

Public Document Pack

**Democratic Services Section
Chief Executive's Department
Belfast City Council
City Hall
Belfast
BT1 5GS**



**Belfast
City Council**

9th December, 2016

MEETING OF LICENSING COMMITTEE

Dear Alderman/Councillor,

The above-named Committee will meet in the Lavery Room - City Hall on Wednesday, 14th December, 2016 at 5.00 p.m., for the transaction of the business noted below.

You are requested to attend.

Yours faithfully,

SUZANNE WYLIE

Chief Executive

AGENDA:

1. Routine Matters

- (a) Apologies
- (b) Minutes
- (c) Declarations of Interest

2. Delegated Matters

- (a) Licences Issued Under Delegated Authority (Pages 1 - 6)
- (b) Application for the Grant of a Seven-day Annual Entertainments Licence - Hawthorn Bar, 1-3 Hawthorn Street (Pages 7 - 12)
- (c) Applications for the Grant/Renewal of Entertainments Licences with Previous Convictions (Pages 13 - 36)

3. **Non-Delegated Matters**

- (a) Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 – Road Closures for Special Events (Pages 37 - 42)
- (b) Licensing of Pavement Cafés – Scale of Fees (Pages 43 - 56)
- (c) Licensing of Pavement Cafés - Proposed Standard Conditions (Pages 57 - 62)
- (d) Licensing of Pavement Cafés - Role of the Licensing Committee (Pages 63 - 98)



Subject:	Licences Issued Under Delegated Authority
Date:	14th December, 2016
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues												
1.1	Under the Scheme of Delegation, the Director of Planning and Place is responsible for exercising all powers in relation to the issue, but not refusal, of permits and licences, excluding provisions relating to the issue of Entertainments Licences where adverse representations have been made. Those applications which were dealt with under the Scheme are listed below.												
2.0	Recommendation												
2.1	The Committee is requested to note the applications which have been issued under the Scheme of Delegation.												
3.0	Main Report												
3.1	<p><u>Key Issues</u></p> <p>Under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the following Entertainment Licences were issued since your last meeting:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 35%;">Premises and Location</th> <th style="width: 15%;">Type of Application</th> <th style="width: 20%;">Hours Licensed</th> <th style="width: 30%;">Applicant</th> </tr> </thead> <tbody> <tr> <td>Andersonstown Leisure Centre, Andersonstown Road, Belfast BT11 9BY</td> <td style="text-align: center;">Renewal</td> <td style="text-align: center;">Sun - Sat: 08.00 - 01.00</td> <td style="text-align: center;">Greenwich Leisure Limited</td> </tr> <tr> <td>Avoniel Leisure Centre Avoniel Road, Belfast BT5 4SF</td> <td style="text-align: center;">Renewal</td> <td style="text-align: center;">Sun - Sat: 08.00 - 01.00</td> <td style="text-align: center;">Greenwich Leisure Limited</td> </tr> </tbody> </table>	Premises and Location	Type of Application	Hours Licensed	Applicant	Andersonstown Leisure Centre, Andersonstown Road, Belfast BT11 9BY	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited	Avoniel Leisure Centre Avoniel Road, Belfast BT5 4SF	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Premises and Location	Type of Application	Hours Licensed	Applicant										
Andersonstown Leisure Centre, Andersonstown Road, Belfast BT11 9BY	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited										
Avoniel Leisure Centre Avoniel Road, Belfast BT5 4SF	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited										

