it, but I think that tying together of two very different – just because alcohol's involved – tying two very different industries is unhelpful and not logical and doesn't make sense. [Interview 24, Politician]*

*I would like to see a review of the Northern Ireland licensing system, the surrender principle, to ensure that it's a sale, like for like. So, if you're selling a pub licence or a licence that has been attached to a pub, then it should be purchased for a pub. If it's a surrender of a supermarket licence, then that would be it goes into supermarket. I think that there might be a way of balancing that off a little better. [Interview 19, Politician]*

However, others argued that the trend from on- to off-licences was happening regardless of the surrender principle.

*It's market [...] It's a bit like people will say to me, 'Oh there's a country pub there', and 'Oh if he sells off the licence and the premises separately, there can never be a pub there again'. If it was viable, he'd sell it as a going concern, because it would be worth more money as one entity than two. [Interview 8, Trade (Other)]*

## 4.2 The licence acquisition process (pubs and off-licences)

### Key points

- Under current law potentially competing businesses can, and commonly do, object to licence applications, including under the ‘adequacy’ criterion.
- It is our understanding, based on multiple reports from diverse stakeholders, including first-hand accounts, that these objections are often withdrawn following payment from applicants to the competing business. While we could not determine the scale of this, it has also been reported in previous reviews.
- These objections also cause significant delay to the process of acquiring a licence, which can cause licence acquisitions to collapse.
- Considerations of adequacy are primarily based on licence category, rather than type, style, design, or offer.
- Health authorities do not have a formal role in responding to licence applications.

Under NI licensing law, courts should not approve a new pub or off-sales licence application unless they are satisfied that, in addition to a subsisting licence being surrendered:

- The application procedure has been followed correctly
- The applicant is ‘a fit person to hold a licence’
- The premises are suitable to the purpose
- The ‘number of licensed premises of the kind specified in the application which are in the vicinity of the premises is ... adequate’
- The correct planning approvals are in place.

With a subsisting licence identified, an application is then made to the county court (usually, though not necessarily, the court area covering the location of the proposed premises). Applicants must give notice of the application in two local newspapers at least two weeks prior to the court sitting; a notice must be displayed on or near the proposed venue; and the local police and council must be informed at least three weeks ahead of the court sitting.

Objections to licence applications may be lodged prior to the court sitting and they need to be relevant to the criteria against which applications are lodged – so they need, for instance, to be based on demonstrating the applicant is not fit to hold a licence, or that the number of premises of the same type in the same vicinity is ‘adequate’. They can be lodged by the local police, district council, anyone with a legal interest in the licence being surrendered or anyone ‘owning, or residing or carrying on business in, premises in the vicinity’.

Generally, the sale and purchase of licences is handled through specialist estate agents. Usually, once a licence has been identified applicants enter an option agreement to complete the purchase within a set period of time, usually 6-12 months, by placing a deposit. We were told that this matters because, as will be discussed below, objections can delay the application process and the time limit on deposits creates an incentive to deal with objections quickly.

*If you want to move a licence in the countryside into Belfast city centre, for example, any pub in the vicinity can object and whenever they can also adjourn the hearings and keep repeatedly adjourning the hearings to push it beyond the 12 month [option to buy] period*

*so then you won't get your licence because they say they're gathering more evidence, blah-de-blah-de-blah. [Interview 2, Producer/On-trade]*

While police and local authorities can, and sometimes do, object to applications, the issue we heard raised time and again was that of local businesses raising objections based on the argument that provision in the vicinity of the proposed premises was already adequate. The provision for local businesses to object on these grounds emerged in our research as one of the most contentious aspects of the licensing system. Participants who felt this was problematic did so on two grounds: firstly, that it allowed incumbent businesses to stymie competition; secondly, that it encouraged incumbent business to lodge objections in the expectation that they would be paid by applicants to withdraw. We were also told that, should an objection of this kind proceed to court, definitions of vicinity were often contested and the processes for assessing adequacy of provision were unsystematic.

We were told that dealing with objections can significantly increase the costs of a licence application because it was likely to necessitate complicated court proceedings, which could both delay the process and add to legal costs. Faced with this prospect, the less expensive route may be to simply pay objectors to not proceed. We heard multiple reports – made by sufficient and diverse interviewees for them to be credible – that dealing with objections often involved, in simple terms, ‘paying off’ objectors with cash.

We are not the first review to report on this phenomenon. In their 2007 business impact assessment, Grant Thornton commented on the ‘perverse development’ of ‘professional objectors’ exploiting the system for financial gain (Grant Thornton, 2007). We heard it referred to as, among other things, ‘*enterprise objections*’ and the ‘*brown envelope*’ trade [Interview 3, Licensing Stakeholder (Private Sector)]; Focus Group 2, Belfast]. It was, we were told, something applicants would settle this way because the potential additional costs of fighting an objection in the courts, and the risks of the delay threatening the option to purchase the subsisting licence, outweighed the cost of paying compensation.

*In terms of the back handers and pay offs and so on, that is a thing because it's a lot easier for you if you're wanting to move into an area to pay somebody off rather than potentially get adjourned beyond your 12-month window. [Interview 2, Producer/On-trade]*

We should note that some interviewees said they felt this practice was less commonplace than previously, describing it as ‘*something of the past*’ [Interview 3, Licensing Stakeholder (Private Sector)]. However, we were also told repeatedly by others that the ‘*brown envelope*’ trade was an expected and common aspect of licence applications, and we were given a wide range of figures (usually in the tens of thousands of pounds) for how much a new applicant can expect to spend dealing with objections this way.

*In terms of objections, well, yes: objections occur all the time. And it will be a case of, I suppose, an objector looking at the application and trying to basically block another licence coming into that vicinity. So, whether that's one objector or multiple objectors it's, I suppose, looking after their business there. There's no need for another licence there. And then you get into all the issues with fighting your case and*

*trying to maybe get rid of an objector by whatever means, you know what I mean. So that happens all the time. [Interview 5, Licensing Stakeholder (Private Sector)]*

*But then you will have lots of objections and [...] there is no system around how that objection process works. For instance, you could settle with an objector for £100, you could settle with an objector for £100,000, you could settle with an objector for £1,000,000 there is no regulation around that. [Interview 4, Licensing Stakeholder (Private Sector)]*

One licence holder reported personally spending £25,000 to pay off objectors when opening a new business. The same person also reported being cold-called by solicitors when a licence had been applied for near their current business location asking if they wished to lodge an objection.

We cannot verify the extent to which this occurs, and we assume that coming to arrangements of this kind through compensatory payments is not illegal, given that it is common knowledge. However, it was clear that the law as it stands enables operators to use the objections process to put applicants in a very difficult position and thereby leverage compensation payments. Among other things, these payments were described as ‘backhanders’, ‘pay-offs’, ‘payouts’ and ‘settlements’.

Putting the practice of paying off objectors to one side, many participants also questioned the principle that businesses should be able to object to potential competition on the grounds of adequacy. The argument was that, even if a business makes a case that they currently meet local demand it does not mean that local customers may not prefer an alternative. Participants, therefore, felt that such objections encouraged protectionism and reduced the scope for consumer choice. In the case of pub licences especially, this was exacerbated by the fact that adequacy is assessed only on the licence category being applied for, not through a detailed consideration of the type or style of outlet. While there is case law (*Lidl v Winemark* 2008) in which different product range, quality and price are considered in regard to 5(1)(b) (off-licence) adequacy, participants told us that there was no clear provision in law for meaningful distinctions to be drawn between different types of outlets that may be licensed under article 5(1)(a). As a result, a proposal for a cocktail bar, craft beer outlet, LGBTQ venue, alternative music club etc. could be challenged on adequacy by a very traditional pub and there would be no simple legal grounds on which to argue such a challenge was not relevant, despite the very different clientele that may be targeted.

*I've talked to one of the new premises opening, more, sort of, bougie, kind of, premise, shall we say, where one of the local pubs – this is not condemning anybody, because this is just the accepted way of play, you know, in Northern Ireland – where one of the local pubs, would have been more of a drinking hole, can I put it that way, objected to them on the basis that they were taking their clientele. I can assure you, there's probably nobody that drinks in one of those establishments that has ever drunk in the other establishment. [Interview 24, Politician]*

However, others argued that using objections to protect business was understandable, given the law as it stands.

*It's just protecting their own I suppose, protecting their business like any other business [...] It's just the way the system is. It's fair game. [Interview 5, Licensing Stakeholder (Private Sector)]*

It was also pointed out that while initial objections do not need to be specific (and so can be lodged in a 'scattergun' way), if the case does go to court the objector will need to demonstrate a substantial case. In this instance the objector may themselves come under significant scrutiny.

*If you come to object to them, the first thing I'm going to do is look at your licence and make sure that you're operating under the right plans and you're operating under the right ins-and-outs and you haven't had penalty points or things like that. [Interview 4, Licensing Stakeholder (Private Sector)]*

*It's not like you just go, 'Oh, I'm not busy therefore you can't come here'. You know, it does require [...] full disclosure of your trading accounts, capacity, all of that to show that there's, you know, there's not the market demand in the area. [Interview 8, Trade (Other)]*

We were told of other problems with the 'adequacy principle' – one being that in many cases there is no agreed definition of the local vicinity being assessed. In these cases, competing legal teams will identify different geographical areas, using different criteria to justify the decisions. Case law provides guidance, but also confirms that defining 'vicinity' involves a range of determinations for which there is no 'general rule' (*Lidl v Winemark*, 2008: 6). As a result, there could be extended disputes over what constituted the vicinity of a proposed outlet, with different parties commissioning competing definitions in the case being considered.

The current objections system also has no formal process for other stakeholders, including health bodies, to engage in the decision-making process. Because health considerations are not a criterion for licensing decision-making, and because health bodies are not specifically identified as potential objectors to licences applications, there is 'no mechanism for public health to hang their hook on' [Interview 6, Health].

### 4.3 Licensing system operation, transparency and access

#### Key Points:

- There was a general sense that the licensing system lacks transparency in terms of enabling members of the public or potential licence applicants to understand the actual state of the retail market in their communities, how to make an application, or how and why a decision has been made by the courts.
- Members of the public felt largely excluded from participation in decisions about licensing in practice, unless they are already involved in licensing or the licensed trade.
- There were no strong views on whether courts or local authorities were the right authority to make licensing decisions, with support expressed for both.
- Participants felt strongly that the system as a whole posed very high barriers to entry, in terms of time, expertise and ultimately expense, that are worsened by opacity.

- Court processes were seen as unnecessarily bureaucratic in the case of many applications for new licences or licence variations, and in need of simplification or streamlining.
- The systems for applying for a licence, making premises variations or obtaining an occasional licence were reported as complex and slow, requiring involvement of multiple experts, often in person, sometimes in multiple court hearings. These challenges added barriers and expenses for people seeking to open a new business, or to improve or expand an existing one.
- While some licensing decisions were made administratively, this was often not the case, for reasons that were often unclear. We heard that the handling of licence applications could be inconsistent across Northern Ireland depending on the presiding judge.
- The renewal system for licences was seen as an important point of audit of the numbers of licensed premises every five years, though it was onerous to administer.

### 4.3.1 Transparency and access

The licensing system was widely viewed as opaque and lacking in transparency. This affected stakeholders and communities in a number of different ways. For example, we were told that because details of court considerations are not included in the licence files, it is not possible to directly discover how decisions were arrived at, what objections were lodged, how adequacy was assessed and so forth. This was raised as an issue by licence holders, potential applicants and legal specialists:

*There's nothing in that file which tells me was that application initially contested, what were the reasons that licence was granted [...]. We don't know how that decision was made because there isn't going to be a written judgement or there's not going to be...the judge might have notes themselves and I don't know, but they don't tend to be in the licensing file. It'll just be the licence was granted and it's hard to look behind that or realise why. It won't even say which judge granted it, you know. [Interview 4, Licensing Stakeholder (Private Sector)]*

*We have absolutely no idea who owns the licences, we have no idea how...which licences are active, or which ones are dormant. You know we do have a conclusive list of how many licences there are but that's not enough information. What I believe is that when that information is revealed we're going to see people are not given access to the system, that it's unfair. [Interview 1, On-Trade]*

The lack of transparency also affected members of public who felt unable to engage proactively in licensing decisions in their communities. Licence applications have to be advertised in two newspapers that circulate in the local area but this was explained as including any newspapers available in the area, including UK titles, not specifically local newspapers.

*There's no sense of how do I get my views on that...how do I express my views about whether other off-licences can open or there's going to be an occasional licence or if there's going to be...and, you know, is the... 'cause I suppose what that means is that the only people who understand the system are people who are inside the system, and that's essentially the retailers and the small number of legal specialists I guess. [Focus Group 1, Enniskillen]*

A phrase widely used to describe the licensing system was a ‘*closed shop*’ (it was also described as a ‘*cartel*’, a ‘*racket*’, a ‘*merry-go-round*’, an ‘*old boy’s club*’, and ‘*Dick Turpin without the mask*’ by diverse participants who expressed their views in more strident terms). There was a very widespread sense that the system was not designed to be accessible – whether to people in the licensing business, to those charged with enforcing the system, or to members of the public. Many participants described the system as excessively legalistic (see section 4.3.2 below) and lacking in clear guidance, with some suggesting the system only worked well for lawyers. Although licensing is invariably complex, and is mediated by specialists in most jurisdictions, there was nevertheless a strong view that transparency and accessibility could be improved.

### 4.3.2 Court processes

Generally, there were few strong views on whether courts were the right authority to make licensing decisions. One participant suggested that local councils should administer the liquor licensing system alongside the entertainment licensing system as they ‘*know their areas the best*’. However, others felt that the courts were trusted to be less partisan than local councils, with one saying some political parties were considered ‘*anti-alcohol*’. Court staff who regularly dealt with licensing applications were seen as highly knowledgeable and experienced, sometimes more so than the presiding judge. As a result, their input was seen as vital for spotting issues with licence applications and liaising with other stakeholders (such as the police).

Overall, obtaining a premises licence was seen as a slow and difficult process. We were told there was a particularly low chance of success in Belfast, but also that applications elsewhere were generally successful.

*If we’re talking about Belfast, [the chances of getting a licence are] probably very low, extremely low or it’s not happening at all but generally if you’re talking about somebody that’s looking to get a premises licence outside of Belfast then yeah, most of them will be successful.* [Interview 5, Licensing Stakeholder (Private Sector)]

The cause of delays was often the objections process, with one expert reporting that ‘*we can do all we can to make the best case and make [the objectors] go away but that could delay you by 6 months*’ [Interview 4, Licensing Stakeholder (Private Sector)] as outlined in section 4.2 above. Restrictions on availability of court dates to hear licence applications also caused delay, as there might be only one court dealing with applications for a given area in a particular month, or longer: ‘*there was [an example] before Christmas where the courts last day was like November and [the next date] wasn’t until the end of January*’ [Interview 4, Licensing Stakeholder (Private Sector)].

Participants acknowledged that it was right that the process of obtaining or varying a premises licence should include a check that the premises layout is safe, but this was approved by Building Control. But there was a general sense that court processes could be ‘*streamlined*’ and ‘*made more clear*’ – there was a striking number of experts, teams and witnesses involved in the application process and/or court hearings depending on the type of application. The second quote here is in relation to a late-night entertainment premises.

*The judge will obviously hear the evidence, they'll hear from the architect, they'll hear from the applicant...they'll hear from the barrister and hear all the proofs are in order... and you have a planning consultant who's able to say there's inadequate supply...[And if there are objections...] A lot of it is interpretation by experts and what your experts are saying and what submissions they're able to make. [Interview 4, Licensing Stakeholder (Private Sector)]*

*You'll have your noise team and your neighbourhood team and Building Control is separate to that altogether and that adds a lot of layers of unnecessary bureaucracy and confusion to it... it's a bit wasteful. [Focus Group 11, Licensing Stakeholders]*

A new licence application often involved multiple court hearings, even if there were no objections:

*...you have to get the architect, the guy who's selling the licence to you, you have to go, your barrister has to go, your solicitor has to go but then...that's for the first grant [hearing] but for the final grant [hearing] then the architect has to come with you with your solicitor, and this is before you can start trading and so the judge has already preapproved your plans and then you build it and then the judge has to come back and approve, have you done what you said you were going to do. [Interview 2, Producer/On-trade]*

Despite this effort, participants struggled to recall any licence applications that were actually rejected by the court. In effect, the court process, for all its complexity, rarely made a judgement to decline an application on grounds of adequacy. More commonly, the court process acts as a kind of final check that all paperwork is in order for a new premises.

*The judge will take all into consideration then make his decisions, but I – to be honest, I personally have never known one. I'm not saying it hasn't happened somewhere else but I've never known [a licence application] to be refused [on grounds of adequacy]. [Interview 25, Licensing Stakeholder (Public Sector)]*

*There's a lot of stuff that needs to be in place from...maybe from the council before it even gets as far as [the court]. So, like, we're the, sort of, final rubber stamp. [Interview 25, Licensing Stakeholder (Public Sector)]*

There was generally a sense from stakeholder reports that licensing was influenced heavily by the sitting judge, with some reports of decision-making 'on the whim' of the judge on matters such as premises layouts, court dates, adjournments, or whether to require a court hearing. This was further discussed in relation to occasional licences (section 4.4 below).

The decision-making process of the courts was often not captured in written judgements, even in previous cases where an important point of case law was made. Solicitors described following up on multiple occasions for written judgements for particular cases which were never issued, which meant relying on barristers involved in those cases for further details. One noted that 'people who are [working] in the area of licensing will have all those cases, but historically I don't think they were all published' [Interview 3, Licensing Stakeholder (Private Sector)]. This adds to the lack of transparency in the system.

The system for applying for variations was experienced as especially bureaucratic – being both ‘complex’ and even referred to by an experienced member of court staff as ‘seeming a bit daft’.

*You know they come to the court and say this is what we’re proposing to do, court grants the consent to alterations and then they’re supposed to go on and do the alterations. So I would be fairly sure in practice that it’s the other way about... nobody actually tells [the court] whether [the alterations] have [already] been done or not. But they’re not supposed to be done until they get the order. [Interview 25, Licensing Stakeholder (Public Sector)]*

We were told by trade participants that it was expensive and onerous to apply to alter your premises, and that even when minor alterations have been signed off by Building Control, there still had to be a court hearing to approve the changes. This could be a lengthy and expensive process, despite reports that the court would never question the approval of Building Control. We heard little justification as to why this had to be done in a court hearing rather than administratively.

