

EMBARGOED UNTIL 2.30PM, 5 MAY 2010

**ALCOHOL IN OUR LIVES:
CURBING THE HARM**

**A report back on alcohol to the
Otago Community**

**Otago Music and Arts Centre
Otago, Dunedin City**

5 May 2010

**Rt Hon Sir Geoffrey Palmer SC
President
Law Commission**

Introduction

One of the many challenges the people of Otara delivered the Law Commission at our meeting last August, was to come back.

You said to us: “it’s all very fine to come and consult with us, but then you people go back to Wellington and we never hear from you again.”

Well, today we are back. And we are grateful for the opportunity to talk with you again.

We are here to report to you on our review of New Zealand’s alcohol laws. A review which has taken nearly two years and has involved 14 government departments: a review which has taken us from the far north to the deep south as we attempted to come to grips with the problems associated with New Zealand’s drinking culture and to assess the adequacy of the current law as a tool for curbing the harms associated with that culture.

With ALAC’s invaluable assistance, we were able to engage with a very diverse range of people and communities.

Our meeting in this hall last August drew over 100 concerned citizens and had a profound impact on the Commission staff who attended.

In the months following, I frequently quoted some of the stories and pleas that were voiced during that meeting.

Comments such as “Alcohol is destroying our community”

“We need to get it out of our faces”

“People are crying out for action, now!”

A number of things stand out in my mind from that first meeting:

- your passion for, and commitment to, your community;
- your conviction that saturating your community with alcohol was having a profoundly negative effect on your young people and your families; and

- your anger and frustration at being unable to influence how alcohol is sold and promoted on your own backdoor step.

As you will read in Chapter 1 of our report, similar sentiments were expressed by communities all around the country, from rural Canterbury to Porirua, to Whangarei.

But there were few places that matched the sense of urgency that the people of Otara managed to communicate to us in the few hours we spent with you last year.

You also sent us away with a very clear sense of your priorities around alcohol.

These were:

- the need for your voices to be heard in decisions about how alcohol is sold;
- a desire to see alcohol advertising, sponsorship and promotion banned;
- the need to tackle the availability of alcohol and in particular the issues arising from the proliferation of liquor outlets in your community; and
- the need to strengthen and support the role of parents as first teachers and role models around alcohol use.

Each of these issues is considered in some depth in our final report.

Availability

The availability of alcohol, and in particular the ways in which the density of alcohol outlets impacts on different communities, is examined in great detail in Chapter 6 of our report.

The very significant study on outlet density in Manukau, carried out by researchers from the Waikato University and sponsored by ALAC, provides powerful evidence in support of the views you expressed to us about the link between liquor outlets and a wide range of harms.

Researchers found that off-licence outlets in Manukau tended to locate in areas of high social deprivation and high population density. Higher off-licence density was in turn associated with lower alcohol prices and longer opening hours.

They found a high density of off-licence outlets was associated with higher levels of anti-social behaviours, drug and alcohol offences, family violence, property damage, traffic offences and motor vehicle accidents.

Their modelling showed that the addition of a single extra off-licence was associated with an extra 60 to 65 police events or incidents in the year to June 2009. Each additional club or bar was associated with an extra 98 to 101 police events or incidents, while each additional restaurant or café was associated with an extra 24 to 29 police events or incidents.

None of this will be news to you.

And while it is impossible to prove direct causation in such a complex context, the Manukau research provides strong support for a licensing system capable of recognising the potentially negative impacts of more outlets on the host community.

Advertising

Our report also contains a very large and detailed chapter on the research on alcohol advertising, promotion and sponsorship.

The urgings of this community to look more critically at advertising was mirrored in thousands of submissions: 2,281 of the 2,929 submissions commented on advertising. Of these, 86% supported banning or restricting all advertising in all media.

This public sentiment finds considerable backing in the research. There is consistent evidence to link alcohol advertising with the uptake of drinking among non-drinking youth and increased consumption among their drinking peers. To many this finding will not be surprising as it mirrors the effects of food and tobacco advertising.

British research has also found a moderate but consistent association between point-of-purchase promotions and effects on alcohol consumption on underage drinkers, binge drinkers and regular drinkers.