Premises and Location	Type of Application	Hours Licensed	Applicant
Ballysillan Leisure Centre 71 Ballysillan Road, Belfast BT14 7QQ	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Falls Leisure Centre 15-17 Falls Road, Belfast BT12 4PB	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Belvoir Activity Centre 100 Belvoir Drive, Belfast BT8 7DT	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Brook Activity Centre, 25 Summerhill Park, Belfast BT17 0RD	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Grove Health & Wellbeing Centre, 120 York Road, Belfast BT15 3GU	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Loughside Recreation Centre, Shore Road, Belfast BT15 4HS	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Shankill Leisure Centre 100 Shankill Road, Belfast, BT13 2BD	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Whiterock Leisure Centre Whiterock Road, Belfast BT12 7PG	Renewal	Sun - Sat: 08.00 - 01.00	Greenwich Leisure Limited
Beehive Bar 193-195 Falls Road, Belfast, BT12 6FB	Renewal	Sun: 12.30 - 00.00 Mon - Thur: 11.30 - 01.00 Fri - Sat: 11.30 - 02.00	Mr. Philip Bannon
Bar Berlin 265 Shankill Road, Belfast, BT13 1FR	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Ms. Rebecca Pollock
Garrick Bar 29 Chichester Street, Belfast, BT1 4YB	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Colm Oates
Laurel Leaf Bar Unit 14 Twin Spires Centre, 155 Northumberland Street, Belfast, BT13 2JF	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Brendon McKee
Church of God Glenmachan, 13 Glenmachan Road, Belfast, BT4 2NL	Renewal	Mon - Fri: 08.00 - 01.00 Sat: 08.00 - 00.00	Rev. Alan Stephens
CIYMS 91 Circular Road, Belfast, BT4 2GD	Renewal	Mon - Sat: 11.30 - 23.00	Mr. Richard Barnes
Dunmurry Presbyterian Church Hall, 224 Kingsway, Dunmurry, Belfast BT17 9AE	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 10.00 - 01.00	Ms. Angela Martin
Eastside Visitor Centre 402 Newtownards Road, Belfast	Grant	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Jonathan McAlpin
		Hours Licensed	Applicant

Premises and Location	Type of Application		
Filthy McNasty's (Marquee) 41-45 Dublin Road Belfast, BT2 7HD	Renewal	Sun - Sat: 11.30 - 23.00	Mr. Paul Langsford
Filthy McNasty's (Outdoor - Secret Garden) 41-45 Dublin Road, Belfast, BT2 7HD	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Paul Langsford
Filthy McNasty's (Indoor) 41-45 Dublin Road, Belfast, BT2 7HD	Renewal	Sun: 12.30 - 02.00 Mon - Sat: 11.30 - 02.00	Mr. Paul Langsford
Chinawhite, Sweet Afton, Rita's, & The Perch, 43 Franklin Street and 12 Brunswick Street, Belfast BT2 7GG	Renewal	Sun: 12.30 - 03.00 Mon - Sat: 11.30 - 03.00	Mr. Paul Langsford
Harland and Wolff Football and Social Club 18-20 Dee Street, Belfast BT4 1FT	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr. John Davidson
Harp Bar 35-39, Hill Street, Belfast BT1 2LB	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Willie Jack
La Casa Gourmet Coffee 162 Andersonstown Road, Belfast BT11 9BZ	Renewal	Sun: 12.00 - 00.00 Mon - Sat: 11.00 - 01.00	Ms. Marie Magee
Falls Bowling Pavilion Falls Park, Falls Road, Belfast BT12	Renewal	Sun - Sat: 08.00 - 01.00	BCC
McGlone's Bar 131-133 Kingsway, Dunmurry, Belfast BT17 9NS	Grant	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Joseph McGlone
Methodist College, Whitla Hall, 1 Malone Road, Belfast BT9 6BY	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. John Robinson
Park Inn Hotel 4 Clarence Street West, Belfast BT2 7GP	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Neil MacLaren
Ramada Encore Hotel, 20 Talbot Street, Belfast BT1 2LD	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Marc McCrea
Ramada Plaza Hotel, 117 Milltown Road Shaw's Bridge, Belfast BT8 7XP	Renewal	Sun - Sat: 09.00 - 03.00	Ms. Natalie Kerr
Shu Restaurant, 253-255 Lisburn Road, Belfast BT9 7E	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Alan Reid

Premises and Location	Type of Application	Hours Licensed	Applicant
Solo Kitchen and Bar 11 Wellington Place, Belfast BT1 6GE	Renewal	Sun: 11.00 - 00.00 Mon - Sat: 12.00 - 01.00	Mr. Mukesh Karunakaran
St Michaels Parish Centre 206 Finaghy Road North, Belfast BT11 9EH	Renewal	Sun - Sat: 08.00 - 01.00	Mr. David Delargy
The Dirty Onion and Yard Bird 42 Waring Street, Belfast BT1 2ED	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Conal Wolsey
The Dirty Onion and Yard Bird (Outdoor) 42 Waring Street, Belfast BT1 2ED	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr. Conal Wolsey
The Open University 110 Victoria Street, Belfast BT1 3GN	Grant	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Ms. Meabh Cunningham
Windsor Recreation and Snooker Club 2A Edinburgh Street, Belfast, BT9 7DS.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr. Richard Dean

3.2 Under the terms of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, the following Amusement Permit was renewed since your last meeting:

Premises and Location	Type of Application	Hours Licensed	Applicant
Odyssey Bowl Unit 2, Odyssey Pavilion 2 Queens Quay, Belfast BT3 9QQ	Renewal	Sun: 10.00 - 23.00 Mon - Thur: 12.00 - 23.00 Fri: 12.00 - 00.00 Sat: 10.00 - 00.00	Mr. John Hansen

3.3 Under the terms of the Street Trading Act (Northern Ireland) 2001, the following Street Trading Licences were issued since your last meeting.