*Some judges like to have it proven to them in court... if all the proofs are in order, [the court could] do it administratively for the likes of consent to alterations, personally I can’t see an issue with that. [Interview 25, Licensing Stakeholder (Public Sector)]*

Currently any alteration that results in an increase in size of premises beyond a certain percentage (reported both as 10% and 15% by stakeholders) requires a whole new premises application, with all the expense of that, and potential for other business objections etc. as described in section 4.2 above.

The process of premises having to apply to renew their liquor licence every five years was seen as an important point of audit for regulators to know who was still trading, including restaurants and hotels. No-one expressed a desire to abolish renewals, even though it was acknowledged as an onerous process, which again some felt could be simplified.

## 4.4 Occasional licences

### Key Points:

- The occasional licence system, as it currently operates, is viewed by many as unfit for purpose.
- There is a reported lack of consistency in decisions on occasional licences in the courts, despite a relatively bureaucratic process.
- While some courts apply the law strictly, in other cases occasional licences were reportedly granted that were not compliant with the law. In some areas, courts reportedly became more stringent only when greater police input was available.
- Police tasked with inputting to occasional licence decisions reported often being given inadequate notice to fulfil their role.
- Limitations in police expertise, capacity and power to effectively interpret and/or enforce the law compounds problems with these licences (see also section 4.7 below).
- The demand for occasional licences goes beyond what is currently permitted under the law, which coupled with inconsistent implementation, leaves the system open to abuse.

The Licensing (Northern Ireland) Order 1996 allows for occasional licences to be granted to a person already holding a pub, hotel or restaurant licence, to permit the sale of alcohol (Article 30, Paragraph 6) at ‘functions of an occasional nature which are organised by any body established for social, charitable or benevolent purposes or for furthering the common interests of persons associated with any trade, profession, educational or cultural activity, game or sport.’ Each application can be for up to 13 licences, and each licence can cover a period of up to 6 days.

No-one participating in this review expressed satisfaction with the functioning of the system for the award of occasional licences. The police in particular felt it was unfit for purpose:

*The thing that takes up most of [police] times is things like occasional licences, where they are so woolly. That desperately needs overhauled and made simpler.*  
[Interview 17, Police]

The system was seen by police as having been ‘*abused for many years now*’. Occasional licences are meant for functions that are organised by a body established for a social purpose (as above, e.g. a charity or sports club running a fund-raising event), and where the sale of alcohol is ancillary to the main purpose of the event. Police pointed to several examples where occasional licences have been applied for or awarded to businesses seeking to run an event that amounted to an ‘*extension of their business*’ such as in a marquee in their grounds or a ‘pop-up’ bar in a separate location to the pub itself.

*Yeah, to be honest, most of it is just to increase their financial capability on a particular night. They can flower it up whatever way they want, but really that’s largely what they are. They can say it’s for the charity, for the preservation of hedgehogs. Do I believe that? They might have a bucket on the way out that you can put a 2p in. That doesn’t actually meet the remit of an occasional licence. It has to be all: it actually has to be your profits are going to that charity. And that, does that ever happen?* [Interview 17, Police]

Police participants also noted applications being received for weddings in unlicensed venues, which should not qualify for an occasional licence under the law. It was felt that a lack of local police expertise likely contributed to the application being granted. Other stakeholders commented on a lack of consistency between court areas, especially concerning occasional licences, with one suggesting ‘*police might take a different view in Coleraine, as they would in Belfast, or Fermanagh*’ [Interview 3, Licensing Stakeholder (Private Sector)]. Furthermore, we heard that in the absence of police scrutiny, magistrates would sometimes grant occasional licences that were not compliant with the legislation. By contrast, we also heard that in other areas courts dealt with applications strictly:

*[Judge X] is very strict about this, he will ask [the charity] what their role is in doing the event. He won’t like, if they turn up and say ‘We’re going to put a few [donations] buckets round, there’s a stand at it.’ He won’t accept that.* [Participant 2, Interview 10, Police]

*In [area X], the magistrate and judge both ask for police letters beforehand, and they do generally read the letters, where I know in other districts, maybe, in other courts, they’re just approved really, administratively.* [Interview 12, Police]

The broad problem appeared to be one of consistency: with police and/or courts in some areas being stricter and others, often due to lack of capacity or training, taking a more lax approach:

*The occasional licences were a bit abused. Again, maybe not as bad in [this area] now, because I basically put a stop to it, because I started looking at it. I examined every application, I sent it back to the court and said, 'Sorry, that event doesn't qualify for an occasional licence', simple as that. I'm able to weed out those that are not fully legal, but in other parts of Northern Ireland, where there's no [police] licensing officer, ones are probably getting through the net. [Interview 27, Police]*

Police participants also reported difficulties giving due consideration to occasional licence applications as a result of a lack of notice periods. While the legislation requires applications to be submitted and notified to police and district councils two weeks in advance of when a decision is needed, the courts can waive this notice requirement where 'reasonable to do so' (Schedule 7). In practice, this waiving of notice appears to have become commonplace in some areas, and puts the police in situations where the timeframes for their scrutiny were reported as unreasonably short:

*There is supposed to be a timeframe in which they tell us that they're going to do an event. But in practice, that never happens. I have been... in the court, having been handed an application for something that's happening...it was on a Friday, for something that's happening on Saturday. I've even done them where it was that night. And they just...sometimes they just don't give us any notice. [Participant 2, Interview 10, Police]*

On the other hand, while the law is, in practice, not strict on notice periods for applicants, police reported that they had experienced it as very strict on the deadlines for or format of police objections.

*If you are a licensee, or somebody who wants to have an occasional event, and you just don't bother following the procedure it won't be fatal to your application. Whereas if I get handed it a few days before, and I haven't, like, done my objection properly or on the right form, or something, they say, 'We can't consider your objection', basically. [Participant 2, Interview 10, Police]*

Finally, those seeking to obtain an occasional licence, found the process difficult and overly bureaucratic. Although the legislation allows (in the absence of objections), an occasional licence to be granted without a court hearing, this was not always permitted by judges. We also heard reports that the court sometimes required a lawyer to be present. It is unclear why this is the case, but it increased costs for applicants.

*Pre-COVID, a lot of our occasional licences through the magistrate's court would have been done administratively, where the clerk can actually decide, well, okay, I'll grant that licence, everything's in and all the paperwork's here. But after COVID, our magistrate decided that he still wanted to see the applications and he's kept that up. [Interview 12, Police]*

*If you represent yourself in court the judge is less likely to approve what you want, so he'll say 'come back with a solicitor' rather than allowing you to get what you've asked for. [Interview 2, Producer/On-trade]*

*Even if someone wants to do a charity fund-raiser or a music event, you've got to employ expensive lawyers to apply for that process [for an occasional licence]. [Focus Group 4, Belfast]*

We also heard from participants who felt that organisations that do not currently hold a premises licence would benefit from greater access to occasional licences.

*[If a non-profit organisation is thinking...] We're going to have a barbeque, we're going to get a couple of kegs in, we can have a bar licence...we'll hire a tribute band in, you know, everybody's catered for... It's stopped in those tracks because... they're going, how much is an occasional licence for that. Oh well, we can't do that...It's not just the registered premises, it's there's other organisations out there who could avail of an occasional licence. [Focus Group 8, Ballymena]*

## 4.5 Entertainment licences

### Key Points:

- Many outlets need to provide entertainment to remain viable, given the importance of music in creating an offer for potential customers. Therefore they require both a liquor and entertainment licence.
- The entertainment licence system and the liquor licensing system are managed by different regulatory authorities, work to different timelines, and differ in regard to key features such as the addition of conditions.

In Northern Ireland, with some exceptions, an entertainment licence is needed for hosting events where people watch or take part in live entertainment including dancing, singing or music (including DJs), indoor sport, theatre or circuses. This means that premises with a liquor licence also require an entertainment licence if they wish to provide, for instance, live music. This licence is granted by the District Council.

It was beyond the scope of this review to consider the system for entertainment licences except in so far as it relates to the liquor licensing system. Operators, local authorities and the police described the two systems as completely separate, and as dealing with different considerations.

*Entertainment licensing is primarily about the protection of people in entertainment venues in the event of an emergency. So, it's getting them out safely. Liquor licensing doesn't look at public safety, entertainment licensing does. [Interview 23, Licensing Stakeholder (Public Sector)]*

Police participants felt that they could work with council colleagues to address concerns arising with licensed premises to 'give a stronger message' to licensees, although it is very difficult to enforce rules about how late entertainment is provided. Stakeholders appreciated the option to put conditions on an entertainment licence which is not possible for many liquor licences (see section 4.7.2 below). Participants also noted that some people in Northern Ireland would feel safer going to their local council with concerns about a premises than to the police.

Entertainment licences allow more opportunities for enforcement than liquor licences for a number of reasons. The annual renewal requirement creates regular breakpoints at which objections can be raised or adjustments introduced; and the ability to impose conditions allows for controls to be more tailored towards the needs, or risks, or particular outlets. Because the entertainment licence deals with music, it also covers areas of public nuisance that are of most concern to local residents and communities.

However, a number of participants, including elected representatives, told us that it was very difficult for local residents to successfully challenge entertainment licences in the courts where there were concerns about public nuisance. We were told that courts generally sided with businesses in cases where challenges were raised:

*There's sometimes a feeling amongst councillors that it doesn't matter what we try to do. Whether we try to support the resident, or we try to support, you know, it's the courts, no matter what, will overrule us and judge in favour of the business owner [...] I realise that you're, sort of, a hiding to nothing here, no matter what you do. [Interview 31, Politician]*

This suggests that more may need to be done to empower communities and residents to feel they can effectively challenge businesses when they are creating public nuisance or causing other problems associated with entertainment.

## 4.6 Alcohol market and premises operation

### Key points

- The system of supply to off and on-trade premises in Northern Ireland is seen as a barrier to market for independent producers, especially brewers. This system includes supply agreements with pubs, driven in part by the high cost of acquiring a premises licence.
- Current supply arrangements result in the range of products on sale, especially in on-trade premises, being limited compared to Great Britain, and being dominated by a small number of multinational producers based outside of Northern Ireland.
- It remains unclear whether the apparent preference for mass-produced lager and stout among NI consumers is due to a distinctive taste profile or is an effect of the monopoly of supply by a small number of multinational producers, and consequent inability to test latent demand for independent products.
- Participants generally felt that there was already sufficient availability of alcohol via off-sales premises in Northern Ireland; some expressed concern regarding increasing off-sales availability.
- Whilst most premises were thought by many to be well-run, there were also reports of underage sales, sales to drunk customers, and sales beyond licensed hours in certain premises.
- There is currently no legal requirement for staff working in licensed premises to be trained, and staff were reported by some to be relatively young and often inexperienced.
- A minority of restaurants were felt to operate as pubs.

### 4.6.1 Supply agreements

It is clearly the case that the supply of beer in NI is limited by comparison to England, Wales and Scotland, and that it is dominated by a small number of multinational producers based outside of NI, especially in the on-trade. According to one brewer, only around 3-5% of pubs in NI have craft taps – and this falls to around 2% if brewers that are part- or wholly-owned by large producers are removed. We heard that craft producers were able to gain some market access via independent and smaller franchised off-licences, but that access to multiple and chain off-licences was more difficult because of small margins and high listing fees, though one larger multiple told us this was actually because there were issues around logistics and shelf life for craft beer that made supply more difficult.

On the one hand, we were told that this is due to tradition and taste profile: that, in effect, NI consumers have a distinctive preference for lager and stout that sets them apart from countries where craft beer has become widely established, or where locally brewed products are an expected option among a significant segment of drinkers. On the other, we were told that the dominance of multinational products is due to a system of supply which shuts out independent producers, preventing them from exposing customers to their products.

When speaking to producers, and to some publicans, we were told that the availability of independent products was primarily constrained by the nature of supply agreements that licensees enter into. Bulk supply agreements are not unique to Northern Ireland: it is commonplace throughout the UK for outlets to receive discounts for the bulk supply of products. Furthermore, a much smaller number of NI pubs are owned by pubcos (businesses owning multiple pubs or chains of pubs) than is the case in England, Wales and Scotland, although there are several multiple pub-owning businesses and some individuals own multiple licences. This means that pubs are not generally 'tied' to owners/suppliers to the same extent in NI as Great Britain, where rents are often directly linked to supply. In theory, this should provide a greater degree of flexibility regarding supply and remove the need for formal protections for landlords wanting to supply 'guest' beers, such as are set out in the Tied Pubs (Scotland) Act 2021.

Nevertheless, many of our participants reported that supply agreements were closely protected and that, in reality, landlords had limited scope to diversify their products.

*And I think our licensing system doesn't help that because it's, you know, the big...the two or three big brewers, Diageo, which owns Guinness, Tennent's which is C&C, and Heineken are, you know, quite...extremely jealous, they jealously guard pubs. [Interview 13, Politician]*

*I think the [suppliers] are incredibly protective and if they sniff that they might be losing a tap, they will be on it, there's no doubt about it, and very aggressive in their approach as well. [Interview 30, Trade (Other)]*

We were told that suppliers held leverage over publicans because in most cases they, or associated businesses, were responsible for maintaining key equipment such as lines, taps and gas supply. Some stakeholders reported that, partly because there is no recent tradition of cask beer in NI, publicans may not have the skills in maintaining cellars and equipment that are commonplace in much of Great Britain. One publican compared it to the system for internet access in the home, where homeowners rely on the provider to maintain and fix the cables, modems and routers. On several occasions, we were told that suppliers would warn landlords off diversifying their supply by reminding them who maintained their equipment: one publican described, some years previously, a supplier's rep removing a seal from a beer tap and reminding him who it was owned by after noticing the publican had introduced a rival product. On the other hand, we also heard from several participants who dismissed the notion that suppliers actively prevented them from offering alternative products.

*Yes, it's a bit tied. But, again, that's up to the publican I suppose to decide. It's his business choice what he goes with and what his clientele like. Some clienteles like some beers and not others, so that will determine who comes into. But he'll*

*obviously know that. So, he'll tie in with his preferred brewer if he wants to but again that's his...that's the operator's choice.* [Interview 5, Licensing Stakeholder (Private Sector)]

Some publicans said they felt craft beer was simply too niche a product to be viable. Others said they had tried selling craft beer in bottles with little success, or that they had stopped selling the craft-style products produced by their major suppliers (such as Open Gate IPA, brewed by Diageo) as they were simply not popular. In this respect, it was argued that the power of the multinational brewers was an inevitable consequence of their popularity among consumers:

*I think that broadly speaking the large brewers have brand loyal consumers and those brand loyal consumers seek their products. Within the ranges on offer there are certain products that as retailers we consider are essentially must-stock items [...] That certainly means that that brand owner, because of the strength of their brand [...] can exert control over the market because they have to be there. They have to be on the shelf, they have to be in the back bar, they have to be there.* [Interview 9, Off-Trade]

However, independent producers argued that it is not possible, based simply on the relative popularity of products in the market as it stands, to determine the level of latent demand there may be for craft beers or ciders if they were more widely available. We heard that independent producers not only face challenges in regard to pubs. While independent off-licences were often supportive, and provided the main route to market, selling in the off-trade requires more packaging by volume (since products are sold to off-licences in bottles and cans, rather than to pubs in kegs), making it a relatively more expensive route.

*Whereas in Northern Ireland because there's no local draft market the first route to market is always in bottle or can and that means investing in bottling equipment, canning equipment. The growth is so much slower because the volumes are so much slower. You can only sell really in the off-sales, in the on trade there's very little real sale.* [Interview 2, Producer/On-trade]

Furthermore, general prices in the off-trade made it even harder for independent producers to compete in that environment compared to pubs where all beer is significantly more expensive:

*But there's a craft beer industry here, but it's very much high end. Niche. So, you're talking about, you buy a can of, you buy ten, twelve cans of Carlsberg in any off-licence for ten pounds, right? You can buy one bottle of Fermanagh Beer for £3.50. You know, that's generally not happening.* [Focus Group 1, Enniskillen]

*I've lots of my friends would spend...used to spend a lot of money on craft beer, but now they're not [because of cost of living]. They're just going back to Guinness or going back to the supermarkets and buying four-packs [because it's cheaper].* [Focus Group 4, Belfast]

In this respect, the loss of pubs to off-licences – especially where those are not generally independent outlets – poses a separate threat to craft producers. Not only is it currently very

difficult to get supply through pubs, and more expensive to supply through off-licences, but the availability of cheap, mass-produced alcohol through the expanding off-sales sector creates further potential challenges for independent products.

#### 4.6.2 Off-sales

Per person, there are less than half the number of shops selling alcohol in Northern Ireland than in England, Wales or Scotland (section 2.1 above). We were keen to discover whether consumers felt the current level of off-sales supply was sufficient, and if there was a desire for the higher levels of availability seen elsewhere. However, we found no strong support for more availability in the off-trade. Generally, those we spoke to felt that it was easy enough to buy alcohol with the number of outlets as they are. A number disliked the prospect of alcohol being as widely available as it currently is in many parts of Great Britain due to concern that greater availability may produce more harm than benefit:

*I think generally, you know, increased access to alcohol is a worry from a Public Health point of view in that it increases ability to consume and consume longer. [Interview 6, Health]*

*[Referring to people who are trying to address problem drinking]...they're going to get their pint of milk, but they're, in order to get to the cash register, they have to go past the off-licence. And then there's that temptation then. Or even the likes of, some places actually have the drink at the back of the [counter], where they're serving. [Interview 22, Health]*

*...if you saturate a market with outlets, it's just a race to the bottom. [Interview 8, Trade (Other)]*

Our participants appreciated the convenience of being able to buy alcohol in shops, though a small number expressed irritation at the requirement for structural separation. The consumers we spoke to were price-conscious, and many commented on the fact that it was considerably cheaper to buy alcohol in shops than pubs, to the extent that – regardless of the other benefits of going out – the price difference meant they were usually more likely to drink at home.

