

# DUBLIN 15 COMMUNITY COUNCIL

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By e-mailed to

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Secretary,

Government Alcohol Advisory Group,

5th Floor, Block 1, Irish Life Centre,

Lower Abbey Street,

Dublin 1

27 January 2008

Dear Sirs,

On behalf of DUBLIN 15 COMMUNITY COUNCIL I wish to make the following observations to the Government Alcohol Advisory Group

The Government Alcohol Advisory Group is examining the following matters:

- The increase in the number of supermarkets, convenience stores and petrol stations with off-licenses and the manner and conditions of sale of alcohol products in such outlets, including below unit-cost selling and special promotions;
- The increasing number of special exemption orders which permit longer opening hours which are being obtained by licensed premises around the country; and
- The use, adequacy and effectiveness of existing sanctions and penalties, particularly those directed towards combating excessive and under-age alcohol consumption.

Submissions on the above matters were invited from interested parties and the general public.

Attached are our observations

## 1. Introduction

The Dublin 15 Community Council was formed 15 years ago (merging the Castleknock & Blanchardstown community councils which date from the early 1970's) to provide an umbrella organisation for the many residents and voluntary community groups in the Dublin 15 area. The Dublin 15 Community Council also represents the Castaheany and Ongar area, through the affiliated Castaheany Ongar Community Council.

Our main objective is to develop the consensus views of the Dublin 15 community in matters relating to Planning & Development, Public Transport, Environment, Education, Health Care, Policing, Job Creation, Recreational Facilities, General Infrastructure and Tourist facilities. Having developed the consensus, make representation to State and other Statutory Bodies through a wide variety of communication channels, with the aim of improving the quality of life for the residents of Dublin 15.

Residents Associations and Community groups focus on their own specific areas but often feel powerless to influence the big issues like transport, educational, recreational & sporting infrastructure or crime prevention. The Community Council provides a forum to discuss these issues and potential solutions.

## 2. The extent of the problem.

Under age consumption of Alcohol existed as a problem in Ireland for some considerable time. It was constrained by attitudes in society, availability of funds and access to outlets.

The previous 10 years has seen an unprecedented increase in prosperity in Ireland and in rapidly expanding areas like Dublin 15. Employment has risen with increased participation in the Labour force of full time second level students (on a part time basis). Increasing disposable incomes for teenagers and a lack of "alcohol free" entertainment venues has contributed to the prevalence of "cider parties" in public open spaces in urban areas.

### 2.1 Below cost selling not the real issue

Walking around the public open spaces in Castleknock, and other areas of Dublin 15 on a Saturday or Sunday morning, the "cider parties" selection of beverage of choice is evident in the empty alcohol containers discarded on the public open spaces. These empty alcohol containers are generally premium product not "low cost brands".

An example is the public open space in Carpenterstown where the open space is cleared by volunteers from Castleknock Hurling & Football club before they can run their nursery section for children aged 4 to 8. The selection of beverages are premium products that are stocked in the adjacent off license and convenience store (neither of which appear to engage in below cost selling).

2.2 The problem is the easy availability of alcohol for sale off the premises, leading to consumption in public places and anti social problems.

This is illustrated in the case reported in the Irish Times Friday, November 10, 2006

*An off-licence which sold alcoholic drink to two 15-year-olds on Junior Cert results night was yesterday ordered to close for two hours. Kingsbrook Investments, trading as Spar supermarket, Carpenterstown Road, Castleknock, Dublin, pleaded guilty to selling to minors on September 14th, 2005. Dublin District Court heard two girls, aged 15, bought two bottles of vodka. They provided ID but it was not checked, Garda Kevin Flatley said. The girls were among a large group of Junior Cert students getting on buses in the car park attached to the supermarket.*

*Judge John O'Neill initially imposed a fine of just €100. But this was recalled later yesterday afternoon after it was discovered there was a mandatory closure order in all cases involving serving underage people.*

*Judge O'Neill noted he had not been informed when it was first called that it was the night of Junior Cert results "when everybody is put on notice (about underage drinking)." He ordered that the two-hour closure order come into effect on Saturday, December 9th at 2pm. The fine of €100 also stood and he did not endorse the licence.*

The facts of this case illustrate some key points:

- ❑ Strong spirits were sold to teenagers aged 15 on the night the Junior Cert results were announced.
- ❑ Management supervision was inadequate.
- ❑ The impact of a successful prosecution was a fine of €100 and a closure order preventing the sale of alcohol only (the Spar was permitted to carry on all normal trade other than the sale of alcohol).
- ❑ The closure order from 2 – 4 pm on a Saturday would have minimal impact on the turnover of alcoholic products.
- ❑ The issue was not considered significant enough to endorse the licence.

### 2.3 The fines and closure orders currently operated are no deterrent.

In the case outlined above, we can contrast the operation of a well run off-licence less than 1 mile away. That night in anticipation of demand from students celebrating the results of their junior cert results, the off license employed a private detective to monitor the car park and ensure

- “under age” teenagers did not get access to the premise
- patrons over the age of 18 did not procure alcohol for “under age” teenagers

Contrasting the operation of the Spar and the well run off-license, the cost of compliance (private detective, etc...) are far greater than the cost of fines & closure orders resulting from a successful prosecution.

