

PAVEMENT CAFÉ LICENSING - PUBLIC CONSULTATION PROPOSED FEE AND DURATION OF LICENCE	4TH APRIL 2017
TO: ENVIRONMENTAL SERVICES COMMITTEE	
FOR DECISION	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Accelerating Our Economy and Contributing to Prosperity
Outcome	Implementation of Licensing of Pavement Cafes Act (NI) 2014
Lead Officer	Head of Health & Built Environment
Cost: (If applicable)	None

Background

Members will recall that at your meeting of October 2016 ES 161004 item 16, it was agreed to initiate a consultation in relation to pavement café fees on the basis of the costing estimates presented, and to include within the consultation options around the cost and duration of a licence.

Key issues

As Council is mindful of the businesses that are currently placing tables and chairs on the pavements across some towns and villages in the Borough it is recognised that a fair and reasonable approach to the enforcement and administration of the legislation is desirable and should be developed.

Members are reminded that the Licensing of Pavement Cafes Act (NI) 2014 gives Council the power to set sufficient fees to allow it to recover the full costs of administering the Pavement Café Licensing scheme. However, Council has the discretion to charge a reduced fee or to waive all charges.

Consultation on the proposed fees commenced on 2nd November and closed on 30th November after the statutory 28-day period as required by the Act. Notice of the Consultation was published in local newspapers and on the Council website and views sought from interested parties. Whilst no responses from local businesses was received within the period Council did receive one response from Hospitality Ulster and two unrelated responses from Mr S Douglas MLA and the Royal National Institute for the Blind. A copy of these responses are attached for your information.

A summary of the proposed fee provisionally agreed for three years for Consultation is noted below.

- Grant of a Pavement Café Licence £375
- Renewal of a Pavement Café Licence £285
- Variation of a Pavement Café Licence Free

The other Councils in Northern Ireland are currently setting their fees for Pavement Cafe Licences and their latest proposed fees and period of Licence are set out below:

District	Grant	Renewal	Variation	Licence duration
Antrim and Newtownabbey	Free	Free		3 years
Ards and North Down	£225	£150	£150	3 years
Armagh, Banbridge and Craigavon	£213*	£111	£111	3 years
Belfast	£225	£55	unknown	5 years
Derry and Strabane	tbc	Tbc	Tbc	Tbc
Fermanagh and Omagh	£375	£285		3 years
Lisburn and Castlereagh	£480	£360	£85	
Mid and East Antrim	Free	Free		3 years
Mid-Ulster	Free	Free		3 years
Newry, Mourne and Down	£375	£280	£280	3 years

*ABC Council fee will be up to a maximum of £831 if planning permission is also required.

The Department for Communities have recently issued their final guidance notes in relation to the legislation. Council Officers are currently undertaking a public consultation exercise having screened the document in accordance with the Councils Equality scheme to ensure that there are no impacts from the introduction of pavement cafes on the safe independent mobility of blind and partial sighted people as well as other categories of people.

Consultation with other Statutory Bodies

When assessing an application, Council will also consult with the following agencies:

- Transport NI; and
- The Police Service for Northern Ireland where the premises is licensed to sell alcohol;

In addition to the above Officers will also consult colleagues in Planning service as depending on the circumstances of a proposed pavement café on a public area, a planning permission may also be required if development is to be undertaken. Where Planning service advise that planning permission is necessary applicants will be advised of the need for this before a pavement café licence can be issued.

The Department for Finance has advised that for the vast majority of cases a marginal, seasonal increase in seating of a temporary nature under the terms of the licence would be regarded as de-minimus in rating terms and would not warrant a change in Net Annual Value (NAV). Where the type of arrangement goes beyond the marginal, seasonal or temporary arrangement and it is assessed or evidenced that it adds to the rental value of the premises, an adjustment to the NAV may be warranted. Each case will be judged on its merits and will be the decision of the District Valuer. Councils will wish to refer prospective applicants, who have concerns in this respect, to the District Valuer, Land and Property Services.