At a more profound level, many, many people expressed a deep concern at the unbridled promotion and glamorisation of a drug which the evidence suggests is capable of causing aggression and a range of other health and social ills.

What we are proposing

Our report contains 153 recommendations over a very wide range of policies including licensing, the purchase age, parental responsibility, advertising, price, penalties, treatment, and education.

Summaries of the report have been distributed here today and the full report is available chapter by chapter on our website: www.lawcom.govt.nz.

To take you through each of the policy recommendations would take the a great deal more time than we have. Instead I want to focus on the recommendations that are designed to address the issues you identified as a community last August.

A new Act called the Alcohol Harm Reduction Act

We need to replace the whole of the Sale of Liquor Act. The existing Act has already been amended numerous times. If the Act is to be clear, straightforward and accessible to the public, it needs to be completely rewritten, rather than amended even further.

The object of the new Act will be important. We are proposing that the object would drive decision-making so that all decisions about licensing will relate back to the Act's overall purpose.

We propose the following:

The object of this Act is to establish a reasonable system for the sale, supply and consumption of alcohol for the benefit of the community as a whole, and in particular to:

- (a) Encourage responsible attitudes to the promotion, sale, supply and consumption of alcohol;
- (b) Contribute to the minimisation of crime, disorder and other social harms;
- (c) Delay the onset of young people drinking alcohol;
- (d) Protect and improve public health;

- (e) Promote public safety and reduce public nuisance; and
- (f) Reduce the impact of the harmful use of alcohol on the Police and public health resources.

A new licensing system

The licensing system should empower local communities to be able to influence decisions on how, when and where alcohol is sold within their communities.

The research is clear that different communities experience different problems associated with the sale of liquor. This means that the policies cannot be one size fits all.

Some of the important aspects of the system are:

- Mandatory local alcohol policies

Every local council will be required to produce a policy that addresses:

- the number and type of licenses in the district,
- the make-up of the local population and health indicators,
- the alcohol-related problems,
- liquor bans,
- permitted areas for licences,
- a local process for managing intoxicated people,
- any local restrictions on national hours, and
- areas that have reached saturation point in the cumulative effect of the licences within it.

Councils will be required to carry out consultation on the policies before they take effect.

We would envisage that the Auckland Super City's alcohol policy would address the different issues of the local communities within Auckland City by having different approaches for different communities depending on the needs and risks of each area.

- New licensing decision-making bodies

The existing local licensing bodies will be overhauled to ensure that they have the independence, expertise, training and resources to do their job in accordance with the Act and with local alcohol policies. The new District Licensing Committees would be empowered to decide on all licence applications.

A new Alcohol Regulatory Authority comprising two district court judges would build upon the strengths of the current Liquor Licensing Authority, and have expanded functions. It would deal primarily with appeals and enforcement actions.

- New criteria for issuing licences

There should be a wider set of criteria when deciding on the licence application, including consideration of the object of the Act, the local alcohol policy, and whether the amenity or good order of the locality would be lessened by the granting of the licence.

This would mean that there are wider grounds to decline a licence application and wider grounds for communities to object to licence applications. Currently, objections are largely restricted to the suitability of the applicant, and that has been a great cause of concern in many communities.

Our approach would mean that issues of public health, public safety, crime, disorder, young people and the unique features of a local community can all be taken into account whenever there is a decision about a licence.

- New restrictions about the types of retailers that can have an off-licence

Off-licences should be restricted to specialist alcohol retailers, supermarkets and those businesses whose food sales comprise 50% of their annual sales turnover.

This will have the effect over time of eliminating alcohol sales from many dairies and convenience stores, which were never meant to be able to hold a licence under the current Act. In the medium to long term this may relieve some of the commercial pressures that have arisen from the over-supply of alcohol

We also think that supermarkets should be required to display all of their alcohol in a single area, in accordance with its special status as a legal drug.

- New conditions

There should be a wider range of discretionary conditions that can be applied to reduce harm in high risk venues.

- National maximum trading hours

On-licences and clubs should be required to close no later than 4am, with a mandatory one-way door from 2am, and not reopen until 9am. Off-licences would be required to close no later than 10pm and not reopen until 9am.

Many New Zealanders have given us a clear message that they have had enough of dealing with the aftermath of 24 hour trading.