If the current situation with the use, adequacy and effectiveness of existing sanctions and penalties, particularly those directed towards combating under-age alcohol consumption, the sanctions and penalties of a successful prosecution has got to greatly exceed the cost of compliance with the legislation.

### 2.4 Difficulty in citizens reporting problem.

There is poor awareness in the community of how to report incidents of under-age alcohol consumption.

Even when the incidents of under-age alcohol purchase is witnessed, the nature of the transaction is that the purchaser will have left the premises within a short length of time.

When an under-age person is caught in possession of Alcohol, there is little proof to relate the purchaser to the premises where the Alcohol is purchased. Again taking the example highlighted earlier, it is the practise of the Spar not to issue receipts to the customer unless explicitly requested. A successful prosecution requires a member of the public to witness the transaction, report the transaction to the Gardai, wait on the premises for the Gardai to arrive, identify the people involved and take time off to attend the Court as a witness for the prosecution.

Given this scenario it is little surprise that the weekly occurrence of a “cider party” in the public open space 100m from the Spar in Carpenterstown continues.

## 2.5 Apparent lack of enthusiasm to address issue.

As is normal in 21st century Ireland the effectiveness of institutions are measured with critical success indicators. The Gardai are no exception. With Murders, gang land organised crime, drugs and other serious crime dominating the national and local media, the visibility of the issue of combating excessive and under-age alcohol consumption is low.

Community policing is often the lowest priority.

We know that Alcohol is a behavioral altering substance and as such its consumption is regulated. Focusing on combating excessive and under-age alcohol consumption is a proactive policing measure that will divert young people from anti social activities.

## 3. Our recommendations

We propose that the existing sanctions and penalties be updated to ensure that the monetary value of fines & closure orders resulting from a successful prosecution significantly exceed the costs of compliance. Specifically:

3.1 There should be two offences involved when a case of underage drinking is disclosed.

- (1) Fine on conviction for the underage person €500 min.
- (2) Fine on conviction of the parents of the offender €1000 min. or 3 months imprisonment on default

Effectively giving the parents the ultimate responsibility.

3.2 All premises convicted of selling alcohol to underage persons fine €20,000 min. and or 1 year imprisonment.

Value of fines to be escalated in line with the increase in consumer price index.

3.3 Closure orders should relate to the entire premises

For a deterrent to be meaningful the closure order should apply to the premises selling the alcohol product and not just the sale of alcohol. This would also introduce a level playing field between the business solely dependent on the sale of alcohol and the supermarkets, convenience stores and petrol stations with off-licenses.

3.4 A press release issued by the Dept. of Justice to all national / local media of premises convicted of selling alcohol to underage persons.e.g. similar to what the Office of the Revenue Commissioners issue in relation to Tax defaulters.

3.5 A website containing premises convicted of selling alcohol to underage persons.

3.6 Make age identification a requirement to purchase.

Consider rising the age at which it is legal to purchase alcohol for consumption off the premises to 21, while retaining the minimum age for consumption in public houses at 18. This ensures that young people's introduction to alcohol consumption is done under the supervision of bar staff who have the education, experience and qualification to manage this situation.

The current de-facto situation is that young people's introduction to alcohol is in public open spaces or in "free houses" where there is no responsible supervision, leading to excessive alcohol consumption.

Introduce the requirement of all citizens to produce identification with date of birth prior to purchasing alcohol. Where this is deemed impractical, place a cut off at persons who appear to be aged 50+.

3.7 Barcode all alcohol products with small batch numbers to identify outlets where people are purchasing alcohol for consumption in public places, so that enforcement can be targeted.

The location of "Cider party" sites are known to the local authorities as they have to deal with the subsequent litter problem. There needs to be an effective method of linking the empty alcohol containers with the outlet that sold the alcohol. All alcohol products have batch numbers as a quality control measure. If the batch size can be reduced so that a specific outlet can be identified, it will permit targeted Garda resources to address the problem.

### 3.8 Make the CCTV of all cash registers selling alcohol products mandatory.

A CCTV of all cash registers selling alcohol products would ensure compliance with a requirement to check the age of all purchasers. A necessary measure is the retention of data. Modern digital CCTV systems make the computerized storage of all images for 30 days a relatively low cost measure.

Systems would need to be in place so that an investigating Guard could have access to the CCTV recordings prior to the data being overwritten. Also measures to obtain evidence of an offence of selling alcohol to under age purchasers.

### 3.9 Stop targeting of indirect alcohol advertising at young people

Existing codes prevent young people featuring in advertisements for alcoholic products. However young people are targeted through sponsorship of sports (clubs, events, etc.).

Taking effective measures in a media market like Ireland where offshore media have such a significant market share is difficult. A direct ban will require coordinated efforts at European level.

Consideration should be given to the indirect pressure the state can apply to sporting organisations. All sporting organisations rely on government grants; these could be conditional on putting effective measures to prevent indirect alcohol advertising at young people.

### 3.10 Below cost selling

As argued above, below cost selling is not a driver from a consumer behavior to encourage excessive and under-age alcohol consumption. A legitimate concern is that by driving the margins down, retail outlets would be forced to abandon the necessary controls in order to remain competitive.

Any proposal to restrict below cost selling must be accompanied with improved compliance in retail outlets and realistic sanctions and penalties.

We are available to discuss further any of the issues raised in our submission.

Yours sincerely,

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Dublin 15 Community Council