Premises and Location	Type of Application	Commodity	Hours Licensed	Applicant
Blackstaff Way, 45ft from the entrance to Delta Print and Packaging	Stationary	Hot food and non-alcoholic beverages	Mon – Fri: 06.00 – 17.00	Mr. Patrick Kelleher
River House Yard River House, 48 High Street, Belfast	Temporary (x2)	Hot and cold food, alcohol and soft beverages		Mrs. Rachel Moody

	Premises and Location	Type of Application	Commodity	Hours Licensed	Applicant
	River House Yard River House, 48 High Street, Belfast	Temporary (x2)	Hot and cold food, alcohol and soft beverages	15/12/2016 - 17/12/2016 12.00 – 22.00 each day 22/12/2016 - 24/12/2016 12.00 – 22.00 each day	Mrs. Rachel Moody
3.4	<u>Financial and Resource Implications</u>				
	None				
3.5	<u>Equality or Good Relations Implications</u>				
	There are no equality and good relations issues.				
4.0	Documents Attached				
4.1	None				

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Subject:	Application for the Grant of a Seven-day Annual Entertainments Licence - Hawthorn Bar, 1-3 Hawthorn Street
Date:	14th December, 2016
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues						
1.1	<p>To consider an application for the grant of a Seven-day Annual Entertainments Licence for the Hawthorn Bar, based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind where objections have been received.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 40%;">Premises and Location</th> <th style="text-align: left; width: 20%;">Ref. No.</th> <th style="text-align: left; width: 40%;">Applicant</th> </tr> </thead> <tbody> <tr> <td>Hawthorn Bar 1-3 Hawthorn Street Belfast BT12 7AQ</td> <td>WK/201602055</td> <td>Mr. Philip McCann 84 Glen Road, Belfast BT11 8BU</td> </tr> </tbody> </table>	Premises and Location	Ref. No.	Applicant	Hawthorn Bar 1-3 Hawthorn Street Belfast BT12 7AQ	WK/201602055	Mr. Philip McCann 84 Glen Road, Belfast BT11 8BU
Premises and Location	Ref. No.	Applicant					
Hawthorn Bar 1-3 Hawthorn Street Belfast BT12 7AQ	WK/201602055	Mr. Philip McCann 84 Glen Road, Belfast BT11 8BU					
1.2	Members are advised that the premises has never previously held an Entertainments Licence.						
2.0	Recommendations						
2.1	As the objections against the application were received outside the 28-day statutory period, you are required to determine if you wish to exercise your discretion to consider them and, if so, give the objectors and the applicant an opportunity of appearing before and being heard by the Committee.						
2.2	If you decide not to take the objections into account, then the application will be dealt with under the Scheme of Delegation.						
2.3	Should you exercise your discretion, you are required to receive the persons who made the representations, the applicant, and/or their representatives at a future meeting and, after having received their submissions, make a recommendation regarding the application.						

3.0	Main Report
	<p data-bbox="252 226 411 255"><u>Key Issues</u></p> <p data-bbox="150 293 1439 389">3.1 As a result of the public notices of application, written representation objecting to the application has been received. One petition with 10 signatures was received outside of the 28-day statutory period.</p> <p data-bbox="150 427 1439 658">3.2 The petition is from residents of Cavendish Street. The nature of the objections relate to the following:</p> <ul data-bbox="284 528 1439 658" style="list-style-type: none"> • the premises is situated in a highly populated residential area. • the premises already offers live entertainment without a licence. • the number of patrons, music and taxis already create an unacceptable, problematic amount of noise in this residential area. <p data-bbox="150 696 1439 831">3.3 In their letter, the objectors further advise that they have met with the applicant, one of his employees and community representatives to discuss the above issues along with other members of the community, the PSNI and the Council. However, many of the issues have not yet been resolved, despite promises made by the applicant.</p> <p data-bbox="150 869 1439 927">3.4 The objectors also state that granting a licence will not only add to the current problems and issues concerned but will create further issues.</p> <p data-bbox="150 965 1439 1023">3.5 Under the terms of the Order, the Committee, when considering an application, must have regard to any representation which is received inside the 28 day statutory period.</p> <p data-bbox="150 1061 847 1090">3.6 A copy of the petition of objection is attached.</p> <p data-bbox="252 1128 767 1158"><u>Financial and Resource Implications</u></p> <p data-bbox="150 1196 331 1225">3.7 None.</p> <p data-bbox="252 1263 815 1292"><u>Equality or Good Relations Implications</u></p> <p data-bbox="150 1330 331 1359">3.8 None.</p>
4.0	Documents Attached
	Petition of Objection