*It's, kind of, hard to justify going out for a pint now, do you know what I mean, when you can go to Sainsbury's or whatever and get a 24-pack. [Focus Group 3, Belfast]*

Participant 1: *You walk into Tesco there and buy a...what, 20...I don't know, 20 Carlsberg or 20 Coors. How much is 20 Coors?*

Participant 6: *Sixteen pounds*

Participant 7: *How much would the same number of pints cost you, do you know what I mean?*

Participant 1: *A hundred quid.*

[Focus Group 8, Ballymena]

*Finance does come into it because, getting back to our young son, you can't go to town every weekend because they don't have the money to go to town every weekend. And that's why quite a lot of them just do it, let's bring a few of the guys around to the house and just have a few beers. [Interview 18, Police]*

Volume deals in the off-trade, which meant that alcohol was cheaper the more that was purchased, were reported as problematic for people with alcohol problems who were seeking to reduce their drinking:

*People don't come to [our service] until they are really, chronically dependent on alcohol. You're trying to get the clients to buy less, but yet when they go into an off-licence or Tesco's or wherever it might be, the larger amounts are always on offer [...] And then if they have it in their home, it's too easy to drink, you know. [Interview 22, Health]*

While the low prices in off-sales were attractive to consumers, some felt that the licensing system itself may be exacerbating the risk that outlets would compete on price, effectively incentivising low-cost products at the expense of other choices.

*There's also the question to be asked about the...if our licensing system kind of incentivises. Because the off-sales have to acquire these [...] expensive assets, they have to acquire them and they have to be big cash generative turnover businesses, which sort of tend to either mean you're going to sell expensive products or you're going to, you know, work in bulk basically and incentivise people to buy a slab of beer at whatever price. [Interview 13, Politician]*

However, we heard little evidence on what drives pricing decisions, and no off-licence holder told us that the cost of the licence was a significant factor.

As is the case in many countries, the home delivery of alcohol is an increasingly common phenomenon in Northern Ireland. This brings a raft of challenges for licensing, few of which have been resolved globally. The 2021 Act goes some way to address the problem of age verification, by requiring proof of age on delivery, though implementation of such requirements can be patchy and difficult to monitor or enforce. We heard from participants that generally – at least when delivery was through supermarkets or established off-licences – these requirements were adhered to. However, we also heard reports that informal deliveries, for example by taxis, remained a common feature.

### **4.6.3 Operation of premises**

A number of trade participants felt that pubs were generally of a higher standard in Northern Ireland compared to much of Great Britain, arguing that smaller, locally-owned businesses had more accountability than large chains with ownership outside of Northern Ireland, and had a stronger connection to local communities. We also heard from elected representatives who felt that the well-run and attractive pubs in their area were an important draw for tourists. We also spoke to community members in some areas who felt their local pubs served the community very well. There are clearly very many pubs in Northern Ireland that are both well-managed and popular with locals and visitors alike. Nevertheless, we also heard of problems with some aspects of the licensed trade, with a number of participants suggesting there were routine breaches of the law in some outlets.

#### ***Underage sales***

There was a general feeling that it was easy for young people to buy alcohol, with reports of some bars being '*completely full of underage kids*', use of fake identification, proxy purchasing,

and a lack of test purchasing or enforcement action due to a lack of police or other resources. There were reports of good age verification procedures in some supermarkets, but in smaller off-licences and bars, there was concern about the inexperience of staff selling alcohol.

*A test purchase can happen and, you know, that would maybe identify off-licences that were breaching [the law prohibiting sale of alcohol to under 18 year olds]. I do remember years ago it was carried out, but police resourcing right now you cannot really do anything. There's not just not enough people. [Interview 11, Police]*

### **Sales to drunk customers**

Some participants said that there was a lot of good practice among bar staff:

*A lot of good barmen will do that [refuse to serve drunk customers] because it's just going to create a problem for him. [Focus Group 9, Derry/Londonderry]*

However, it was more common for us to hear about young staff working part-time in premises, staff who were not experienced, and who received no or inadequate training or supervision to equip or motivate them to refuse sale to drunk or underage people.

*[I worked in an off-licence when] I was only like 19, 20, 21. And who am I to turn around to someone and say, 'Oh actually, I'm not giving you a bottle of vodka that you're paying [for]?' [Focus Group 9, Derry/Londonderry]*

*I don't think in any time that I've ever been in a bar, whether it's just going out for a meal or if it's having a night out with friends or whatever, I don't think I've ever seen bar staff refuse a drink off somebody, except for whenever they were properly aggressive and the bouncer would throw them out. [Focus Group 10, Derry/Londonderry]*

Several participants noted that this is an area that needs some higher expectations, and that there should, in general, be stricter requirements for staff training.

*What other sector would you have where there are no requirements for people to have any particular skills, or quality assurance in terms of what they are doing? [Interview 23, Licensing Stakeholder (Public Sector)]*

*[Refusing sales to drunk customers] should be a part of their training, as long as they're in the job. [Focus Group 10, Derry/Londonderry]*

This was echoed by a number of community members who felt that premises have a duty of care to drinkers that is not always taken seriously. For instance, some participants working in alcohol treatment services reported examples of clients being served in pubs when they were either clearly drunk, or being served alcohol on credit. We cannot establish how widespread this might be, but participants felt it was not uncommon.

### **Serving beyond licensed hours**

While many premises closed earlier than their licensed hours due to a lack of demand and high costs of staying open (see section 4.8.1 below), several people reported that licensed hours were ignored in a minority of premises, both in the early morning and late at night. We heard of some pubs where people with alcohol problems would drink before the pub opens: *'the front door is closed, but you can go round the back'*. In other cases, late-night lock-ins were described as routine, especially in more rural areas. As one participant put it, premises *'keep*

*their own hours around here*'. This was not reported to be a widespread problem by the police, although their capacity to monitor it was limited (see section 4.7 below).

#### 4.6.4 Sales in restaurants

We heard from a number of participants that some restaurants acted, essentially, as pubs. By law, alcohol sales in restaurants should be ancillary to food and the two should be purchased together. However, we heard numerous reports of restaurants effectively operating as bars, with alcohol sales being – during some periods at least – the primary activity, and of an emerging '*blur between pubs that sell food and restaurants*'.

*So, that's a massive impact. It's maybe eased off in the last year or two probably because of Covid. But certainly before Covid, we had large problems with a lot of restaurants trying to be bars. And we have had restaurants who have stopped serving at nine o'clock, but the bar will be open 'till one a.m., you know, abusing the system. [Interview 27, Police]*

However, while we heard many anecdotal examples of this happening others also said they felt most restaurants operated within the law. We do not suggest here that these kinds of breaches are routine in the restaurant trade; however it was raised often enough as an issue to register as a concern. This is especially so given the relative increase in the overall numbers of restaurants as pub numbers decline.

## 4.7 Enforcement

### Key Points:

- The police service has insufficient capacity to conduct day to day monitoring of licensed premises, resulting in little or no sanction in many cases where the law is breached.
- Only three areas in Northern Ireland have serving full-time specialist policy licensing officers. These officers are proactive in working with individual premises and encouraging best practice.
- These specialist officers also develop expert knowledge and play a key role in inputting to court decisions on licence applications, in a way that is not possible for police officers who carry licensing as only part of their role.
- Greater support, training and capacity in the police service would generally be welcomed. See section 4.4 above on occasional licences.
- The penalty points system for breaches of licensing law is not working in practice. Suspensions are uncommon, difficult to obtain and tend to be short.
- There is no ultimate sanction for badly-run, irresponsible pubs or off-licences except, in theory, every five years at the point of licence renewal.

The police service acts as the primary body responsible for enforcing the licensing system, through community policing and police licensing officers. The role of the police is two-fold: reviewing and advising the courts on applications for licences including raising objections to applications as appropriate, and overseeing the day-to-day operation of licensed premises.

Participants discussed the factors encouraging responsible trading and the sanctions discouraging poor practice. A key factor encouraging responsible trading is that well-run premises rely on their good reputation to ensure continued custom.

*[In one chain pub in the town] it was getting that overcrowded, there was that much hassle, police were called in all the time, there was literally a paddy wagon sitting outside it constantly you know with six or seven door staff on and then it just, people stopped going. [Focus Group 8, Ballymena]*

Most licensees do not want violence or disorder on their premises, and most are broadly compliant with the law. In discussing the problems associated with enforcement below we do not claim that pubs in Northern Ireland are badly run in general. However, we received the impression from participants that some premises did operate beyond the law, and that police lack both sufficient capacity and powers to enforce the law where that was the case. In addition to the issues discussed under premises operation (section 4.6.3), restaurants (section 4.6.4) and occasional licences (section 4.4) above, participants noted other issues, including:

- Allowing consumption in parts of premises not covered by the licence; having an unlicensed extension to a licensed premises; or serving allowing consumption in a public area, such as on the street, without a pavement licence;
- Premises being run irresponsibly, leading to antisocial behaviour;
- Taxis delivering alcohol to outdoor drinking hotspots to enable young people to circumvent police searches.

#### **4.7.1 Enforcement and police capacity**

Police participants reported that they have very limited capacity to monitor and inspect licensed premises on a day-to-day basis. We heard from both members of the public, the police, and stakeholders from various backgrounds that enforcement of the licensing laws is limited, with most feeling this was due to a lack of resources.

*I think there needs to be a lot more consideration of how we manage that type of sale of alcohol to people who are vulnerable, including underage people and those who have an alcohol problem. The police in Northern Ireland just do not have the capacity to do this. [Interview 19, Politician]*

*You should've been down on [X] Street on Friday night [...] it was carnage. You'd come up the street and the police were sitting nowhere near it, like nearly staying away from it, kind of thing. Just let them get on with it. [Focus Group 6, Ballycastle]*

We heard that resourcing was especially problematic in rural areas, where often small police teams would be responsible for covering large geographical areas with a single car. In such cases it was not possible to effectively respond to need, especially if problems arose simultaneously. It was also felt to be a problem to some extent in urban areas due to the number of licensed premises.

In addition to, and in support of, responsive frontline policing of premises in operation, we were also told that there was a severe lack of specialist police licensing officers. These officers are proactive in visiting premises, building relationships with licensees, and thereby seeking to encourage best practice, but also lead on providing input to the courts in relation to licence applications. However, only three areas had police in this specialist role and their capacity was seen as stretched:

*There's one police licensing officer for the whole of Belfast [...] but there's hundreds of licensed premises plus occasional licences and all the other issues that have [arisen].*

*So, you know, until that is more adequately resourced, that's a huge issue for the police resources generally for everything. You know, probably something needs improved.*  
[Interview 23, Licensing Stakeholder (Public Sector)]

*If licensing was a high priority, and they wanted, then every district would have a licensing officer, doing exactly what I'm doing.* [Interview 12, Police]

Where experienced officers were in place, they often had a very detailed knowledge of licensing laws and significant knowledge of local premises. Elsewhere community police officers performed a similar role, usually without any specific licensing expertise, or officers were given the licensing brief as part of a much larger portfolio. While some training and support is made available by the PSNI for officers across Northern Ireland, there remained a widely held view that more capacity, training, guidance, and a greater strategic priority assigned to licensing by the police, was needed and would be welcomed. It was felt that this would ensure that police input to court decision-making, as well as on the ground enforcement, would be of more consistent quality across Northern Ireland.

*...it's not always an inspector, sometimes...just [a] constable who's been asked to put this into their portfolio... Sometimes you won't get the same level of scrutiny as you might get in other areas...some [applications] will be done administratively by a person in the enquiry office and what they will do is ask a police officer...but it might not be the same police officer every time [...]. If you're not someone who does this like, all the time, it's quite easy to miss things or just not really understand what you're doing.* [Participant 2, Interview 10, Police]

*We're doing that on the basis of absolutely zero [licensing] training [...] I can see that there's a need within PSNI to have some kind of licensing 'go-to': maybe frequently asked questions or stuff like that that is collated, where you can get a quick 'Here's what the rules are'. Because we have such a remit we're already struggling with the workload we have at the minute.* [Interview 11, Police]

#### **4.7.2 Lack of effective sanctions**

The lack of police resources was compounded by a lack of powers to deal with licensing breaches or illegal or irresponsible trading.

*A running problem always was around particular venues who had licences but where there was antisocial behaviour, and the ability to influence that. But once they had a licence there was nothing that you could do about it. There's very little [...] sanctions [for] licence holders who are not behaving responsibly* [Interview 20, Health]

There is no provision in NI law for a licence to be revoked. Instead, the maximum penalties available are fines and suspensions. The only point at which the police can threaten revocation is when licences are renewed, as they are handled as new licence applications. Some police participants reported using this as a point of leverage with licence holders; however, this was seen as a limited threat as licences are almost always renewed regardless, even when there had been prior suspension. We were told an actual refusal would be a big news story. One case was reported where during a renewal process, the police were not happy with a premises due to a poor history of management, and the judge involved granted a renewal for one year only. While we do not know what happened with this premises after the year, it illustrates how the

renewal process can be used to encourage better practice, though this was very rare. Police rarely object to renewals and objections were generally resolved by negotiation.

There is a penalty points system which can lead to licence suspensions of up to three months but it was not reported to be working well in practice. Both police participants and legal specialists reported that it can be difficult to secure convictions even where the law is being broken.

*You could get their licence suspended, like technically. You'd need to prove it first. You'd probably need a criminal conviction first; and the fine [they would get] would be ludicrous, like, it would be very small. [The Public Prosecution Service], probably wouldn't [take the case]...they'd probably say it wasn't in the public interest...*  
[Participant 2, Interview 10, Police]

In addition to the limited powers to enforce licensing law, police interviewees also identified a number of wider enforcement powers they felt were lacking, further constraining their ability to police licensed premises. These included:

- The inability to forcibly enter a premises if refused, despite there being right of entry in law.
- No power to directly seize alcohol from adults, even where people are drinking alcohol in unlicensed public spaces.
- Little effective power to temporarily close premises in the event of serious disorder arising from the sale of alcohol from premises: police reported that they have never been able to use this power as the courts would not sign off on it.

Overall, we received the impression of a system in which the available powers were not always used consistently and often were not applied in practice, and that some powers were lacking. This coupled with a general lack of capacity meant it was especially difficult for the police to do the job of enforcing licensing laws effectively and efficiently.

## 4.8 Impact of reforms under the 2021 legislation

### Key points

- While some operators have applied for authorisations to allow later opening, these are not widely used due to additional costs and lack of demand from consumers.
- The lack of late-night transport infrastructure presents a significant problem for customers and businesses in terms of accessibility and safety.
- New rules on Easter opening were widely supported and felt to have effectively addressed the problem.
- Brewers feel that the producer's licence is excessively restrictive and does not create viable opportunities to bring products to market.

The Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021 introduced a series of changes to the licensing system. These changes include:

- Introduction of a new Article 44A that allows pubs and hotels structurally adapted to provide food or entertainment, and already allowed to serve alcohol until 1pm under Article 44, to serve until 2am up to 104 nights per year.
- Extension of ‘drinking up’ time to 1 hour – meaning that, for example, premises serving until 2am can remain open until 3am, with regulations to ensure that, where venues to stay open late, the provision of food or entertainment cannot go on past the end of drinking up time.
- The creation of a new producer’s licence allowing local producers to sell their products for off-sale (i.e. in bottles or cans) on their premises and to sell for consumption on the premises between 4pm and 10pm up to 104 days per year.
- Allowing local brewers and distillers to sell their products in other licensed locations (e.g. conference centres) as part of events to promote local food and drink, or at unlicensed events (e.g. fairs) promoting local food or drink if the organiser obtains a statement from the Department for Communities, and both organiser and producer gain permission from a local senior police officer. Again, products must be sold for consumption away from these events – so in closed bottles or cans.
- Increasing the number of times smaller pubs (i.e. those not structurally adapted to provide food or entertainment) can make late applications for late opening (serving until 1am) from 20 to 104 per year. This increases the opportunity for small pubs to open until 1am from around once a fortnight to twice a week.
- Allowing the sale of alcohol in cinemas.

The Department for Communities has been tasked with monitoring the effect of these reforms and it remains too early in the process to take a definitive view of how they have impacted wider social, economic or health outcomes. However, some participants gave initial impressions of aspects of the reforms that we report here.

#### 4.8.1 Opening hours

Licensing and trade stakeholders largely supported the liberalisation of opening hours but felt the changes had only a limited impact in practice as they were rarely used. Many premises had not applied for Article 44A and those that had been granted one rarely made full use of the provisions. Publicans reported that the additional costs of remaining open, including both staff costs and other overheads, were often not sufficient to make late opening economically viable.

*We’ve over a hundred premises in [this] area, and when the legislation changed to allow that additional hour, I was expecting a flood of applications. We’ve had one. [Interview 25, Licensing Stakeholder (Public Sector)]*

*And, you know, staying open with music to two and three in the morning, you’re paying staff to stay on, you’re paying for extra security to stay on. There’s the problem of getting them home as well. So, I get the impression that it’s not cost-effective for businesses. [Interview 23, Licensing Stakeholder (Public Sector)]*

*The new opening hours [...] I don’t think it changed things massively here. Also [...] it was additional hours you have to apply for every year, so it’s not like you automatically get them in your licence once you make that. So, it’s quite an onerous application, because you have to pay and advertise that every year. [Interview 3, Licensing Stakeholder (Private Sector)]*

*The additional hours and things? It's the cost. So, it's the cost for the heating, it's the cost for the rent, it's a cost to pay for the staff. Then you have your security staff that have to be there. And these fees are phenomenal. And it's whether or not you're getting enough people in on a price that's going to be reasonable to bring people in to make enough profit to pay all these things. And it's all about overheads and costs, this is where it's come from. [Focus Group 5, Carryduff]*

Although the provisions were not widely used, most participants felt that allowing greater flexibility was potentially beneficial and contributed to a modernisation of the regulation. Some raised concerns about drinking-up time and policing the later hours, if they were used in future. Among some focus group participants, it was felt that the changes did not go far enough, and that the remaining restrictions did not cater to the demands of younger consumers, or of tourists who may expect later opening in tourist destinations.

Participant 9: *I had a group of mates that came over to visit me and I was embarrassed because I couldn't take them out anywhere after one o'clock. They said to me, 'Where are we going next?', I says, 'There's nowhere to go. You'll have to come back to the house.' People are booking a weekend away to come to Ireland.*

Participant 8: *It's embarrassing.*

Participant 9: *Have to go back to the hotel.*

Participant 8: *Aye.*

Participant 9: *Go back to wherever they're from. How was your weekend? Saying they'll never be back.*

[Focus Group 10, Derry/Londonderry]

A number of participants felt that the additional 'drinking-up time' allowed under the 2021 Act would simply permit premises to serve longer when the demand was there. There were also some reports of premises selling alcohol and very quickly asking people to leave the premises, without taking responsibility for people's safety.