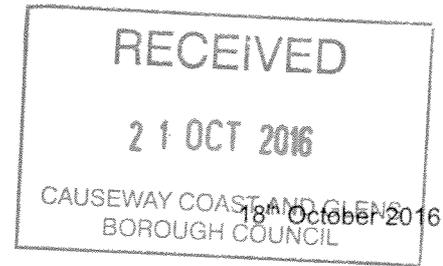
The Role of Committee in Decision making process

The Director of Environmental Services and Head of Health and Built Environment have delegated authority for determining matters such as the grant, renewal, transfer or variation of licences such as those pertaining to Entertainment, Street Trading, Petroleum, Cinemas etc. where no objections are received. The Committee deals with all incidences where Licences are proposed to be revoked or are under formal objection. It is proposed to replicate these arrangements for Pavement Cafes Licences.

Recommendation

It is recommended that:

- Council agree to issue a three year pavement café licence.
- Council agree to the fee for the grant of a licence as per the consultation exercise with a review to be undertaken after 12 months.
- Council agree to delegate authority for determining routine matters such as the renewal, transfer, variation or temporary suspension of a pavement café licence to the Director for Environmental Services and Head of Health and Built Environment as with other licensing functions except for matters associated with the initial Grant; or where an objection has been made to a licence application or a refusal of license is proposed.
- Council agree that the Health and Built Environment Service operate a graduated approach to enforcement over the initial 12 months from the commencement of the Act in order to educate and assist relevant businesses within the Borough attain a pavement café licence.



RE: Proposed fees for implementation of Pavement Café Licenses

Dear Colleague,

Hospitality Ulster is the industry body which represents the diverse range of businesses that make up the hospitality and tourism sector in Northern Ireland. Our membership includes pubs, bars, café bars, hotels, restaurants and major visitor attractions.

The Northern Ireland hospitality industry as a whole sustains 60,000 total jobs – 45,000 of which can be attributed to food and drink element. Annually, the industry contributes over £653.4 million in wages, and food and drink accounts for over 30% of visitor spend in Northern Ireland.

The original idea behind regularizing and encouraging a pavement café culture in Northern Ireland was to join other major tourist destinations in promoting a tangible and authentic atmosphere in our urban outdoor spaces. Measures such as this are key to regenerating and utilizing our public spaces and providing a renowned tourist experience.

The Pavement Café Bill was originally intended to be a light-touch bill, but its complexity has unnecessarily escalated. On top of that, some current proposals would see businesses charged significantly high fees for what is very little additional administration. Hospitality Ulster believes there is no justification for any cost at all for this process. Many premises already have well-operated outside facilities meaning any proposed fees would be prohibitive, and would actually result in these spaces being taken away.

It is important to note that the licensed trade in Northern Ireland already pays significantly higher taxes, rates and overheads than almost all other commercial businesses. Any proposed fees would effectively reduce what our members' businesses can earn, at a time when the industry as a whole is faced with a wide range of serious financial pressures. It is also important to be realistic and consider the roughly 12 days annually where businesses are likely to be able to use their outdoor spaces to full effect in Northern Ireland

Two Councils in Northern Ireland have already decided that there will be no charges for the implementation of Pavement Café Licenses. Hospitality Ulster would congratulate these Councils, and call upon all others to follow suit and not place any charge on what is essentially a 'sunshine tax', on an element of business which offers only very limited income to the owner- income which would in no way match the proposed fees.

Hospitality Ulster would welcome the opportunity to meet with representatives to discuss this issue face to face before any final decision is reached.

Yours Sincerely,

Colin Neill
Chief Executive

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06 December 2016

RNIB NI Submission to local government regarding the Guidelines connected to the Licensing of Pavement Cafés (Northern Ireland) Act 2014

RNIB Northern Ireland (RNIB NI) support blind and partially sighted people to live independently and to campaign for their full inclusion in society. The Royal National Institute of Blind People is a registered charity and we have three clear priority areas:

1. Everyone in the UK looks after their eyes and their sight
2. Everyone with an eye condition receives timely treatment and, if permanent sight loss occurs, early and appropriate services and support are available and accessible to all
3. A society in which people with sight loss can fully participate

We provide a range of services for people living with sight loss including a benefits advice service and practical support to people who have recently been diagnosed with sight loss, specialised IT support and activity programmes. In addition to our services we campaign for the promotion and improvement of the rights of blind and partially sighted people. We have 72 staff working for blind and partially sighted people across Northern Ireland and 298 volunteers currently engaged in supporting our work.

The 2011 Census reports that of the 1.8 million population of Northern Ireland, just over one in five of the usually resident population (21 per cent) had a long-term health problem or disability which limited their day-to-day activities.