By virtue of paragraph(s) 2 of Part 1 of Schedule 6
of the Local Government Act (Northern Ireland) 2014.

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Subject:	Applications for the Grant/Renewal of Entertainments Licences with Previous Convictions
Date:	14th December, 2016
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

1.0	Purpose of Report/Summary of main Issues
1.1	To consider applications for Entertainments Licences where the applicant has been convicted of an offence under the Local Government Miscellaneous Provisions (NI) Order 1985 (the Order) within the previous five years.
2.0	Recommendation
2.1	<p>Taking into account the information presented, the Committee is requested to consider the applications and to:-</p> <ol style="list-style-type: none"> 1. approve the applications, or 2. should you be of a mind to refuse any of the applications, or approve any applications with additional special conditions, an opportunity of appearing before and of being heard by the Committee must be given to the applicants.
3.0	Main Report
	<u>Key Issues</u>
3.1	Members are reminded that the normal process for dealing with Entertainments Licence applications which are not the subject of objections is that the licence will be granted as provided for in the Council's Scheme of Delegation.
3.2	However, in light of the fact that an applicant has been found guilty of committing an offence within five years of the application for a licence being submitted to the Council, you are required to consider the following applications.

Premises and Location	Applicant	Application Type	Offence Details	Date of Conviction & Penalty
Ardoyne Working Men's Club 9b Kerrera Street Belfast BT14 7FL	Brendan Mailey (Secretary)	Renewal	18th December 2014 Entertainment being provided without a valid Entertainments Licence being in place	28th July 2015 £200 and £66 Court costs.
The Cuckoo 149 Lisburn Road Belfast BT9 7AJ	North Down Leisure Ltd	Renewal	24th August 2012 Locked exit door and log book not completed	26th March 2013 £400 and £69 Court costs.
Failte Restaurant 147 Falls Road Belfast BT12 6AF	Tony Clarke	Grant	4th July 2015 Caulfield's Bar Final exit locked shut and an obstructed means of escape	8th March 2016 Caulfield's Bar £200 and £69 Court costs.

3.3 Notwithstanding the possibility of refusing an Entertainments Licence on any other grounds, the Council may refuse an application on the grounds that the applicant has been convicted of an offence under the Order.

Application History

Ardoyne Working Men's Club

3.4 This is the second time the renewal application has been brought before the Committee for consideration. Members may recall that the previous renewal application was considered by the Licensing Committee on the 12th November, 2015 and the Committee agreed to renew the Entertainments Licence.

The Cuckoo

3.5 This is the fourth time that the application is being considered by the Committee. Members may recall that previous renewal applications for the premises were also brought before the Licensing Committee on the 12th November, 2015; 15th April, 2015 and on the 18th September, 2013 and, after consideration, you agreed to grant the licence on each occasion.

Failte Restaurant

3.6 This application is being placed before the Committee because the applicant, Mr. Tony Clarke, was convicted of offences under the Order at Belfast Magistrates Court on the 8th March, 2016 regarding Caulfield's Bar, another premises for which he is the licensee.