*The bars are still going to take the money even if they're kicking you out two minutes later. They serve 'til 2am and then they say they stop serving but you're literally kicked out within 10 minutes because they want to close at 3 and they want an hour's cleaning up time. I've seen them serving drink then filling plastic cups and shoving people out. I've heard one landlord say, 'Well once they're out the door, they're not my responsibility' and I'm like: well you've just plied them with drink all night, like, so you have to take some responsibility for it. [Focus Group 4, Belfast]*

The limited use of later opening hours was, it appears, partly driven by the costs to retailers. They reported that the numbers of customers seeking to drink later was not sufficient to justify staying open, so they simply closed earlier.

By contrast, music promoters – especially those involved in the electronic and dance music scenes – felt that the current opening hours were too restrictive to support the development of a thriving nightclub scene, which could provide alternative and diverse spaces for people to socialise. The relative lack of nightclubs has been noted above, and some promoters felt that this was partly because – unlike many other European cities – there was no scope for clubs to

continue into the early hours. This, we were told, made them less attractive to both clubbers and artists, especially those used to performing elsewhere.

*By restricting the amount of time that a venue can open, and not a pub, this is not about pubs, this is about music venues, nightclubs, dance floors, these spaces, licensing [...] prevents that powerful cultural tool from being able to bring people together. And that's even more important now more than ever, particularly after the pandemic. We need to bring people back together, we need to get people out of isolation [...] and licensing is prohibiting that cultural element. [Interview 1, On-Trade]*

The relative lack of nightclubs in Northern Ireland is striking, and they do form an important element of the night-time economy in a number of other cities – though they are also facing challenges in many places as well. If current restrictions on operating hours are exacerbating this problem in NI, then it is something that needs to be considered.

Police participants noted that their shift patterns currently finish at 3am and that this would need to be adjusted should the late-night sector recover such that greater use of later opening hours emerges in future.

#### 4.8.2 Impact of transport infrastructure

While there was some support for further flexibility in opening hours among participants, it became very clear that a key factor preventing customers from going out later was the lack of a wider transport infrastructure. There was a strongly-held view that late-night transport infrastructure was not fit for purpose, and that taxi provision, especially since Covid, was both inadequate and unreliable. Public transport was described as ‘*an absolute disaster*’ and the taxi situation as ‘*awful*’, a ‘*mission impossible*’ and as potentially ‘*destroying the night-time economy*’. A number of focus group participants felt that the lack of reliable access to transport made going out at night not only inconvenient, but potentially dangerous: forcing people to wait for long periods of time alone, walk home, or pay for informal lifts from unlicensed drivers. As a result, participants reported going out and coming home earlier in order to have a better chance of catching a taxi. The following comment sets out many of the concerns and experiences described by participants more widely:

*The thing about the legislation is it's all well and good having bars and clubs open to two or three o'clock in the morning but if you can't get home, everybody's leaving. So, that has a huge impact because we see the bars emptying before midnight, or around midnight the bars empty because people want to try and get those taxis as they're around, or they've more chance of maybe getting a lift. Plus, in Derry, we have a Metro system, so the last buses probably leave around half 11. So, we find people are now coming out early, on a Saturday, they're coming out around four o'clock, five o'clock in the evening and by 11 o'clock at night they're time to go home. Whereas, previously, they're not coming out 'till nine o'clock, 10 o'clock, and trying to stay out until two a.m., three a.m. So that has had an impact. [Focus Group 4, Belfast]*

*But also the infrastructure. I mean, aside from the venue...if you had the venue and it worked as well and everything was done, the infrastructure in the town isn't here.*

*We've two taxi companies in the town. See trying to get a taxi in the week? Non-existent. Non-existent. [Focus group 8, Ballymena]*

### 4.8.3 Easter opening

There was very widespread support for the changes to Easter opening, and a general feeling that the reforms had '*normalised Easter*' [Interviewee 8, Trade (Other)]. The large majority of participants felt that the previous laws had been antiquated and an excessive restriction on consumer choice. Elected officials generally reported that they felt the changes had addressed an antiquated element of the licensing system and supported tourism as well as personal choice. This was the one element of licensing reform on which we got the impression of near-universal agreement and support.

### 4.8.4 Producer's licences

The so-called producer's licence was one of the key innovations of the 2021 Act. It was introduced following lobbying from craft producers seeking to expand access to market for locally-produced beers and spirits. Over the period of our data-gathering, eight producer's licences appeared in the records. Of these seven had been taken out by distillers and only one by a brewery. We are aware that several more producer's licences have been granted since our data gathering concluded.

Our interviews with brewers and distillers created the impression of a sector that was pleased some increased scope was now available for market access, but which felt the new system was far from meeting their needs and aspirations. This was partly to do with the costs. Some producers felt that the legal fees alone were prohibitive. We were quoted figures in the region of £10,000 and above by some, but this varied considerably.

*I think a lot of them thought it was great. This will open the market up, we'll be able to open our doors within a month and they've just all gone, 'Oh...'. Once they get into the cost and the cost of the legalities and everything that was involved, it was, 'We can't afford to do this', is the sense that I got from some of the breweries that I work with, that I chatted to. That's what they've said: we can't do it at this point in time. [Interviewee 30, Trade (Other)]*

The other major problem was that many felt that the limitations on sale meant that, even if they could afford the initial costs, the ongoing costs of staffing, insurance and so forth would not be worth it for the return.

*The producer licence that was brought in last year is a joke. They allow you 104 events a year, which is your Saturday and Sunday night for the whole year. Who's going to employ someone for two nights a year to run, manage and maintain? It's not economically feasible. [Focus Group 2, Belfast]*

*I think we didn't go far enough and we did a very tame thing around taprooms. Like, I believe [...] it was really watered down [...] They made it almost not worth applying for [...] It didn't really help the craft brewers and cideries, because it's only open for 12 hours a week which, you know, you can't run a bar on 12 hours a week and having to close by 10 or something. So, it's a bit of a nonsense. [Interview 13, Politician]*

This was especially the case for brewers. Distillers were more likely to look favourably on the producer's licence, and this is reflected in relative number that have taken one out since it was introduced. It would seem that the provision of limited on-sales make more sense in the context of distillery tours, rather than breweries. It is not clear why this might be the case, but we can speculate that the distillery tour serves a different purpose: attracting tourists and growing brand awareness for a product that is very significantly geared towards export. By contrast taprooms, as they operate in other places, function less as tourist destinations and more as places for local consumers.

We also heard from some producers that the provisions for allowing sales at fairs and shows were still problematic, and that the law was difficult to navigate. The requirement to receive multiple written approvals was seen as onerous and as vesting too much power in individual senior police officers. A number of producers also argued that they faced unfair competition at these types of events, because holders of pub licences would often take out occasional licences to run bars, while the producers were limited to providing small samples and selling only in bottles and cans.

By contrast, the established trade expressed concerns that extension of the provision of the producer's licence risked the opening of pubs '*by the back door*'. Because the rates and overheads for such outlets may be lower, it was argued that extending the provision of the producer's licence would allow independent producers to compete unfairly against publicans who had not only paid for a licence but faced much higher running costs. Publicans and trade representatives that we spoke to were not unsympathetic to the challenges faced by independent producers, but they made the case that if brewers wanted to open outlets that ran in direct competition to pubs, then they should face the same costs.

## 5. LICENSING POLICY OUTSIDE NORTHERN IRELAND

### 5.1 Review of North American systems for capping retail availability of alcohol

#### Key Points:

- Most jurisdictions across North America formally limit the number of alcohol retail licences. The most common approach was to establish a maximum number of outlets per population.
- Despite being a common approach, permitted numbers of outlets per population vary widely, ranging from 0.14 to 20 outlets per 10,000 population.
- More jurisdictions set a maximum rate of outlets for off-sales outlets compared to on-sales outlets, but many set a rate for both. The average permitted maximum rate was higher for on-sales compared to off-sales.
- A smaller number of jurisdictions cap retail licences according to an absolute number or per land area.
- Quantitative restrictions on outlets, especially per population, are not unusual, and most systems have regulatory mechanisms for setting different rates for on- and off-licences. However, there is little consistency in the measures used or the limits applied.
- The NI system is, therefore, unusual in that the surrender principle applies a combined cap on pubs and off-sales premises together. This review illustrates alternative methods of capping outlet numbers.

As stated previously, Northern Ireland is unusual in comparison to other countries not because it places a cap on outlet numbers, but because the caps for on and off licences are not separated, because new licences are only acquired following private acquisition of old ones, and because the cap cannot be adjusted for population change. In order to inform any potential changes to this system, we explored other systems that also place formal caps on outlet numbers, but with other features that differ from NI. We focused on North America because: (1) alcohol licensing is devolved to state or local level, offering multiple jurisdictions with a great variety of approaches; (2) a substantial number of jurisdictions in North America apply such caps; and (3) the applicable laws and regulations are available in English.

Although complete prohibition, ‘dry zones’, or government alcohol retail monopolies or partial monopolies (all of which operate in parts of North America) can limit the retail availability of alcohol (Babor et al., 2022; World Health Organization, 2022), the most common approaches to formally limiting alcohol availability in North America are:

- 1) Establishing a minimum permitted distance between alcohol retail outlets and other locations such as schools, places of worship, hospitals, prisons, or other licensed outlets (Burton et al., In prep). This approach might reduce the number of outlets close to potentially sensitive locations or the distance between alcohol outlets but not overall if retail licences outside of these locations are not otherwise restricted;
- 2) Setting a permitted rate of outlets per population or per land area;
- 3) Setting an absolute limit on the number of outlets.

Different approaches can be used within the same jurisdiction or for different outlet or beverage types. Within approaches, different thresholds can be set for different outlet or beverage types. For example, jurisdictions concerned about violence and public disorder might establish more restrictive rates for bars and nightclubs compared to restaurants (World Health Organization, 2022). Conversely, jurisdictions aiming to reduce per capita alcohol consumption might establish more restrictive rates for shops and supermarkets.

In sections 5.1.1 and 5.1.2, we describe various approaches to capping availability that differ from the surrender principle. In section 5.1.3, we describe various approaches to awarding licences under these quota-style systems.

Further details of this work are outlined in Appendix 7.

### **5.1.1 Legislative approaches to specifying a maximum number of alcohol retail outlets per population**

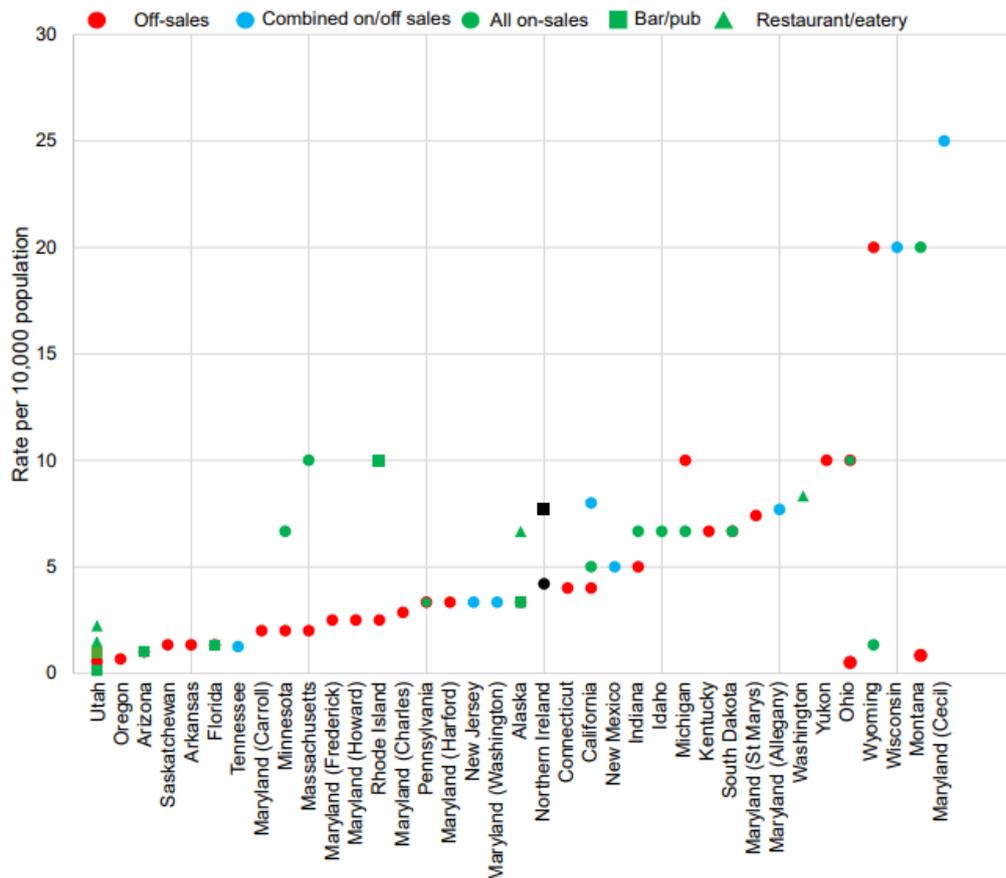
Twenty-eight jurisdictions (26 states in the United States of America and two provinces in Canada) restricted alcohol retail outlets according to a maximum number of outlets per population. These represent 44.4% of all the jurisdictions we reviewed. An overview of approaches used across North America can be found in Appendix 7: Table 20.

The limits set vary widely across the different jurisdictions: from 0.14 to 20 outlets per 10,000 population for on-sales outlets and from 0.5 to 20 per 10,000 population for off-sales outlets. For comparison, the equivalent figures for Northern Ireland are 7.7 pubs per 10,000 adults and 4.2 off-licences per 10,000 adults.

Many jurisdictions set different rates for different outlet types. Of the jurisdictions setting a maximum rate per population: 75.0% applied a rate to at least one type of off-sales outlet; 47.2% applied a rate to at least one type of on-sales outlet; and 22.2% applied a limit to the aggregate on- and off-sales outlets or outlets that were permitted to make both on- and off-sales. Considering all rates, the average permitted rate was lower for off-sales outlets compared to on-sales outlets (4.2 versus 5.7 per 10,000 population respectively). Some rates apply to licences for the sale of spirits, wine, and beer, such as Florida, whereas others apply to licences for the sale of spirits and wine, but not beer, such as Kentucky. For full details of the rates see Appendix 7: Table 21.

Figure 19 shows the permitted rates of alcohol retail licences in on- and off-sales settings across jurisdictions in North America equivalent to a rate per 10,000 population (Burton et al., In prep).

Figure 19: The permitted rate of alcohol retail licences in on- and off-sales settings across jurisdictions in North America\*



\*All rates have been converted to a rate per 100,000 population to increase comparability. Outlet rates in Northern Ireland in 2022 are shown.

### 5.1.2 Approaches to specifying maximum number of alcohol retail outlets – not based on population

The majority of jurisdictions we reviewed set a maximum number of retail outlets per population, (as outlined above), but a small number use different systems, not linked to population size.

#### **Caps regardless of population**

In this system, a fixed, numeric cap is placed on the number of outlets in a whole jurisdiction, and this does not change in relation to population. This is closest to the current system in Northern Ireland. It was very uncommon in the North American systems we analysed. Only six jurisdictions (three US states and three provinces in Canada) limit alcohol retail licences using this approach (Appendix 7: Table A6). These represent 9.5% of all the jurisdictions we reviewed. In five of the six jurisdictions using this approach, the cap applied to off-sales outlets only.

In some jurisdictions the fixed numeric cap on retail licences is until a certain date. For example, in British Columbia, there is a moratorium on issuing new alcohol store licences until 2032, and in Washington, there are established moratorium zones where no more off-sales

licences may be permitted for five years (Appendix 7: Table A7). In other jurisdictions, the fixed numeric cap is in perpetuity. For example, in Manitoba, only eight specialty wine stores are authorised at any one time, and in Ontario, there may be no more than 292 off-sales winery retail stores or 450 grocery store licences.

### ***Limits by geographical area***

A minority of jurisdictions across North America limit alcohol retail licences according to geographic area, irrespective of the population that is exposed to the alcohol outlets. These approaches are applied to smaller geographic areas within a jurisdiction as opposed to the jurisdiction as a whole, as is the case with the aforementioned approaches. For example, this approach might restrict the number of retail licences per square mile or establish a 'zone' made up of a cluster of streets where a maximum number of licences are permitted. Of the jurisdictions we looked at, three (all in the USA) limit alcohol retail licences using this approach. These represent 4.8% of all the jurisdictions we reviewed. The approaches to limiting alcohol retail availability according to geographic region varied widely (Appendix 7: Table A6).

## **5.1.3 Approaches to allocating alcohol retail licences in jurisdictions that cap licences**

Where licensing systems establish a quota, new licences become available because of population growth, or because existing licensees have been surrendered or revoked. Political decisions to increase quotas can also increase the availability of new licences. Approaches to issuing new licences vary across jurisdictions but can broadly be categorised as those that use:

- Highest bidder wins
- Licence lottery
- Waiting list
- Sale at fair market value.

In some jurisdictions, licences may be privately purchased in the secondary market and transferred to a new person/outlet as happens in Northern Ireland.

### ***Highest bidder wins***

To issue new quota licences, Indiana, Montana, New Jersey, and Pennsylvania all use some form of a highest bidder wins system (Appendix 7: Table A9). Broadly, licensing departments list details of available licences and interested applicants apply by entering a bid for an amount they will pay if it is the winning bid. The licence is then awarded to the highest eligible bidder who must pay the winning amount plus usual licensing fees, usually within a predefined period.

### ***Random allocation/lottery system***

In California and Florida, quota licences are issued using random selection (Appendix 7: Table A9). In California, lottery entrants must pay a refundable licensing fee of US\$15,835 which is returned to unsuccessful applicants minus a US\$100 processing fee (California Department of Alcoholic Beverage Control, 2023). Licences can be sold on the secondary market.

In Florida, applicants must pay a non-refundable US\$100 fee and if successful, pay a one-off fee of US\$10,500 which goes into a state fund for alcohol and drug education (Florida Department of Business & Professional Regulation, nd). This must be paid even if the licence is

sold, and if sold, the new licence holder must also pay this one-off fee. In Florida, many individuals enter the lottery with the view of selling the licence in the private market, where licences can sell for in excess of US\$100,000 depending on the area and demand (Martin, 2018). Therefore, although lotteries may initially grant licences impartially, allowing secondary sales creates the opportunity for speculative applications while driving up the costs of entry to unsuccessful applicants.