Royal National Institute of Blind People

Action for Blind People • Patron: HRH Princess Alexandra, KG, GCVO
Chair: David Mann • Director: David Galloway • Principal address: 105 Judd Street, London WC1H 9NE • Registered charity number: 205913 (England and Wales), SC040050 (Scotland) and 1203 (Isle of Man) • A company limited by guarantee. Registered company number: 00026688 (England and Wales) and 006012F (Isle of Man) • Royal National Institute of Blind People
Registered charity number: 226227 (England and Wales) and SC039316

Furthermore, a total of 30 862 experience some type of long-term condition relating to blindness or partial sight loss, representing 1.7 per cent of the population.

The age profile of blind and partially sighted people in Northern Ireland differs from that of the resident population as a whole. In general terms, they tend to be older than the general population. For example, while 21 per cent of the resident population are aged 0-15 years, only 4.1 per cent of blind or partially sighted persons are in this age category. In contrast, 59 per cent of the blind or partially sighted population are aged 65 or over, compared with 15 per cent of usual residents.

Statistics also reveal an ageing population. From 2001-2011, the population aged over 65 years has increased by 40,400 (18 per cent). Furthermore, those aged over 85 years have seen the greatest proportional increase; in 2001 there were 23,300 people aged over 85 years, which has now increased to 31,400 (an increase of 35 per cent over the decade).

NISRA recently published a statistical bulletin (May 2016) entitled 'Population Projections for areas within Northern Ireland: 2014-based'. It relates to the time period mid-2014 to mid-2039. The bulletin contains key data relevant to the ageing population as well as how the age structure of the population is projected to change. For example:

- The population aged 65 and over is projected to increase by 74.4 per cent to 498,500 people from mid-2014 to mid-2039, with the result that one in four people (24.7 per cent) will be in this age category.
- The population aged 85 and over is projected to increase by 157.3 per cent to 88,600 people over the same period, which will see their share of the population increase from 1.9 per cent to 4.4 per cent.

The increasing prevalence of sight loss over these next decades necessitates planning and policy development – including an accessible streetscape for people with this sensory loss – so that government best responds to the needs of the increasing number of street users who are, or who may become in the years ahead, blind or partially sighted.

Make our streets safer and reduce unnecessary injuries

The needs of blind and partially sighted people are frequently underestimated. Sight loss affects the ability to receive and use information, to get out and about and travel independently, to act effectively as an informed consumer and, generally, to participate in society. For anyone with sight loss our streets are dangerous obstacle courses, posing a real risk of injury.

In 2014, RNIB carried out a survey with 500 blind and partially sighted people – almost all (95%) said they had collided with at least one obstacle over the past three months, with one third injured as a result.

The main issues facing people with sight loss when using the streetscape include: accessible crossing points; shared space schemes which remove kerbing and tactile paving; advertising boards left on the pavement; as well as street and café furniture.

Most of what is required can be done for no or very little cost and would make an enormous contribution to the quality of life of blind and partially sighted people in Northern Ireland. In many cases, we are only asking for the enforcement of laws and adherence to government guidance already in existence. In this instance, we are asking for local government to develop and implement guidance which takes into consideration the needs of blind and partially sighted people using our streets and frequenting cafés and restaurants with pavement cafés so that the risk of unnecessary injury is reduced.

The My Voice research (RNIB 2015) reported that feelings of wellbeing were lower amongst blind and partially sighted people when compared to the rest of the population. People with sight loss felt less optimistic about the future, felt less useful and felt less close to other people when compared to the general population. Given the social isolation that many people with sight loss experience, it is vital that our city and town centres do not add further barriers to inclusion and that certain areas become 'no go' areas.

Licensing of Pavement Cafés (Northern Ireland) Act 2014

As a sector we welcomed the Licensing of Pavement Cafés (Northern Ireland) Act 2014. In summer 2015, the then Department for Social Development engaged with a number of disability organisations on the development of guidelines to this legislation. These guidelines are still in draft form with the Department of Communities.

Local councils have proceeded to develop their own guidance and we are already seeing various interpretations. I understand that the guidance published by Newry, Mourne and Down District Council has been agreed and adopted by 10 of the 11 councils. Belfast City Council are developing their own guidance.

The legislation came into full effect on 01 October 2016, having been deferred from 01 April 2016. As an organisation we remain uncertain as to whether the concerns of the sector have been understood, taken into consideration or mitigated against in the development of local council guidelines.