Under a local alcohol policy individual districts would be able to set more restricted maximum trading hours for their areas.

- Better resourcing of inspectors

Licensing inspectors should have an independent statutory role that is clearly set out in legislation. They should be well resourced to carry out all aspects of their role, including monitoring and enforcement.

- Better penalties and enforcement

We have made recommendations that aim to ensure that the penalties for offences under the new legislation are appropriate and that there are quick and tangible consequences for breaches of the Act and licence conditions. It will become easier for a premises to lose its licence after breaching the Act.

A five-year plan for regulating advertising

We have proposed a three stage plan which ultimately aims to bring about a situation where no alcohol advertising is permitted in any media other than that which communicates objective product information, such as the characteristics of the beverage, the manner of production and the price.

Stage 1 would introduce a new provision into the legislation that extends the offence of the irresponsible promotion of alcohol. It would prohibit advertising that encourages excessive consumption, targets under 20s and offers alcohol for free or at significantly reduced prices. It would apply to both on-licences and off-licences.

The second and third stages would involve an interdepartmental committee considering further measures which would become more restrictive over time.

Age and parental supervision

Our consultation revealed strong support for returning the alcohol purchase age to 20 years. 78% of the 2,272 submitters on this issue supported an increase to the minimum purchase age, including the Police.

Our thinking has been shaped by strong new evidence regarding the health risks to young people from drinking. It is also clear that following the lowering of the purchase age in 1999 there have been increases in hospital presentations of intoxicated people and people with injuries or illnesses wholly attributable to alcohol in the under 20 age group, as well as prosecutions for excess breath alcohol and road crashes.

Our view is that the minimum purchase age should be increased to 20 years with no exceptions.

It should be an offence for anyone under 20 to drink or possess alcohol in a public place.

In order to strengthen parental responsibility for minors' drinking, we propose that it should be an offence for any person to supply alcohol to a minor under the age of 18, unless that person is the minor's parent or has the consent of the parent. A parent or other authorised adult can only supply alcohol to a minor if it is supplied in a responsible manner, including providing appropriate supervision.

Inequality

Quite often those debating the harms associated with alcohol will suggest that alcohol abuse is simply a symptom of other social and economic problems afflicting individuals, families or communities.

There is of course some truth to this. But there is also new evidence outlined in this report that alcohol is also a driver of inequalities – in other words it makes worse the very problems that we might try to momentarily escape by misusing alcohol.

The finding that alcohol can drive inequalities has also been recognised at a global level. A landmark report on the social determinants of health listed alcohol and other drugs as one of ten major contributors to inequalities that can be influenced by public policy.¹

It also acknowledged that alcohol consumption is both a cause and effect: “People turn to alcohol to numb the pain of harsh economic and social conditions, and alcohol dependence leads to downward social mobility”.²

In other words alcohol frequently *exacerbates* the very problems people are often seeking to escape.

The other important argument made in our report relates to the sometimes invisible but very real impact of alcohol on children. From the moment of conception until the brain reaches maturity in the early to mid 20s, our young are especially vulnerable to the negative impacts of alcohol.

¹ R Wilkinson and M Marmot (eds) *Social Determinants of Health: The solid facts (2nd ed, Regional Office for Europe of the World Health Organization, Denmark, 2003)* at 24.

² *Ibid*, at 24.

Our report cites an important new piece of research commissioned by the Ministry of Social Development into the circumstances surrounding 141 family violence related homicides between 2002 and 2006. The researchers found alcohol and or drug abuse featured at the time of the incidents in about two thirds of the homicides involving couples – sometimes involving both perpetrator and victim.

Family violence is a major contributor to New Zealand's escalating rates of violent offending: alcohol intoxication is a causal factor in a significant proportion of this offending and is something we are capable of changing if we have the will.

Conclusion

The Law Commission has completed its work. It is now up to the Cabinet, the Parliament and the people to determine what changes are made. It seems likely that the Minister of Justice will introduce legislation to change the licensing laws.

Before being enacted, new legislation must be considered by a Select Committee. The Select Committee process involves public consultation on the proposed new legislation. This provides the opportunity for New Zealanders to again have their say on how the law should regulate alcohol. You should be there.