In Arizona, a similar lottery approach is used, however winning applicants are required to purchase the licence at fair market value, defined as the average value of the same type of licence sold in the open market in the past 12 months or similar (Arizona Department of Liquor, 2024). This might go some way in reducing the incentive to enter the lottery principally with the view of selling the licence in the secondary market for a profit. In Idaho, spirits are only sold in state-operated and contract retail stores, and in on-sales settings licences to sell spirits by the drink are limited to a rate of 1 per 1,500 population. When the quota has been met, applicants join a waiting list for licences that are awarded on a first come first served basis. These waiting lists can be lengthy. For example, in 2022, Boise issued six available licences to applicants who had been waiting since 2011 (Boise dev, 2022).

Just under half US states permit licences to be sold privately in the secondary market, or 46.2% (n=12) of the 26 jurisdictions we reviewed. Secondary sale of licences is prohibited elsewhere.

## 5.2 International evidence regarding licensing system implementation gaps

### Key Points

- Licensing laws are prone to being applied differently in different local areas.
- As different localities have differing local needs, implementation at local level invariably involves some use of discretion, often by individual police or other regulators.
- It is not uncommon for laws to be applied unevenly or for those charged with implementation to struggle with limited guidance and support.
- The development of clear policies, setting out the vision and purpose of licensing for local areas, and the provision of clear guidance clarifying the law and building capacity among those both enforcing and subject to it are suggested as helpful to close gaps between the law on paper and its implementation in practice.

Alcohol licensing systems vary significantly across the world, and the complexity of both law and guidance, and the nature of multi-level governance, can lead to gaps between what is stated in legislation and what happens in practice (Fitzgerald & Cairney, 2022). Any reform of licensing systems needs to account for the risk that legislation may not be implemented effectively or as intended. To consider this issue, we carried out a systematic review of the gap between jurisdiction-wide legislation and local licensing decisions and practices in multi-level licensing systems and on systems where a licence is required to sell alcohol. We searched global literature describing gaps between licensing law and practice in high income countries (see Appendix 8 for full methods), and identified 35 papers from 5 countries, the findings of which are summarised briefly by theme below.

### *Public Health Involvement in Licensing*

Twelve papers have been published looking at public health involvement in licensing, ten of which are from the UK. Most find that while there has been some enthusiasm for engagement among public health teams, many have struggled to make a significant or sustained impact in practice. This is because simply broadening the scope of licensing legislation to explicitly address health concerns (i.e., through a public health licensing objective) does not change other fundamental features of the licensing systems in England/Wales and Scotland, which are permissive by design and consider licence applications on a case-by-case, rather than taking a strategic, population-wide view (Fitzgerald et al., 2017; Fitzgerald et al., 2024). There are also key differences in how evidence is gathered, analysed and communicated between public health specialists and more traditional licensing stakeholders (e.g. O'Donnell et al., 2022). Whilst public health stakeholders have been successful in many areas in reorienting licensing to consider public health concerns, their impact is necessarily constrained by other features of the licensing systems in which they operate (e.g. Fitzgerald et al., 2024; De Vocht et al., 2022).

### *Cumulative impact policies*

In Great Britain and some parts of Australia, potentially high outlet density is addressed in law through 'cumulative impact' or 'overprovision' policies. These allow local authorities to specify bounded areas of higher-density or which are considered overprovided in any way (in Scotland), in which they can then impose stronger restrictions on licence applications in those areas. Research has found some ambiguity regarding what cumulative impact policies intend to achieve and how they will achieve it (e.g., Hector et al., 2017; Egan et al., 2016) and anxieties over legal challenges in cases where restrictions are applied firmly (Egan et al., 2016; Grace et al., 2016).

### *Statements of licensing policy*

We found several jurisdictions including England/Wales, Scotland, parts of Australia, and New Zealand that seek to support consistency in local decision-making through the use of local licensing policy statements. In most cases, these remain constrained by national legislation and can, in some respects, be limited in what they can achieve. For example, in England and Wales such statements are required to confirm that all licensing decisions will ultimately be made on a case-by-case basis, which largely precludes policies such as area-wide controls on opening hours (though some councils do include text to this effect). Nonetheless, local licensing policies are useful in establishing the overarching goals of the decision-making process in local areas and enabling areas to define what broad vision they are seeking to achieve through the application of licensing law.

### *Enforcement and compliance mechanisms*

We found seven studies considering enforcement challenges, from Norway, Spain, the Netherlands and Australia. These broadly found that while discretion in how to apply the law enabled police and regulatory authorities to be responsive to local situations, it could also lead to inconsistency. Local enforcement agencies also experienced challenges around the burden of proof needed to prosecute licensees, role ambiguity, and high and varied workloads (Trifonoff et al., 2014; Wilkinson & MacLean, 2013). Legislation was often viewed as convoluted, complex, outdated and cumbersome and as a result difficult to enforce. A 'patchwork quilt' of legislative

instruments, and inconsistency in their application, sometimes led to unintended outcomes (Trifonoff et al., 2014, p. 301).

### *Data collection and monitoring*

Many studies noted the challenges of using population level data to support the effective implementation of licensing legislation (Nicholls, 2015, also Mooney et al., 2022). The kinds of data and evidence most suitable for licensing, were often not routinely collected (Wilkinson, 2017); several studies noted a gap between the evidence presented and what is considered relevant and useful in the decision-making process at the local level (David et al., 2022; Fitzgerald & Cairney, 2022; Herring et al., 2008; O'Donnell et al., 2022; Wilkinson, 2017).

## **5.3 Modelled outcomes of various policy options**

### **Key Points**

- Liberalisation of either pub or off-trade licences that led to a similar density of outlets selling alcohol in Northern Ireland to the current density in Scotland would substantially increase the physical availability of alcohol.
- The association between alcohol outlet density and alcohol consumption in Northern Ireland is substantially stronger for off-licences than pubs.
- As a result, licensing reforms that led to a substantial increase in off-trade outlet density are estimated to lead to large increases in alcohol harms, while reforms that increase pub density are estimated to lead to more modest increases in harms.

### **5.3.1 Background and approach**

In order to estimate the possible longer-term impacts of alternative approaches to alcohol licensing in Northern Ireland, we undertook new health economic modelling using the Sheffield Alcohol Policy Model (SAPM). SAPM is policy appraisal tool that has previously been used to model the potential impact of a wide range of alcohol policies, including tax increases (Meier et al., 2016), Minimum Unit Pricing (Holmes et al., 2014a) and delivery of Brief Interventions in primary care (Angus et al., 2019). For the purposes of modelling reforms to licensing policy in Northern Ireland we use a Northern Ireland-specific version of SAPM developed as part of a recent project (Angus, 2023). SAPM works by estimating the changes in alcohol consumption resulting from a policy change and how these changes vary in different population groups defined in terms of their age, sex, socioeconomic position and prior level of alcohol intake. The model then uses the latest epidemiological evidence in order to estimate how these changes in alcohol consumption would translate into changes in alcohol-attributable hospital admissions and associated costs to the NHS and alcohol-attributable mortality. For full details of the model, including the Northern Ireland-specific data used, please see Angus et al., 2023.

We took a three-stage approach to modelling the impact of licensing reforms on longer-term health outcomes:

- Firstly, we identified a range of scenarios to explore the potential impact that a move to a GB-style licensing system might have on the density of outlets selling alcohol in NI
- Secondly, we undertook new analysis of the Health Survey for Northern Ireland to estimate how changes in density would lead to changes in alcohol consumption

- Thirdly, we used SAPM to estimate how these changes in alcohol consumption would affect population health, health inequalities and NHS costs in Northern Ireland.

### 5.3.2 The impact of GB-style licensing reforms on alcohol outlet density

We modelled three alternative approaches to licensing reform: a GB-style liberalisation of licences for pubs, a GB-style liberalisation of licences for off-trade retail; and a continuation of the present system, comparing each to a scenario where licence numbers remain at their present levels. For the liberalisation scenarios we assume that the licensing system in NI is replaced with a system similar to those in Scotland and England/Wales, leading to increases in the density of outlets towards the levels seen in Scotland. Scottish outlet density data was obtained from <https://creshmap.com/>. However, for the on-trade this data was not available for pubs separately at local level. We have therefore calculated the proportional increase in density for all on-trade licences that would occur if NI moved towards the levels of density seen in Scotland and assumed that the same proportional change would apply to pubs specifically.

For both pub and off-trade liberalisation we modelled three levels of changes to density, to reflect the fact that adopting a liberal approach to alcohol licensing similar to those in Great Britain will lead to increases in outlet density, but that density may not immediately (or ever) rise to the same level as seen there. This approach gives us seven scenarios in total, as follows:

1. **Pub liberalisation – 100%.** In this scenario we assume that liberalisation of pub licences leads the density of pubs, measured using the KDE approach described in Appendix 1, in NI to rise to the same levels as in Scotland.
2. **Pub liberalisation – 50%.** As above, but we assume that the density of pubs in NI increases by 50% of the difference between current levels in NI and those in Scotland.
3. **Pub liberalisation – 10%.** As above, but we assume that the density of pubs in NI increases by 10% of the difference between current levels in NI and those in Scotland.
4. **Off-trade liberalisation – 100%.** In this scenario we assume that liberalisation of off-trade licences leads the density of off-trade outlets selling alcohol to rise to the same level as in Scotland.
5. **Off-trade liberalisation – 50%.** As above, but we assume that the density of off-trade outlets selling alcohol in NI increases by 50% of the difference between current levels in NI and those in Scotland.
6. **Off-trade liberalisation – 10%.** As above, but we assume that the density of off-trade outlets selling alcohol in NI increases by 10% of the difference between current levels in NI and those in Scotland.
7. **Recent trends continue.** In this scenario we assume that trends in licence numbers and types between 2017 and 2022 in NI continue. For illustrative purposes, we focus on a continuation of these trends for a further 5 years and model the potential long-term impacts of these.

For each scenario we model changes in outlet density by quintiles of the Northern Ireland Index of Multiple Deprivation (NIMDM). Full details of the modelled changes in outlet density by NIMDM can be found in Appendix 9, but the average change in densities across the entire NI population is illustrated in Table 11 below.

Table 11: Estimated changes in average alcohol outlet density for pubs and off-trade outlets in Northern Ireland under modelled scenarios for licensing reform

Outlet type	Modelled scenario						
	Pub liberalisation – 100%	Pub liberalisation – 50%	Pub liberalisation – 10%	Off-trade liberalisation – 100%	Off-trade liberalisation – 50%	Off-trade liberalisation – 10%	Recent trends continue
Pubs	274%	137%	27%	0%	0%	0%	-6%
Off-trade	0%	0%	0%	422%	211%	42%	-1%

### 5.3.3 The impact of changes in outlet density on alcohol consumption

These changes in the density of licensed premises are converted into changes in alcohol consumption using new analysis of the Health Survey for Northern Ireland (HSNI). We fitted a statistical model to estimate the associations between alcohol outlet density and alcohol consumption in the Northern Irish population among HSNI respondents, after controlling for age, sex and NIMDM quintile. See Appendix 9 for full details.

The results of this model suggest that every 1% increase in pub density is associated with a 0.0065% increase in mean weekly alcohol consumption and each 1% increase in off-trade outlet density is associated with a 0.1378% increase in mean consumption. We then use these effect sizes to estimate the changes in alcohol consumption associated with the changes in outlet density described in Table 11 above. To align with the socioeconomic categorisation used in the Northern Irish version of SAPM, we collapse the NIMDM quintiles into two groups: those in poverty, who represent the most deprived 20% of the population and those not in poverty, who represent the remaining 80%. Table 12 below shows the implied changes in alcohol consumption for the overall Northern Irish population, and these socioeconomic groups, under each modelled scenario.

Table 12: Estimated changes in alcohol consumption under all modelled scenarios

Change in average (mean) alcohol consumption	Modelled scenario						
	Pub liberalisation – 100%	Pub liberalisation – 50%	Pub liberalisation – 10%	Off-trade liberalisation – 100%	Off-trade liberalisation – 50%	Off-trade liberalisation – 10%	Recent trends continue
All adults	1.8%	0.9%	0.2%	58.7%	29.4%	5.9%	-0.2%
Adults living in poverty	0.1%	0.0%	0.0%	36.7%	18.4%	3.7%	0.3%
Adults not living in poverty	2.2%	1.1%	0.2%	63.5%	31.7%	6.3%	-0.3%

These results illustrate that, although the highest levels of liberalisation modelled for both pubs and off-trade outlets is estimated to lead to a several-fold increase in density, the much stronger association between off-trade density and alcohol consumption means that liberalising off-trade licences is estimated to have a much larger impact on alcohol consumption than liberalising pub licences. They also demonstrate that, under all modelled liberalisation scenarios, we estimate the greatest increases in alcohol consumption to come among those not living in poverty. In contrast, a continuation of recent trends is estimated to

lead to an increase in alcohol consumption among those in poverty, while consumption falls in those not living in poverty.

### 5.3.4 The impact of changes in alcohol consumption on long-term health

Results from the long-term modelling, using SAPM, are presented in Tables 13 (showing absolute impacts) and 14 (showing relative impacts) below. Due to the fact that changes in alcohol consumption can take many years to be realised as changes in risks to health for some chronic health conditions, including cancers (Holmes et al., 2014b), the figures we present here represent the ‘full effect’ of each scenario, all other things being equal – that is, the modelled changes in the 20<sup>th</sup> year after the changes in outlet density.

Table 13: Estimated absolute annual changes in health outcomes for all modelled scenarios

		Modelled scenario						
		Pub liberalisation – 100%	Pub liberalisation – 50%	Pub liberalisation – 10%	Off-trade liberalisation – 100%	Off-trade liberalisation – 50%	Off-trade liberalisation – 10%	Recent trends continue
Annual alcohol-attributable hospital admissions	All adults	705	334	66	23,662	11,757	2,279	-52
	Adults living in poverty	27	3	1	3,616	1,770	374	52
	Adults not living in poverty	679	331	65	20,045	9,987	1,906	-103
<hr/>								
Annual alcohol-attributable deaths	All adults	14	7	1	540	256	48	-2
	Adults living in poverty	0	0	0	84	40	8	1
	Adults not living in poverty	14	7	1	456	216	41	-2
<hr/>								
Annual alcohol-attributable costs to the NHS		£1,168,396	£556,821	£110,460	£39,012,050	£19,331,599	£3,737,162	-£92,010

Table 14: Estimated relative annual changes in health outcomes for all modelled scenarios

		Modelled scenario						
		Pub liberalisation – 100%	Pub liberalisation – 50%	Pub liberalisation – 10%	Off-trade liberalisation – 100%	Off-trade liberalisation – 50%	Off-trade liberalisation – 10%	Recent trends continue
% change in annual alcohol-attributable hospital admissions	All adults	+3%	+1%	0%	+98%	+49%	+9%	0%
	Adults living in poverty	0%	0%	0%	+49%	+24%	+5%	+1%
	Adults not living in poverty	+4%	+2%	0%	+120%	+60%	+11%	-1%
% change in annual alcohol-attributable deaths	All adults	+3%	+2%	0%	+118%	+56%	+11%	0%
	Adults living in poverty	0%	0%	0%	+53%	+25%	+5%	0%
	Adults not living in poverty	+5%	+2%	0%	+152%	+72%	+14%	-1%
% change in annual alcohol-attributable costs to the NHS		+3%	+1%	0%	+97%	+48%	+9%	0%

These results follow similar patterns to the modelled impacts on alcohol consumption in Table 12 above, with the largest impacts arising from liberalising off-trade licences and among adults not living in poverty. If liberalising pub licences led outlet densities to rise to comparable levels to Scotland (scenario 1) the model estimates an additional 14 people would die and there would be 705 additional hospital admissions, at a cost of £1.2 million each year in Northern Ireland. In contrast, if liberalising off-trade licences led densities to rise to comparable levels to Scotland (scenario 4), the model estimates an additional 540 deaths and 23,662 hospital admissions at a cost of £39 million, representing an approximate doubling of alcohol harms in Northern Ireland. This analysis also suggests that a continuation of current trends is unlikely to lead to substantial changes in alcohol harm.

For a discussion of the strengths and limitations of this modelling, please see Appendix 9.

This model assumes all other factors (economic, social and so forth) remain equal over the time period, and while it generates exact outcome figures these should be treated as illustrative of trends rather than as predictions that the effects on deaths etc. will be precisely as shown. Therefore, the estimates set out above should be viewed as indicative rather than specific. Overall, however, these results suggest that a full liberalisation of the off-trade licensing system has the potential to have a significant negative impact on public health, assuming this led to a substantial increase in the numbers of licensed premises to similar levels to the rest of the UK. However, our findings suggest that while liberalising licensing for pubs, even to the maximum

densities seen in Scotland, has the potential to increase alcohol harms, the magnitude of these increases are more modest – around a 3% increase. The potential impact of a 10% increase in pub density on alcohol harms is likely to be very small.

## 6. DISCUSSION AND RECOMMENDATIONS

### 6.1 How we have set out our recommendations

In what follows, we summarise and discuss the key findings and conclusions from our review and set out recommendations for improvement. This is not a straightforward task and cannot be presented in the form of a simple set of actions. In some cases, we address operational and infrastructural issues through recommendations that would require limited, or no, legislative change. Elsewhere, however, we set out proposals that would involve more substantial reforms to the system as a whole. Some of our proposals could be implemented as standalone measures, while others presuppose, or would be dependent upon, other recommendations being adopted.

This chapter begins with a general reflection on the need for clear objectives to guide the NI licensing system, followed by a brief reiteration of some of our key findings on the social, health and economic outcomes of the current system. This is followed by a section addressing some key infrastructural issues, and proposing the establishment of a centralised licensing agency to coordinate the system across NI. We then discuss current operational issues, including the administration of licensing records and issues around licence applications and objections. Following this, we discuss the surrender principle at more length, as well as issues around innovation, diversity and consumer choice. This longer section lays out proposals that would require more fundamental legislative reforms, and which are likely to be subject to more substantial political debate. After this, we address possible reform of occasional licences, returning to proposals that could be adopted with relatively minor legislative amendments, or through changes to guidance and practice.

Finally, we recognise that the Assembly may decide that a completely new licensing system is necessary and/or a more straightforward way to deliver on the objectives it identifies. We therefore include an outline framework for a new licensing system that addresses the key issues raised in this review through a fundamentally different mechanism of control. Many of the recommendations for reform set out earlier would still apply, or could be adapted to, a new system of this kind.

Throughout the foregoing review, we have discussed the health, social and economic impacts of the current licensing system, including the extent to which it meets the needs of consumers, licence holders, the pub sector as a whole and a range of other stakeholders. These considerations were set for our review in section 23 of the 2021 Act, and have shaped our thinking in developing our recommendations below. While we summarise key points below, we would recommend that anyone seeking to fully understand our conclusions read the report in full.