<p>3.7</p> <p>3.8</p>	<p>Members will recall that you considered the renewal application for Caulfield’s Bar at your meeting on the 18th May and, after taking account of the conviction, you agreed to renew the licence.</p> <p>Members are reminded that you have considered applications for other premises for which Mr Clarke is licensee and the offences involving Caulfield’s Bar, namely The Suffolk Inn, which you considered at your meeting on the 17th August, and the Sliabh Dubh, which you considered at your meeting on the 21st September and, after taking account of the conviction, you agreed to renew both licences.</p>
	<p><u>Representations</u></p>
<p>3.9</p>	<p>Notice of the applications has been advertised and no written representations have been received.</p>
	<p><u>PSNI</u></p>
<p>3.10</p>	<p>The PSNI has confirmed that it has no objections to the applications.</p>
	<p><u>Health, Safety and Welfare Inspections</u></p>
<p>3.11</p>	<p>Following the offences, officers of the Service met with the licensees of each of the premises to review their management procedures and ensure that appropriate measures are put in place to prevent a recurrence of the previous problems. Officers also discussed the arrangements in place for the safety of the public, performers and staff at all times and, in particular, if an emergency situation should occur.</p>
<p>3.12</p>	<p>Each of the premises have also been subject to further during performance and application inspections and we have found that management procedures are being implemented effectively.</p>
<p>3.13</p>	<p>Copies of the application forms for each of the premises are attached.</p>
	<p><u>NIFRS</u></p>
<p>3.14</p>	<p>The Northern Ireland Fire Rescue Service has been consulted in relation to each of the applications and confirmed that it has no objections.</p>
	<p><u>Financial and Resource Implications</u></p>
<p>3.15</p>	<p>Officers carry out during performance inspections on premises providing entertainment which is catered for within existing budgets.</p>
	<p><u>Equality and Good Relations Implications</u></p>
<p>3.16</p>	<p>There are no equality or good relations issues associated with this report.</p>
<p>4.0</p>	<p>Documents Attached</p>
	<p>Application Forms</p>

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By virtue of paragraph(s) 1 of Part 1 of Schedule 6
of the Local Government Act (Northern Ireland) 2014.

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Subject:	Roads (Miscellaneous Provisions) Act (NI) 2010 – Road Closures for Special Events
Date:	14th December, 2016
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report/Summary of main Issues
1.1	To inform the Committee that the Department for Infrastructure (“the Department”) has begun the legislative process which will commence, on 1st January, 2017, those parts of the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (the Act) relevant to the holding of special events on roads.
1.2	From that date, councils will assume responsibility for dealing with requests to hold special events on all public roads apart from special roads (which are mainly motorways) for which the Department assumes responsibility.
2.0	Recommendations
2.1	The Committee is requested to note the contents of this report and that proposals will be presented at a future meeting regarding its role in determining applications for an Order to temporarily prohibit or restrict the use of public roads in connection with special events.
2.2	A report outlining fee charging options will also be presented to you at a future meeting for your consideration.
3.0	Main Report
	<u>Key Issues</u>
3.1	The Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 received Royal Assent on the 13th August, 2010 but has yet to be commenced.
3.2	Currently there is no statutory basis to close roads for special events. At the moment the PSNI close any road being used to hold an event, such as the Christmas Light Switch-on, but this has been done on the basis of their general powers for public safety and to protect the safety of road users.

3.3	The legislation will provide councils with the power to prohibit or restrict traffic using roads to facilitate special events taking place on roads.
3.4	The Act defines special events as any sporting event, social event, entertainment or the making of a film which is held on a public road.
3.5	From 1st January, 2017, a person wishing to close a public road for a special event will be required to apply to the council and, after public notification and consultation with various statutory bodies including the PSNI and NIFRS and after receiving the consent of the Department, the council will determine if a Road Closure Order is to be made.
3.6	The Department, through Transport NI, will still maintain responsibility for the closure of special roads, such as motorways and the Westlink.
3.7	Members may recall that the legislation was previously planned to commence in 2013 and at a meeting of the Licensing Committee on 20th March, 2013 it was agreed that the Council be recommended to delegate authority to the Licensing Committee to determine all applications under the Act for an Order to temporarily prohibit or restrict the use of public roads in connection with special events.
3.8	The Committee also agreed that the need for the Committee to consider all applications be reviewed one year after the commencement of the Order; and that those provisions would come into operation upon publication of the Commencement Order by the DRD, at that time.
3.9	The Committee also considered a report at the same meeting regarding proposed fees and charges for the Act but agreed to defer until its next monthly meeting consideration of the report to enable further information to be obtained in relation to fees, Council costs and the advertising costs for event organisers.
3.10	The recommendations of the Licensing Committee were subsequently adopted by Council at the meeting of 3rd April, 2013. A copy of the minutes from the meeting of the Licensing Committee on 20th March, 2013 is attached.
3.11	However, in May 2013, the then Minister for Regional Development, who was responsible for introducing the Act, chose to defer commencing it until a later date.
3.12	<p>The responsibility for administering the new legislation will include the following duties:</p> <ul style="list-style-type: none"> • validating and processing applications. • publishing a Public Notice and consulting with the relevant agencies. • dealing with representations from interested parties. • preparing Road Closure Orders and ensuring appropriate road closure and diversion signage is in place.
<u>Concerns and Impact</u>	
3.13	<p>Notification that the Act is to be commenced on 1st January, 2017 was received on 16th November, 2016. Whilst the introduction of this new power for local government is welcome, the proximity of the commencement date and the short lead in time of less than 6 weeks is problematic. Issues faced with the short lead in time include, for example:</p> <ul style="list-style-type: none"> • a need to review the potential financial liabilities and costs associated with this including the support currently provided by PSNI (at no cost) for policing and securing these events. It is understood that this may incur costs in the future; • a need to review and assess the advertisement costs of notices under the Act; • a need to review both the Licensing Committee Standing Orders and the Scheme of