We remain keen to engage with local councils regarding the development of guidelines and their implementation in your council area in order to make our streets

safer and more accessible for people with sight loss.

Background

Since February 2015, Guide Dogs, RNIB, Disability Action and IMTAC have been providing advice and guidance at both a Departmental and local government level. Despite this engagement, we have major concerns that the guidelines will not provide adequate protection for pedestrians, particularly with regard to precise requirements on the location of cafés, screening of cafés and the maintenance of a safe and accessible width of pavement.

As a result, we have called on both the Department and local councils to screen their guidelines as a means to determine the impact of this policy.

The Equality Commission for Northern Ireland have stated: All new and revised policies should be subject to screening and this would include any associated guidelines.

As an organisation we remain uncertain as to whether the concerns of the sector have been understood or mitigated against in the development of local council guidelines. We are keen to learn how your council has, in the development of these guidelines, carried out its equality obligations under Section 75 of the Northern Ireland Act 1998 and as outlined in your Equality Scheme.

Recommendations

We call on local councils to screen their draft Pavement Café Guidance, particularly in light of the concerns raised by a number of disability organisations including RNIB Northern Ireland. In line with recommended Equality schemes, we recommend that key stakeholders such as Guide Dogs and RNIB should be involved in this screening process. We also recommend that the screening report is published on the council website and provided to the stakeholders who have contributed or raised concerns.

We also recommend that local councils work together to produce standardised guidance as this would be the most effective way of ensuring a consistent approach across Northern Ireland. The Licensing Forum may be an appropriate mechanism for this consultation with organisations including RNIB.

We recommend that the Equality Officer and the Equality/ Disability Forum in your council are informed of the content of this letter and reference is made to Pavement Café guidance in your council's Disability Action Plan, given the impact of pavement cafés on people with sight loss.

People with sight loss tell us that pavement cafés which spill over the street and are not correctly cordoned have a detrimental effect on their safe use of the

street environment. In 2017, RNIB NI and Guide Dogs will be conducting research into the streetscape in Northern Ireland and councils are invited to contribute to the research and solutions so that pedestrians with sight loss are safer walking the streets.

Closing

RNIB NI asks that your council provide us with a copy of the screening carried out during the development of the guidelines in addition to the evidence the council has used in the development of their guidance.

RNIB NI would like to be added to the Council's list of consultees and would like to be kept updated with developments.

I would also be grateful if you could advise who to contact, within council, regarding pavement cafés which have a negative impact on street use by blind and partially sighted people.

We look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink that reads "R. Davis". The signature is written in a cursive, slightly slanted style.

Rebecca Davis
Research & Policy Officer

Email: rebecca.davis@rnib.org.uk

cc. Licensing Officer
Equality Officer



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17th November 2016

Chief Executive David Jackson
Causeway Coast and Glens Borough Council
Civic Headquarters
Cloonavin
66 Portstewart Road
Coleraine
BT52 1EY

Dear Chief Executive,

I write with regard to the Licensing of **Pavement Cafés** (Northern Ireland) **Act** 2014 which came into operation with effect from 01 October 2016.

At a recent meeting of the All Party Group on Visual Impairment at the Northern Ireland Assembly, concern was raised about guidelines, linked to the implementation of the Act, that are currently being developed by each of the eleven councils. In some instances, guidelines have not been completed, despite the fact the legislation is now active. In other cases, concerns lie with the content of those guidelines being consulted on, for example, where guidelines do not address issues raised by organisations supporting people with sight loss.

I am also aware that there are, and have been for some time, similar concerns, amongst people with sight loss, about the draft guidelines developed by the Department for Communities (formerly DSD).

Given that our cluttered streets can often be dangerous obstacle courses for people with sight loss and pose a real risk of injury, can you please provide me with an update on the development of the operational guidance developed by your council. In addition, can you indicate how the council is taking into consideration the needs of people with sight loss and how the council intends to mitigate risks to this section of the community. For example, I would welcome information relating to the equality screening and equality impact assessment of these policies.

It is vital that both local government and departmental guidance is reflective of all the issues raised by blind or partially sighted people and that there is meaningful consultation with organisations representing people with sight loss.

Yours sincerely,



Sammy Douglas MLA
Chairperson of the All Party Group on Visual Impairment

RECEIVED

21 NOV 2016

CAUSEWAY COAST AND GLENS
BOROUGH COUNCIL