We have taken this opportunity to set out an ambitious suite of proposals, and recognise that not all may be feasible in the short term. We would also reiterate that where matters of fundamental principle are concerned, it remains for the elected representatives of the community at large to determine what the goals of the licensing system should be – and, ultimately, which of the proposals set out here align with those goals. We would also note, however, that many of the problems identified in this review, and which we seek to address through our recommendations, have also been highlighted in previous reviews and consultations going back many years. Choosing to retain the current system unchanged would mean accepting that those problems will remain a fixed feature of the licensing system in

Northern Ireland going forward. That choice needs to be clearly acknowledged if it is decided to retain the system in its current form.

## 6.2 The purposes and objectives of licensing

Unlike England/Wales and Scotland, the current licensing system in Northern Ireland is not based on explicit objectives (see Table 1 above). Rather, it is the legacy of an approach first developed in the early 20th century to address problems caused by high levels of availability, including high levels of alcohol consumption. At that time, the primary goal of the system was to achieve a reduction in the number of public houses relative to size of the population, thereby reducing overall consumption and associated alcohol-related harms. Recent documentation states that the purpose of the licensing system is to ‘*strike a balance between facilitating the sale of alcoholic drinks, public safety and the public interest*’ (Licensing and Registration of Clubs (Amendment) Bill (Explanatory Memorandum) 2022). However, this goal is broad, poorly specified, and is not directly operationalised through the current criteria on which licensing decisions are made. It is, therefore, not clear what the precise aims of the system are today; however, it is our view that it is unlikely that the unintended and adverse outcomes detailed in this review are ones that a legislature designing a system from scratch would desire or find acceptable.

Reviewing the licensing system today provides an opportunity for the government and people of Northern Ireland to ask afresh: what overarching principles should guide their alcohol licensing system and what objectives should it seek to achieve? Any licensing system will impact on a diverse range of outcomes, and it is for the people and government of Northern Ireland, rather than us as reviewers, to decide which of these it wishes to prioritise. We believe that the establishment of such objectives is a critical step in modernising the licensing system in Northern Ireland.

## Recommendation

1. **Initiate a process to agree and establish clear licensing objectives based on explicit principles.**
  - a. Once agreed, these should be incorporated into existing legislation to guide and underpin licensing decisions, and they should form the basis of any substantially reformed or new system.
  - b. The process of setting objectives should take account of the findings of this review.

## 6.3 Health and economic impacts

- NI has high rates of alcohol-related deaths compared to England & Wales. Death rates are comparable to Scotland. NI rates are on an upwards trend.
- Higher densities of alcohol outlets are associated with increased risks of mortality, hospitalisations and crime. This accords with extensive evidence from multiple other countries. Increased risks to health and overall alcohol consumption are more closely associated with higher density of off-sales, while increased risks of crime are more closely associated with higher density of pubs.
- Both employment and turnover have fallen in the pub sector in recent years, while it has remained more stable in restaurants and hotels. Employment in the alcohol retail sector tends to be relatively low-paid and part-time.

- The actual market value of licences is not transparent, and hard to determine precisely, so the potential impact of reform in terms of licence value remains unclear and difficult to predict.
- The promotion of positive health and social outcomes would be better served by supporting a well-managed on-trade sector, over a continued increase in the number and size of off trade premises.
- Premises are not currently making widespread use of the later opening hours permitted under the 2021 licensing law amendments, due to a lack of transport infrastructure and public demand. The impact of these changes on health and economic outcomes is currently minimal, with future impact unknown.

### *Alcohol harms in Northern Ireland*

Northern Ireland experiences some high levels of alcohol-related harm. These tend to be highest in areas of greatest outlet density. Despite similar levels of availability to the rest of the UK, rates of alcohol mortality are higher in NI than in England or Wales and increasing, and they are similar to Scotland, which has seen decreases in recent years. There may be multiple reasons for this including patterns of deprivation and a legacy of trauma associated with the Troubles. We see a strong correlation between outlet density and all three aspects of harm considered in this review (deaths, hospitalisations and crime). This is in line with strong evidence from studies in multiple countries that higher levels of availability are associated with higher levels of harm, and some countries that liberalised the availability of alcohol have seen corresponding increases in alcohol-related harms. As a result, caution is needed in introducing any changes that would substantially increase levels of availability.

### *Patterns of availability*

Availability is not simply about raw numbers but also the type and size of outlets selling alcohol. Greater availability of alcohol does not just make alcohol more accessible or convenient to buy; it can also encourage competition that can make alcohol cheaper, while increasing exposure to marketing. In the current system, most pub licences are surrendered to off-trade outlets, which sell alcohol much more cheaply than in pubs. Exchanging a pub licence for an off-trade outlet means a rise in availability in terms of accessibility of cheaper alcohol but can also lead to greater exposure of adults and children to alcohol branding, marketing and displays. Taken together, these effects may place an upward pressure on alcohol consumption. Our data also suggests that increased off-trade availability is not only associated with increased health harms, but also higher levels of crime and disorder – though the latter remains more closely linked to pub density. Our modelling suggests that increased off-sales availability would produce significantly higher levels of harm than a comparable increase in the number of pubs.

### *Economic impacts and outlet types*

The current NI licensing system has led to a marked shift in the ratio of pubs to off-licences, with falling employment and turnover figures in the pub sector. It is difficult, based on the available economic data, to make a complete analysis of the economic impacts of alcohol retail, in the context of the Covid pandemic and the cost of living crisis. However, our analysis suggests that restaurants and off-licences have fared better over the long term than pubs. Previous analysis by the Fraser of Allandar Institute (2018) suggests that spending in the on-trade generally produces more jobs than spending in the off-trade, and that on-trade employment contributes more to Gross Value Added (GVA). Therefore, there is an economic case for supporting the pub sector as a whole.

The sale of alcohol from off-trade outlets is more likely to contribute to harmful health outcomes and may provide fewer economic benefits. Therefore, the promotion of positive health and social outcomes would be better served by supporting a well-managed on-trade sector, where alcohol is more expensive, served in fixed measures and there are time constraints on consumption, over a continued increase in the number and size of off trade premises where alcohol is cheaper and consumed in less regulated environments. Importantly, this also applies to alcohol delivered directly to the home. As reported above, we found little demand or enthusiasm for more off-trade outlets amongst stakeholders or members of the public, who broadly felt access was sufficiently convenient as things stand.

The NI system would seem to be better protected against a potential proliferation of home deliveries compared to England, Wales and Scotland, where recent research has found evidence of increasing outlets licensed at bulk storage facilities, as well as the widespread delivery of alcohol to the home via food delivery services (Sharpe et al., 2024). Cheap, easy and/or rapid home delivery would likely be welcomed by some consumers but also carries several risks: it reduces barriers to accessing alcohol for people with dependence or who are already intoxicated; potentially makes alcohol available more cheaply; and may undermine existing businesses. If the government of NI takes the view that the harms associated with increasing home delivery of alcohol outweigh the benefits, then it should avoid any reforms that simplify or reduce the expense of the process of licence acquisition for this type of supply.

#### 6.4 Co-ordination, implementation and enforcement

- Key agencies, especially the police, lack sufficient capacity and powers to enforce licensing laws comprehensively and efficiently.
- Police, local authority inspectors and others tasked with regulation and enforcement often struggle to navigate the details of licensing legislation, having to rely on expert colleagues or hard-to-access legal support materials.
- Elements of the licensing system are implemented and enforced inconsistently, depending on region and the court or judge involved, leading to some anomalies in the application of the law.
- The penalty points system for breaches of licensing law is reportedly not working in practice. Suspensions are uncommon, difficult to obtain and tend to be short.
- The fact that conditions are not generally applied to pub and off-sales licences reduces opportunities for focused enforcement and flexibility within the system.
- There is in effect, no ultimate sanction for consistently irresponsible premises; an application to renew such a licence could in theory be declined as part of the renewals process, but this is almost never done, and renewals are only due every 5 years.
- Some police powers, not specific to the licensing system (such as powers to seize alcohol), may need to be strengthened to address alcohol-related harms.

There is a lack of understanding of how the current system works among operators, police, other regulatory authorities and the general public. Actors throughout the system reported a lack of capacity in navigating the law, with a small number of specialist individuals (e.g. licensing police officers, court clerks) in different sectors developing significant expertise ‘on the job’, but many struggling to access simple, clear information on which to base their understanding. Many regulators were reliant on E.J.D. McBrien’s (1997) book *The Liquor Licensing Laws of Northern Ireland* for guidance, but the book is now very difficult to obtain (we heard various stories of the lengths to which licensing officers in the police and courts had gone to source copies) and remains a specialist resource.

There is a clear need for up-to-date and accessible guidance materials, including simple definitions, flow charts etc. for both licence holders and regulators to address this. Section 42.3 of the 2021 Act requires that the Department for Communities keeps its guidance documents under review and amends them in the light of such review. We feel this needs to go further, with the production of new materials designed specifically for stakeholder groups (e.g. licensees, local authority licensing officers, police) that provide roadmaps for system navigation. Many participants pointed to a lack of consistency across the system, with reports of courts applying different levels of stringency and some idiosyncratic decision-making. Furthermore, written decisions are often not available. Almost all new licence applications are ultimately granted, and renewal applications are virtually always approved.

In a jurisdiction the size of NI it should be possible to establish a central licensing authority to support courts, regulators, enforcement agencies and operators in understanding, navigating and interpreting the licensing system, even while leaving decision-making and day-to-day implementation to local courts and agencies. The establishment of a central body of this kind should promote consistency and build capacity across the board. The costs of this authority should be funded through the licensing system.

Under the current system, the police and courts have limited powers to sanction licensees for contravention of the regulations. The system of penalty points, fines and suspensions provides a mechanism for punishing breaches, but there is no pathway to licence revocation. Rather, we heard that police with severe concerns about licences must wait until the next renewal period to lodge an objection to renewal if they feel that is justified. The courts may then decline to renew the licence, which would effectively amount to revocation, but can only be done every five years. Although only rarely applied, the licensing system in Great Britain includes powers for either residents or responsible authorities to request a licence review, and for police to request an expedited review if necessary. This process can lead to sanctions up to and including revocation. We recognise that revocation under the current NI system is a more severe sanction than in Great Britain where there would not also be loss of the licence value, and this may be why it has never been included as a power. This is a further peculiarity of the system more broadly; as licensing authorities should, in principle, have the power to revoke their permissions where there is clear justification to do so.

In Northern Ireland pub and off-sales licences are generally granted without conditions beyond a requirement that the licence holder operate within the law. This reduces the capacity for governing authorities to tailor licence approvals to local needs, and for regulatory authorities to target their oversight of premises regarding specific risks and challenges. Conditionality is a key power within many licensing systems and is used in other parts of the NI licensing system, including entertainment licensing. There is no obvious reason why conditions should not be used for pub and off-sales licences, and the lack of their use weakens the power and flexibility of the system.

Several of our recommendations require the establishment of a new, central licensing authority to act as a source of expertise on licensing and to take responsibility for coordinating licensing policy. If our recommendations for substantial reform, or a wholly new system, are adopted, then this new authority would play an essential role in administering new elements of the system. However, even in the case of less substantial changes we feel that a dedicated authority would provide useful support for developing and disseminating knowledge, training and support to those currently implementing the licensing system. There is also a need for monitoring of the impacts of the licensing system on a regular basis to inform enforcement, implementation and future legal or policy reforms. For example, under other licensing regimes,

police, emergency services and other data is monitored and analysed to understand premises specific data on violent incidents, last place of drinking for emergency department patients or offenders, and other routine information on premises that breach licensing laws.

Therefore, we propose the establishment of such a body regardless of the extent to which our recommendations are taken forward.

## Recommendations

- 2. Establish a new Northern Ireland Licensing Authority (NILA), overseen by the Department for Communities, to enhance accessibility and consistency in the licensing system, monitor outcomes and administer key elements of a reformed system as below in line with licensing objectives.**
  - a. The NLA should be constituted so as to be independent of stakeholders with a financial interest in the licensing system, as a ‘hub and spoke’ model e.g. a small specialist central team linked with and providing support to relevant public sector stakeholders in other services (e.g. clerks and judges dealing with licence applications, police officers dealing with licence applications/policing licensed premises and entertainment licence teams).
  - b. The following functions should be the responsibility of the NILA (or allocated to other bodies should the NILA not be taken forward):
    - Accessibility: create and maintain a suite of accessible, process-oriented guidance documents (including flowcharts, glossaries etc.) to support navigation of all aspects of the licensing system by all stakeholders;
    - Support:
      - oversee training, guidance and capacity development where needed including on any reforms of the system;
      - advise police, courts, applicants and other regulators on navigating the licensing system.
    - Monitoring: analyse the functioning and enforcement of the system including consistency, fairness and compliance, premises level data, and impacts on health, social and other outcomes in line with the objectives set for the system;
    - Administration: manage applications for Cultural Venue licences (see Recommendation 18), if introduced or all licence applications if a new system is introduced.
- 3. The Department for Communities (and subsequently NILA, if established) should create and maintain a bespoke liquor licensing information website to host guidance materials, online forms, FAQs etc.**
- 4. The law should be amended to allow conditions to be placed on pub and off-sales licences, where a clear case can be made.**
  - a. Conditions should be reasonable, achievable and clearly directed at identified risks: they could be applied to individual premises; all premises in a given area; or all premises in Northern Ireland as deemed necessary by the police or other responsible authority (see Recommendation 9).

5. **Training on responsible service, protecting vulnerable groups and alcohol harm for licence holders and staff working in licensed trade should be mandatory, similar to the system that exists in Scotland.**
6. **The law should be amended to introduce an administrative process by which licences can be reviewed on the basis of serious and/or multiple breaches of conditions, disorder or irresponsible trading.**
  - a. Any responsible authority (see Recommendation 9) should be permitted to trigger and give evidence to a review, separately from the renewal process.
  - b. The possible outcomes of a licence review process could include sanctions such as additional conditions on licences, restrictions on trading hours, suspension of trading, or ultimately revocation of licences. Imposition of sanctions should not require criminal conviction of the licence holder.

## 6.5 Licensing records and accessibility

- The system for maintaining licence records is archaic and relatively inaccessible. This places additional burdens on those working in the system and those seeking relevant information. It also leads to omissions and inaccuracies.
- Licensing records are still held on paper form, and there is a charge for public access.
- NI is out of step with both Great Britain and (the Republic of) Ireland, where licensing registers are digitised and available to the public online for free.
- Licence records do not routinely show where licences were surrendered from or where they were surrendered to. This makes it very difficult to track the impact of the system on licence movement.

As a public system of regulation, licensing systems should aim for maximum transparency in their operation. Licences are granted on behalf of the wider community, and so the public should be able to easily access information on licences that are granted and decisions that are made. A licensing system should, of course, aim to be fair to all who have an interest in its outcomes. While this inevitably involves considering competing interests, transparency and accessibility can help ensure stakeholders feel that the system manages those interests equitably

### *Access to up-to-date records*

Under any licensing system, permission to retail alcohol is given by specified authorities on behalf of the wider community. Consequently, information regarding those permissions should be both transparent and freely available without charge to the public. Currently, NI is out of step with both (the Republic of) Ireland and Great Britain, where electronic, online, public registers of licensed premises are routinely available. A publicly-accessible online record of liquor licences is available in (the Republic of) Ireland. While there are no national databases in Great Britain, local council records are generally available online, and are updated to reflect changes in, for example, operating hours. Once implemented, maintaining a similar database in NI is likely to require fewer court resources than the current paper-based system, and would provide greater transparency for the public and other stakeholders.

It is also essential that, as long as the surrender principle is retained in any form, information on the location of premises surrendering and acquiring licences is routinely recorded and monitored. Extinguished licences should also be identified and clearly recorded as such. This will permit analysis of trends that are essential for understanding how many licences are lost each year, and whether there are patterns by type or location. It will also preclude the need for

onerous manual efforts, as undertaken within the present review, to inform any future reforms or responses to policy questions.

## Recommendations

### **7. All existing liquor licence and registered club records should be digitised and made available online, free of charge, via a public database.**

Database records should include:

- a. For new licences, the location and type of licence surrendered
- b. For surrendered licences, the location and type of the acquiring premises
- c. For licences that expire, clear identification that this is an expired licence including date of expiration.
- d. Records for all historic (e.g. expired, surrendered etc.) licences should be retained on the database to enable monitoring of changes over time.

### **8. In advance of digitisation courts should make access to paper licensing records available on request and free of charge.**

## 6.6 Applying for a licence

- The current application system is based on limited criteria established a century ago and lacks clear objectives.
- There is no clear definition of ‘adequacy’ of provision of pub and off-trade licences in the legislation, and no fixed method for defining ‘vicinity’.
- Other licensed businesses can object to pub and off-trade licence applications on the grounds that there is already adequate provision, thereby inhibiting competition. These objections are sometimes withdrawn following payment to the objector by the applicant.
- The pool of stakeholders who can currently object to licence applications does not include some key agencies and authorities.
- There were no strong views on whether courts or local councils were the right authority to make licensing decisions with support expressed for both.
- The systems for applying for a licence, making premises variations or obtaining an occasional licence, are unnecessarily bureaucratic and expensive, and are not clearly explained in publicly available guidance. This creates additional barriers and expense for businesses.
- There is little transparency around what pub and off-trade licences are available for sale or at what price, making it difficult, especially for new entrants, to ascertain what constitutes a fair price.
- The current system for informing the public of licence applications is outdated and does not facilitate public involvement. Community members have little or no idea how to find out about licence applications, how they might effectively raise relevant concerns or object.

### *Decision criteria including adequacy principle*

Under the current law, it is assumed that a licence application for a pub or off-trade premises will be rejected unless the court is satisfied that:

- the premises are suitable
- the applicant is ‘fit’ to hold a licence
- relevant permissions are in place
- a subsisting licence has been surrendered

- and provision of licences of the type being applied for is ‘inadequate’ in the vicinity of the proposed premises.

These negatively-framed provisions protect against poor management, dangerous buildings, criminal activity and (in theory) over-supply. However, as discussed above, they do not constitute a wider vision for what the objectives of licensing should be.

Despite case law addressing the definition of both adequacy and vicinity, there remains no simple legal definition of either (*Lidl v Winemark*, 2008). This allows for sometimes extensive legal debate and competing expert testimony and analysis centred on these points, both of which add significantly to the expense of making a licence application. The adequacy principle is based on the assumption that consumer demand can be estimated in advance. While case law provides instances of how different types of off-sales product lines can be distinguished, the legislation, especially in regard to on-sales premises, does not take clear account of demand for different types or styles of premises (e.g. wine bar; cocktail bar; music bar) because it judges ‘type’ of premises to mean the legal licence category i.e. pub or off-licence only. This makes it harder for the law and those tasked with implementing it to actively support increased diversity in the market.

#### *Objections and representations*

Currently, the police, the local authority, local residents and businesses may object to licence applications, but there is no explicit role for other relevant bodies such as the fire service, child protection, public health, environmental health and so forth, as in the systems used in both England/Wales and Scotland.

It is an essential feature of any licensing system that interested parties can object to applications, so long as those objections are reasonable, evidence-based and not vexatious. A recent 2022 report by the NI Assembly Communities Committee (2022, p.71) called for greater involvement of health authorities in the licensing process. We support this position, on the principle that health harms are a possible outcome of increased alcohol availability and, therefore, should be formally considered in the decision-making process.

The current objections system also creates a clear opportunity for established businesses to use legal means to restrict natural competition. For reasons discussed above, it also risks stifling innovation and diversity in the market. Licence holders are already significantly shielded from competition by the cap on outlet numbers created by the surrender principle. Allowing existing outlets to object on the criterion of adequacy only provides further protection from competition of a kind not afforded to other businesses. This system has also led to licence applicants paying incumbent businesses in order to result in objections being withdrawn, adding further (sometimes substantial) cost to the process of acquiring a new licence.

It is difficult to justify the continuation of a system that enables objections to be raised for the purpose of leveraging compensation payments. The licensing system in New Zealand was recently reformed to remove powers for local business to object to new licence applications on similar grounds. Section 10 of the New Zealand Sale and Supply of Alcohol (Community Participation) Amendment (2023) places new restrictions on the ability of trade competitors to object to licence applications, stating that ‘a trade competitor may object to an application only if the trade competitor is directly affected by the application in a way that does not relate to (i) trade competition; or (ii) the effects of trade competition.’

There is a strong case for reforming the system such that businesses can no longer object to potential competitors or seek to influence how ‘adequacy’ should be assessed by the courts in any given vicinity.

#### *Court processes*

In addition to concerns about consistency (section 6.4 above), stakeholders expressed frustration with the court processes required to apply for a licence, a licence variation or an occasional licence. For new applications, the process to get to the point of award sometimes took months, multiple adjournments, several hearings, and input from several different specialists and officials, with many people having to show up in person in court. This has at least two knock-on effects: additional expense, causing further barriers to entry for applicants; and increased delays, resulting in those trying to sell their licence having to trade part-time for lengthy periods, and in some cases the collapse of the option to purchase the surrendered licence. Despite these onerous and often costly procedures, almost all new licence applications and licence renewal applications are ultimately granted.

The system for making variations to a licence also often involved a court hearing, and any variations involving even small changes (reported both as 10% and 15% or more by stakeholders) in the size of the licensed premises were generally handled as a new licence application. We can see no clear benefit in requiring a new application for such small changes unless the variation is contentious. We heard of some uncontested minor variation applications being dealt with administratively, and this should be the norm.

#### *Costs of running the licensing system*

The licensing system grants permission to undertake the business of selling alcohol for profit, and therefore it is reasonable that those benefiting from the award of a licence pay for the costs of administering the system. We therefore believe that the additional costs associated with the reforms we propose here including the establishment of a Northern Ireland Licensing Authority should be covered by a system of fees and levies on licence holders as recommended below. In return, licensees should have access to clear guidance, advice and support from the NILA, which would reduce the time and expense of applying for a new licence, a variation, or an occasional licence.

## **Recommendations**

- 9. Only defined ‘responsible authorities’ and community members should be permitted to object to licence applications including variations, renewals or occasional licences.**
  - a. Responsible authorities should include public sector bodies with a legitimate interest in ensuring that licensed premises do not contribute to harm including police, health officials, the local council, the fire service or other relevant state authorities.
  - b. These authorities should be informed of licence applications in good time and be given at least 21 days to make a written representation or objection to the court. Their representation or objection should be considered by the court at a hearing regardless of whether they are available to attend, though they should have the option to do so.
  
- 10. Incumbent businesses, whether on- or off-trade retailers, distributors or producers, should not be allowed to object to licence applications, variations or renewals, even if they are community members.**

- a. Should an incumbent business wish to object to new licences they should be allowed to make any concerns known to responsible authorities, but not to object directly.

**11. The 'adequacy' criterion should be removed, along with any consideration of whether consumer demand is currently being met, and replaced with an area-based 'harm' criterion.**

- a. This new criterion should be designed such that a licence application is declined if it can be shown by an objecting party that there is already a high level of alcohol related harms in the area being served by the premises.

**12. The court service (in conjunction with the NILA if established) should review how all licence applications, variations and renewals are handled by courts across Northern Ireland, seeking to ensure consistency of decision-making and to minimise the time and expense involved for all parties.**

- a. Application guidance and forms should be clear and simple enough to enable a competent person to understand the process of applying for a licence or a licence variation without specialist legal advice.
- b. Applicants should be permitted to represent themselves, should they wish to do so.
- c. Matters such as fitness to trade, premises suitability, and relevant permissions should routinely be dealt with administratively in writing when considering a licence application, variation, or renewal, and confirmed as being in order in advance of any court hearing.
- d. Applications for occasional licences (Recommendations 21-26), minor variations, or renewals should generally be granted administratively, without a court hearing, if no party makes an objection.
- e. In the case of applications going to a court hearing, all parties should normally be expected to be ready to make their arguments at the first hearing, and courts should generally seek to make a final decision after one hearing, avoiding adjournments as much as possible.
- f. Written judgements on all licensing decisions should be made available to the public.

**13. The administration of the licensing system (including NILA, if established) should be self-funding via at no extra cost to taxpayers.**

Funding to cover costs could be achieved by, for example:

- a. Modest annual licence fees for all licence holders.
- b. More substantial one-off licence application fees for premises acquiring a licence through the Cultural Venues pool (see Recommendation 18)
- c. A levy on cost of licences purchased through the surrender system, ideally with the percentage levy rising in bands based on purchase price

## **6.7 The surrender principle**

- NI is losing pubs at a faster rate than any region in England & Wales, though the number of pubs per person has been high historically compared to Great Britain. The number of off-licences per person is rising, though remains lower in NI than Great Britain.
- The surrender principle, while protecting current licence holders, does not protect pubs as a sector: pubs are closing in all areas – urban, small towns and rural. For every pub that is surrendered to another pub, five are surrendered to an off-licence, most commonly small to medium sized grocers in small towns or rural areas.
- Overall availability per person has remained steady, because of increases in the numbers of other venues selling alcohol, especially restaurants.

- A licence is a permission to trade, granted to a business of behalf of the community. However, the surrender principle causes licences to act, and be traded, as private assets.
- The cost of acquiring a licence creates a significant barrier to entry for new operators, benefitting those with higher start-up capital or encouraging operators to take loans from producers that may be tied to supply agreements.
- There is no public register of prices paid for licences. This creates information gaps that may benefit sellers and mediators over buyers, and artificially inflate perceived and actual prices.
- Despite their high reported value, a number of licences – mostly pubs – simply expire over time without being sold.
- The assumed value of licences is viewed by many incumbents as key to either their current or future financial stability, and this is the primary reason given for opposing abolition of the surrender principle.
- While it protects incumbents, the current system requires reform to protect the pub/bar sector as a whole, prevent further rises in off-sales availability at the expense of pubs, and better meet consumer needs.

#### *Impact of current system on pub and off-licence numbers*

The surrender principle remains the most unusual, and contentious, aspect of the NI licensing system. It causes licences, which in other systems (such as Great Britain) are simply state permissions to trade, to act as private assets. Unlike other systems with licence caps, it is also not updated at regular intervals to account for population change. Nor does it differentiate between on- and off-sales, so it does not allow regulators to manage the cap on those outlet types differently.

The surrender principle is associated with a steep decline in the absolute number of pubs and the number of pubs per person in Northern Ireland. The closure of pubs is primarily due to lack of commercial viability and changing consumption trends: off-trade purchases of alcohol are generally rising while on-trade purchases are falling across the UK and Ireland. This mirrors patterns elsewhere. However, the unique feature of the surrender principle is that the ratio of pubs to off-licences is structurally bound together. In a market where off-sales licences are in greater demand, pubs that close and surrender their licence are more likely to surrender to an off-sales premises, and are much less likely to be replaced by other pubs. As we have demonstrated in our analysis of licence movement, off-sales licences are highly unlikely to be surrendered to pubs.

There is no evidence that the drift from pubs to off-licences is affecting rural pubs especially. Rather, we see pubs across NI closing and their licences, in the main, going to grocers in small towns or rural areas, often in service stations. On this measure, the surrender principle is not protecting pubs as a sector. Rather it means that recent growth in licensed grocer numbers comes directly at the expense of pubs.

Stakeholders told us that the primary reason for pubs closing is lack of viability, rather than the surrender principle per se, but we also visited and heard about unprofitable pubs staying open long-term but only operating a few days a week. Faced with a struggling business, owners have the choice of cutting their losses by surrendering and realising the value of their licence, or trading for minimum hours to sustain the licence as an asset to sell at a future date, perhaps when business conditions or licence prices improve.

Some pub licences expire through non-renewal, probably for diverse reasons, but it is a surprising phenomenon if licences are worth the amounts reported. It means that in addition to the drift in surrendered licences away from pubs, pub numbers are also reduced by expiration, and that there is a 'pool' of expired licences that have been lost to the system. New licences could be issued equivalent to the number of those that have expired, without increasing the ratio of pubs per population.

*Protecting incumbents whilst creating barriers to entry and diversity*

The surrender principle protects incumbent businesses from competition by creating high barriers to entry. This may prevent low-quality operators from entering the market, incentivise licence holders to ensure their businesses were well-run and/or protect against 'pubcos' entering the market. Northern Ireland certainly has fewer pubcos than Great Britain, though there are some 'multiples' and many tenanted pubs. Overall, there are many excellent, attractive and well-run pubs.

We visited and heard of some communities that have more premises than demand can reasonably support, many of which trade only 2 or 3 nights per week as a result. While struggling to survive economically, or even loss-making, such premises may remain open due to the legal requirement for a licence to be operating ('subsisting') in order to be sold. Conversely, it remains very difficult for new start-ups to test the market on a small scale with innovative offers. Considered as a sector, as distinct from a set of existing businesses, this is not a healthy state of affairs.

The high costs of entry, discussed previously, are associated with a monopolised supply of products to consumers, due to the relationship between loans to businesses and exclusive supply agreements. We cannot verify the scale or exact mechanism of this effect, but it was reported by stakeholders and members of the public across our data. It further points to a system that benefits incumbents (whether retailers or producers) at the expense of new entrants. The system therefore risks incentivising some actors to maintain the status quo in the interests of protecting the value of licences and reducing competition, rather than facilitating sector growth, consumer choice or diversification.

In the face of declining pub numbers, the state can either act to protect remaining incumbent licensees from competition or act to promote innovation and diversity across the sector as a whole. Without reform, the surrender principle does the former. The problems we have identified with the surrender principle and the outcomes to which it leads, are similar to those identified by other reviews over the preceding two decades. In 2004 the Liquor Review Team concluded that the surrender principle 'posed an unfair barrier to competition, by restricting access to the pub and off-licence trade to those who could afford the cost of a licence as well as normal business start-up costs and, reportedly, in some cases bribes to objectors [thereby] hampering economic growth by limiting diversity and expansion in the leisure and hospitality industry' (Department for Social Development, 2005). Subsequent reviews have come to similar conclusions.

While we understand the anxieties of existing operators, having reviewed the system thoroughly, we can only conclude that continuing with the current system without reform is not the best outcome for the pub/bar sector as a whole, as it limits expansion, choice and diversity.

*Value of licences*

The lack of transparency regarding the prices paid for licences produces information gaps around their true market value. Someone wanting to open a new premises in NI has no direct access to information on the availability or costs of licences or how this varies between locations. Unlike buying a house, they cannot compare the prices of past licences sold to determine what might constitute a good deal. This risks artificially increasing perceived and actual prices and creating benefits for sellers and sales agents at the expense of buyers.

It is entirely understandable that people who have paid significant sums of money to purchase a licence are anxious about that asset losing its value. Several of our participants told us that they had loans secured against it, or future financial plans that are dependent upon it. We also recognise that the value of licences represents a significant figure on balance sheets for holders of multiple licences. For many, these concerns were the primary justifications for keeping the surrender principle in place without reform – regardless of the negative effects it may have on the market. It was made clear to us that existing licence holders support retention of the surrender principle in its current form. We were also told on more than one occasion that any proposals to remove the surrender principle would likely lead to legal action. This reflects the strength of feeling within the trade and the determination with which those who have an interest in retaining the status quo may be expected to defend it. Clearly this represents a political challenge and an ethical dilemma for the government, and one that is not easily resolved.

We agree with the previous Grant Thornton Review (Grant Thornton, 2007) that it is not possible to robustly estimate the precise business impact of abolishing the surrender principle, because there is no directly comparable system. However, we do not believe this, by itself, constitutes a reason not to act either to reform, or replace the system, in the context of wider social, health and economic considerations. We also note that the Grant Thornton Review took the position that simple compensation would not be appropriate because the price of licences was a function of market conditions, and licences were not purchased with a fixed value. Legal advice beyond the scope of this review could guide the Minister on this.

By way of comparison (albeit from a completely separate judicial system), there was a lengthy legal challenge to the liberalisation of taxi licensing in Dublin in 2000, in which taxi licence holders claimed compensation for the loss of value of their licences as a result of deregulation on a number of grounds. The Irish Court of Appeals ruled<sup>3</sup> that incumbent licence holders were not entitled to compensation, because they were not prevented from trading as a result of the reforms and so retained their rights to earn a livelihood, and that it is inherent in the nature of a licence that the value may change following future regulation.

*Addressing the drift from pubs to off-sales*

It is in the interests of the wider pub sector as well as health and economic outcomes as outlined above in section 6.3 and Chapter 3 for the continuing drift from pubs to off-sales to be stemmed. The most direct way to achieve this, short of introducing a new licensing system, is by amending the surrender principle such that pub (5(1)(a)) licences can only be surrendered to

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<sup>3</sup> The judgement states that “it is inherent in the nature of a licence that the property rights arising in licences created by law are subject to the conditions created by law and to an implied condition that the law may change those conditions. There is no property right in the value of the licence and therefore a regulation which has the effect of devaluing the licence does not interfere with any property right in the licence.”

other 5(1)(a) premises, while allowing off-sales (5(1)(b)) licences to be surrendered to premises of either category. This would prevent further rises in off-licence numbers and potentially lower the cost of licences for new pub entrants to the market. This would likely reduce the value of pub licences, as current demand for pub licences is predominantly from off-trade premises, whilst simultaneously increasing the value of existing off-licences which would now be the only source of licences for new off-sales premises. We discuss ways to mitigate these effects below.

#### *Addressing impacts on incumbent pub licence holders*

Currently, the licensing system protects incumbents in three ways: it places a cap on the overall number of (potentially competing) outlets; it creates a market value for the licences held; and it enables businesses to lodge objections to new outlets in their vicinity on the grounds of adequacy. While the reforms we propose (including preventing pub licences from being purchased by off-sales venues) or the new system described below, would retain a cap on overall numbers, they would remove or reduce the latter two of these protections, exposing existing licence holders to a greater degree of market forces of supply and demand. They would also likely increase the value of existing off-licences, benefiting incumbent off-licence holders. On the surface, this seems unfair, even if it is a consequence of greater market demand for off-licences than on-licences. Reductions in the value of pub licences may be offset by lower barriers to entry through reforms we suggest elsewhere (e.g. Recommendations 2, 10, and 12), while increases in the value of off-licences could be mitigated by levies to help fund a more accessible and streamlined system for all licensees (Recommendation 13c). We also suggest ways to avoid overly benefiting incumbent off-licence holders below, even as the overall balance of effects of the reforms on values is hard to predict (Recommendation 16). Nonetheless, we present options in Recommendation 15 below for mitigating the impact on current pub licence holders should on-licence values fall significantly while off-licence values rise.

We are mindful that incumbent pub licence holders may feel they have a legal or moral claim to compensation if a change in the law were to reduce the value of their licences. There are three views which could be taken here, and a final decision would of course have to weigh up the costs to public finances against any arguments for compensation:

- a) that any loss of licence value is not protected by law or principle and, therefore, no compensation is due;
- b) that compensation should be paid to all pub licence holders;
- c) that a transitional 'buy-back' scheme be put in place, under which incumbents can sell their licence to the government at the market rate (to be assessed independently) within a limited time period.

Option a), even if found to be legally sound, risks underplaying the significant financial impact reform could have on business holders, especially those who have planned near-term finances on the expectation that they can sell their licence as a valuable asset. Option b) risks giving payments to operators who, in reality have no intention of selling in the near future and / or for whom the licence value is not fundamental to their business value or planning. We view option c) as the best transitional compromise because it would allow those who had hoped to sell their licence to do so, while resetting the system in an equitable way for those who wish to remain in businesses.

## Recommendations

**14. Steps should be taken to prevent further replacement of pubs with off-licences, either by the following reform or through the introduction of a new licensing system as outlined in Section 6.10 below.**

- a. Amend legislation so that 5(1)(a) licences can only be surrendered to 5(1)(a) licences, and clarify that 5(1)(b) licences can be surrendered to either 5(1)(a) or 5(1)(b).
- b. Ensure that any newly purchased 5(1)(a) licences must only be used primarily as pubs (for example, with a cap on the proportion of alcohol sales which can be used for off-premises consumption). This would not affect existing pubs with substantial off-sales business.

**15. To mitigate potential inequities or other negative effects of Recommendation 14 on incumbent pub licence holders, consider introduction of a time-limited buy-back scheme for 5(1)(a) licences.**

This would require:

- a. A robust estimation of the current market value of licences based on a comprehensive review of recent prices and trends
- b. Establishment of a buy-back scheme under which, for a fixed time period, existing 5(1)(a) licence holders have the option of surrendering their licence to the DfC (or NILA, if established) in exchange for payment at the determined market value. The price should be the same for all, and informed by the assessment of licence value and any cap on total public funding made available for this purpose.
- c. All buy-back licences should enter a pool of available licences, which can be re-issued as non-resaleable licences of the same type.
- d. Businesses that sell their licence back should be disbarred from applying for new licences for a fixed period.

**16. Place a cap on the value at which licences can be sold following reform to avoid inflation of off-licence prices.**

**17. As a minimum (should more substantial reforms not be taken forward, or in the interim period ahead of such reforms) the following requirements concerning sale of licences should be introduced:**

- a. All 5 (1)(a) and 5(1)(b) licences available for sale not as part of a going concern should be listed on a single, publicly accessible website, with an indicative price range and contact details for the licence holder or their representative (estate agent/lawyer). This would not preclude advertisement elsewhere.
- b. Option to purchase agreements only to be entered into for an available licence if that licence has been advertised for a fixed minimum period immediately prior to the agreement.
- c. Prices paid for surrendered 5(1)(a) and 5(1)(b) licences should be recorded on the licence and a publicly accessible online register.

## 6.8 Impacts on diversity and innovation

- The current licensing system creates barriers to diversification and innovation in terms of both 1) the range of alcoholic products available to consumers, and 2) the types of venues licensed to retail alcohol for consumption on the premises.

- The retail market for beer is dominated by a small number of non-NI based producers who often establish restrictive supply agreements. This appears to be exacerbated by the barriers to entry caused by the current system.
- While a proportion of pubs are managed by tenant landlords, it is not clear how free they are to enter less restrictive supply agreements.
- Independent producers struggle for market access and do not feel the producer's licence has resolved the challenges they face.
- The latent demand for craft beers and ciders cannot be tested while high barriers to market access remain in place.
- There is a relative lack of nightclubs; licensed music, performance and cultural venues; and smaller niche venues across NI, which is exacerbated by high barriers to entry.

#### *Diversity of product range*

The challenges facing independent producers in accessing the NI market have been a concern for several years. It is clearly the case that the supply of beer in Northern Ireland is limited by comparison to England, Wales and Scotland, and that it is dominated by a small number of multinational producers based outside of NI. Many retailers told us that they view craft and independent products as a niche (and therefore, unviable) market, whether because of taste or cost. However producers (and some retailers) said this was because barriers to entry prevented the development of a wider market. That is to say, it remains unclear whether the small consumer base is due to untapped latent demand, currently suppressed because supply is monopolised by large producers, or to a distinctive 'taste profile' that means NI consumers are not likely to adopt a taste for craft beer styles to the extent seen in other countries. This cannot currently be tested because of market barriers.

We recognise that there are persistent deep divisions on the issue of producer's licences and note that it was one of the main issues on which the Committee for Communities could not reach unanimity in its deliberations ahead of the 2021 Act (Committee for Communities, 2022, p.6). The new provisions have only had a small amount of time to bed in, so we need to be cautious in interpreting trends. However, it would appear from both the numbers of licences taken out and the views expressed by our participants that while the producer's licence has some value for distillers, it has made little impact on the ability of local brewers to overcome the challenges in getting their products to market.

Various proposals were suggested to us, ranging from making the producer's licence less restrictive, to introducing requirements for pubs to stock independent guest products (not just alternative beer styles produced by large brewers or their subsidiaries), to abolishing the surrender principle and introducing a Great Britain-style system. Historically in England and Wales, and currently in Scotland, governments have intervened to support access and increase consumer choice, through, for example, guest tap requirements even as, due to the more liberal regimes in place, it is relatively easy and inexpensive for brewers to obtain a licence for a taproom (Spicer et al., 2013).

#### *Diversity of venue type*

We heard, and observed, that there was a relative lack of diversity in terms of venue types across NI: this included nightclubs, music venues, cocktail bars, micropubs, and other venue types that are more common in parts of Great Britain, especially in major cities. The challenges faced by people hoping to open such venues are not all directly attributable to the licensing system. Both nightclubs and live music venues are closing in significant numbers across the

United Kingdom, and we heard that touring artists would sometimes not visit Northern Ireland for a range of logistical reasons. Given their heritage, Belfast and Derry/Londonderry should aspire to being internationally significant centres of cultural activity, but they are also relatively small cities whose capacity for developing vibrant night-time economies is unavoidably constrained.

It is clear to us, however, that the current licensing system exacerbates the challenges faced by music and performance venues such that the establishment of a diverse and vibrant cultural night-time scene in Northern Ireland faces barriers above and beyond those faced in comparable places in Great Britain. The argument was put to us, therefore, that if there is an ambition for Northern Ireland to cultivate and retain local cultural talent, to attract more artists based elsewhere, improve its tourist offer, promote the retention of students after completion of their studies, and to provide more diverse options for consumers, then the licensing system needs to adapt in ways that can proactively support such enterprises.

Creating innovative and experimental new performance venues is very difficult when acquiring an on-trade licence is such an expensive, and therefore ‘high stakes’ risk. While acquisition of an entertainment licence allows for providing music or performances, the reality for cultural venues is that attempting to operate without a bar is very difficult – both in terms of income-generation on the night and attracting audiences in the first place. A number of performance venues operate under licences for places of public entertainment [5(1)(h)], but operating hours for these are very limited, and they do not allow for occasional licences which are often useful for putting on special events. Some promoters of electronic music also argued that to match the expectations of both artists and clubbers, especially those who are familiar with the club scene in Great Britain and elsewhere, venues need to have the option to stay open beyond 3am. Licensing legislation in Scotland does not distinguish between premises types, but the City of Glasgow Licensing Board (2023) have developed a definition of a nightclub which has allowed them to apply different rules to nightclubs than other on-trade premises. Their policy ensures that only venues that meet certain criteria can be awarded the opening hours of a nightclub (section 5.6.2 of the policy), and the latest hours are only available to premises which meet other conditions relating to customer safety, staff training, CCTV cameras etc. (section 5.6.1).

In our reform recommendations below, we propose a system by which expired licences can be awarded to new premises which meet specific consumer needs or add to the diversity of premises. This would go some way to improving diversity in the on-trade sector as discussed here and throughout this review, but without adding significantly to the total number of licensed premises in Northern Ireland. It therefore allows for new entrants but without increasing the overall availability of alcohol in Northern Ireland or resulting in a ‘free for all’ in terms of access to licences. The relative change in on-trade outlets that would result is likely to have negligible impacts on alcohol-related harm (section 5.3 above).

See also Recommendations 21 and 22 below regarding diversifying access to occasional licences.

## Recommendations

### **18. Establish a system to award non-sellable, non-transferable ‘Cultural Venue’ licences should be created, prioritising businesses that would increase the diversity of venue types and / or promote cultural activities.**

We propose the following mechanisms for achieving this:

- a. Establish a Northern Ireland Licensing Authority (NILA), as outlined in Recommendation 2 above, to administer the system with powers to grant in-principle Cultural Venue licences.
- b. Create a pool of available licences equivalent to the number of licences known to have expired since 2012. This will establish the upper limit of such licences to be awarded. Any 5(1)(a) or 5(1)(b) licences that subsequently expire should be added to the pool
- c. Establish a tendering process for the acquisition of these licences which prioritises applications from:
  - i. new entrants, small to medium enterprises, and start-ups;
  - ii. independent, local owners with local suppliers;
  - iii. applicants whose operating plan clearly offers increased diversification in terms of stock, style, activities, size of premises etc.;
  - iv. applications offering artistic and cultural benefits to the wider community.
- d. Check and approve the fitness of the applicant to hold the proposed licence as part of this application stage.
- e. Grant successful tenderers an in-principle licence which would allow them to apply for a full licence at the relevant local court. The court should only assess the application on the remaining relevant criteria of permissions, safety (see Recommendation 12) – and harm (Recommendation 10) and licensing objectives (Recommendation 1) if introduced.
- f. Enable the NILA to set conditions on licences approved, which are to be followed on final approval.
- g. Empower the court to award permission to trade outside of current fixed opening times to specific premises holding these licences, where a compelling case is made.
- h. If a business closes, the licence must return to the NILA for reissue using the same process above.

**19. Revise the provisions of the producer’s licence to allow longer opening hours over more days per year.**

- a. Any revisions to operating hours should ensure such outlets do not act in all other respects as pubs.
- b. The Department for Communities (or NILA, if established) should retain the ability to monitor outcomes and introduce restrictions should concerns arise about overall numbers of such licences or any associated harms.

**20. Greater diversity of supply, specifically independent and locally-produced products, should be encouraged in on-trade venues.**

This could be achieved by, for example:

- a. Introducing new regulations to require pubs over a fixed size to provide a guest beer tap serving products produced in Northern Ireland from independently-owned Northern Ireland-based producers brewing below a set capacity.
- b. Introducing measures to prevent large producers from using supply agreements to block the sale of locally-produced products in pubs.

## **6.9 Occasional licences**

- The system for obtaining an occasional licence in Northern Ireland is seen by many as unfit for purpose, with regulators reporting abuse and inconsistency of decision-making, and applicants reporting that it was unnecessarily bureaucratic.
- Police tasked with inputting to occasional licence decisions reported regularly being given inadequate notice to fulfil their role.

- A lack of police capacity and power to effectively interpret and/or enforce the law compounds these issues.
- The current requirement that only the holder of a premises licence can obtain an occasional licence further privileges those businesses who already benefit from the restrictive nature of the NI system under the surrender principle and as such poses a further barrier to entry.
- The purpose of occasional licences in Northern Ireland is currently narrow, and demand for occasional licences goes beyond what is currently permitted under the law.

#### *Alternative systems for occasional licences*

In Scotland, unlike Northern Ireland, representatives of a ‘voluntary organisation’ may apply for an occasional licence, where the application relates to an event taking place in connection with the voluntary organisation’s activities, but without needing a current licence holder to run the event on their behalf. Also, a licensed Private Members Club (like Northern Ireland’s ‘registered clubs’) can also apply for an occasional licence if they intend to provide a function or event that is open to non-members. In Glasgow City, for example, 3,000 occasional licence applications are processed annually and applications are required 7 weeks in advance of the proposed event (Glasgow City Council, 2024). Once an application has been received copies are sent to Police Scotland, and the Council’s Licensing Standards Officer. Both have 21 days in which they may respond to the Licensing Board. Details of the application are also published online for a period of 7 days. Any person can submit an objection or representation to the Board during the 7-day objection period.

In England, there are no restrictions on who can apply for, or events that can be awarded, the equivalent of an occasional licence, known as a ‘Temporary Event Notice’ (TEN) (though applicants must be over 18 years old). Ten days’ notice is required in England to apply for a ‘Temporary Event Notice’, or a minimum of 5 days for a ‘Late TEN’. Only the police or environmental health can object to a TENS in England. If they object to a Late TEN, the notice will be considered invalid and the event cannot be held (HM Government, 2024).

Under both systems, objections can be on any grounds regarding the licensing objectives (see section 6.2). In England, a TEN is automatically granted if there are no objections; in Scotland, the local Licensing Board considers all applications, though in practice, an application is routinely granted if no objections are received. Under both systems there are also some restrictions on the duration and number of occasional licences that can be granted. In England, each event can last no more than 168 hours (7 days), individuals without a personal licence to sell alcohol can get up to 5 TENS a year, and a single premises can have up to 15 TENS in a year, as long as the total length of the events is no more than 21 days. Separate but consecutive events must have at least a 24 hour gap between them.

#### *Implications of occasional licence system for Northern Ireland*

Given the highly restrictive nature of Northern Ireland’s current licensing system, with a cap on pub licences established through the surrender principle, one way to address barriers to entry created by this system would be to make cultural/community groups eligible to apply for an occasional licence independently of an existing licensed premises. This would likely expand the number of such events, with concomitant risks (for public health and children) but with potential benefits (for businesses and communities) including greater access to market for local products and offering a means for people to gain experience of running events selling alcohol, including testing market demand and brand building, to better prepare them should they apply for a premises licence in future. However, occasional licences should not be used to

circumvent existing licensing legislation such as by allowing an otherwise unlicensed venue to open regularly over a whole summer; or a licensed venue to routinely extend its licensed operating hours or area at weekends). In these cases, premises should have to apply for a licence or to vary their licence through the premises licensing system and not be permitted to utilise occasional licences.

## Recommendations

- 21. Expand eligibility for occasional licences to individuals who do not currently have a premises licence, but who meet the existing criterion of being a representative of “any body established for social, charitable or benevolent purposes or for furthering the common interests of persons associated with any trade, profession, educational or cultural activity, game or sport”.**
  - a. The application must relate to an event taking place in connection with the activities of the eligible body, and alcohol must be ancillary to the main activity.
  - b. Later opening hours may be permitted, where the court sees fit, where appropriate to the entertainment being provided, if there is no objection by responsible authorities (Recommendation 9).
  - c. This reform should only be introduced in the context of a clear system for objectives (as per Recommendation 1). Award of licences should be subject to an area-based harm criterion (Recommendation 11) and reform of the system of objections (Recommendation 9 and 10).
- 22. Holders of a producer’s licence should be able to apply independently for a limited number of occasional licences for events where only locally-produced products are supplied (such as small beer, cider or spirits festivals).**
- 23. Reform the timeline for occasional licence applications.**
  - a. Applications should be submitted by a set period in advance of events (e.g. at least 4 weeks), without exception.
  - b. All responsible authorities should be notified of occasional licence applications as soon as possible and given a minimum period of 14 days, again without exception, during which they may make a representation or objection to the court.
- 24. Reduce the number and duration of occasional licences which can be applied for by a single applicant and establish a legal principle that occasional licences cannot be used to circumvent premises licensing by creating an extended increase in the availability of alcohol in a given area or premises.**
- 25. The process for applying for and granting an occasional licence should be simplified to enable most applicants to apply themselves and should (subject to Recommendation 23 being put in place) generally be dealt with administratively, without a court hearing or specialist input, unless objections are raised.**
  - a. Guidance should be made available to enable this as per Recommendation 12.
- 26. Standard conditions that apply to all occasional licences should be developed as well as a Northern Ireland-wide set of optional conditions which courts could apply as they see fit and/or at the behest of responsible authorities.**

## 6.10 A new licensing system for Northern Ireland: Outline framework

It is our view that addressing the adverse and unintended consequences of the current licensing system in Northern Ireland, while maintaining the principle of a cap on overall outlet numbers, could be achieved through the wholesale design of a new licensing system. However, we recognise that designing an entirely new licensing system is a significant undertaking, and would require sustained political commitment, civil servant capacity and extensive consultation, to ensure its principles, objectives and mechanisms were practical, fair and reflected the aspirations and priorities of the people of Northern Ireland.

We present a framework below that we propose could underpin an alternative regime that addresses the issues we have identified. Many of the elements here are also included in our more immediate recommendations above, but with the substantial difference that this proposal includes the complete abolition of the surrender principle, and its replacement with a different system for limiting availability.

A further advantage of a new system would be the ability to address the inefficiency created by having both an entertainment licence system and a liquor licensing system, managed by different regulatory authorities, working to different timelines, and differing in regard to key features such as the addition of conditions. In England and Scotland, the systems are effectively merged so that the liquor licensing system takes account of all the issues that are currently the concern of the entertainment licensing system in Northern Ireland. This better reflects the fact that in a very large number of businesses the sale of alcohol and the provision of entertainment go hand in hand. Considering the need for efficient use of public sector resources and the small population and size of Northern Ireland, and that the system risks creating a further barrier to entry in terms of cost, expertise and bureaucracy for many people wishing to establish a licensed premises, we believe better alignment between the two systems needs to be considered. We therefore include this measure in our recommendations for a new system here.

In the interests of brevity, we do not reiterate the detail of our earlier recommendations here, however, to fully understand the different elements below, we include reference to the most similar recommendation made earlier as 'R1', 'R2' etc.

- a) Establish new objectives for the new licensing system (R1)
- b) Establish a Northern Ireland Licensing Authority to oversee the operation of the system (with the same broad functions as outlined above in R2); establish caps on premises numbers (Section 5.1); and administer initial applications ahead of final decisions to be made by local authorities (either the courts or local councils).
- c) Replace the surrender principle with a per population cap on licensed outlets by type.
- d) Carry out a detailed review of the systems described in Section 5.1 of the full report in order to adopt a model of per capita limit or 'cap' that is responsive to changes in population numbers, and better able to regulate numbers of outlets by type.
- e) Introduce a time-limited buy-back scheme under which all licence holders can sell their subsisting licence to the NILA at a price determined by a careful estimation of true value (R15).
- f) After this period all remaining licences would no longer be permitted to be sold.
- g) Abolish the concept of 'adequacy' as based on a prior estimation of consumer demand. Instead, establish per capita 'caps' on the basis of harm prevention. (R11)

- h) Licences sold to the NILA under the buy-back scheme should enter a 'pool' of licences available for reissue using an application system (e.g. R18), subject to any cap. Businesses that sell their licence back should be disbarred from applying for new licences for a fixed period.
- i) Decisions on applications for a licence from the pool and grounds for objection should be guided by the licensing objectives. Potentially competing businesses or their representatives should not be allowed to object to a licence application (R10).
- j) Additional licences should be issued via the pool, on successful application, if needed to reach the maximum per population cap on the number of licences in each category. This should be assessed annually, based on full and independently-reviewed impact assessment, including consideration of health and social outcomes. If the population falls, the number of expired licences that enter the pool for re-issue should be adjusted accordingly to reduce the number of premises in line with the caps.
- k) As a minimum, separate caps should be established for on- and off-trade licences to reflect the different risks and benefits of the two types of retail (R14). Caps for different types of on-trade licences could be considered if this would promote the licensing objectives (R1). The caps on the number of licences to be permitted under a new system should be determined on the basis of the licensing objectives.
- l) To prevent further increases in alcohol-related harms in Northern Ireland, the overall number of off-licences per capita should not be substantially higher than is currently the case. To reflect the past loss of licences to expiration and to support innovation and diversity while protecting against harms, on-licence numbers could be increased by a small amount without significant harm. (See section 5.3, 6.3, 6.7, 6.8, and R14, R18)
- m) Secondary sale of licences issued under this system should not be permitted. Licences should be attached to premises and transfers permitted only to a new owner of the premises. When the sale of alcohol ceases to be carried on from a licensed premises, that licence should expire and the licence should return to the pool, for re-issue if appropriate as per (j) above.
- n) Merge liquor and entertainment licences such that the liquor licensing system considers all of the issues currently covered by entertainment licensing (but retain entertainment licences for premises not selling alcohol, and do not subject these to a cap).
- o) Make the inclusion of conditions on pub and off-sales licences a standard requirement and consider the creation of mandatory conditions covering key issues, for example, promotions and price offers.

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