<p>3.14</p> <p>3.15</p> <p>3.16</p> <p>3.17</p> <p>3.18</p>	<p>Delegation to allow for the new provisions; and</p> <ul style="list-style-type: none"> • a need to review and agree appropriate and acceptable fee levels with Members for recovering costs from organisers of events. <p>The introduction of the new legislation will also create an additional workload for the Service. It is difficult to quantify numbers at this stage but events such as St. Patrick's Day Celebrations, Belfast Marathon, Culture Night and Christmas Light Switch-on will require road closures as well as closures for film recordings and any special commemoration events.</p> <p><u>Financial and Resource Implications</u></p> <p>There will be direct financial costs attached to the administration of the new legislation and, whilst such costs may be recovered from applicants, decisions in relation to the extent of public notification required and the fee charging option chosen will determine the actual financial implication.</p> <p>We have not had the opportunity to factor the role and costs of administering this legislation into our budget for the financial year of 2016-2107.</p> <p>A separate report outlining fee charging options will be presented to you at a future meeting of the Committee for your consideration.</p> <p><u>Equality or Good Relations Implications</u></p> <p>The implementation of the Act will be subject to an equality impact assessment to identify any equality issues and we will work with the councils Equality and Diversity Officer to ensure all potential issues are appropriately addressed.</p>
<p>4.0</p>	<p>Document Attached</p>
	<p>Minute of the meeting of 20th March, 2013</p>

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Licensing Committee

Wednesday, 20th March, 2013

MEETING OF LICENSING COMMITTEE

Members present: Alderman Ekin (Chairman);
Councillors Attwood, M. E. Campbell, Convery,
Groves, Hussey, Keenan, Lavery, Ó
Donnghaile, O'Neill, Spence and Webb.

In attendance: Mr. T. Martin, Head of Building
Control; Mr. S. Hewitt, Building Control
Manager; Mr. J. Argey, Solicitor; and
Mr. H. Downey, Democratic Services
Officer.

Apologies

Apologies for inability to attend were reported from the Deputy Lord Mayor (Councillor Cunningham), Alderman Rodgers and Councillors Jones and L. Patterson.

Minutes

The minutes of the meeting of 20th February were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 4th March, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of

Interest No declarations of interest were
reported.

Expression of Sympathy

The Chairman, on behalf of the Committee, expressed sympathy to Councillor Lavery on the recent death of his sister.

Roads (Miscellaneous Provisions) Act 2010 - Road Closures for Special Events

The Committee was reminded that, at its meeting on 21st March, 2012, it had been advised that the introduction of the Roads (Miscellaneous Provisions) Act 2010 would provide councils with the power to temporarily prohibit or restrict, with the consent of the Department for Regional Development, the use of public roads in connection with special events, with a special event being defined as any sporting event, social event, entertainment or film-making on a public road.

The Head of Building Control reported that the Department for Regional Development was in the process of finalising a Commencement Order which was due to come into effect in April and lead to the implementation of the Roads (Miscellaneous Provisions) Act 2010. As a result, the Council would assume statutory responsibility for processing applications, consulting with the relevant agencies, publishing notices in newspapers, considering resulting representations, preparing road closure orders and ensuring that the appropriate signage was in place. A joint Department for Regional Development and Local Government team had been established, under the direction of the Society of Local Authority Chief Executives, to examine the operational issues for local councils arising from the introduction of the Act. Council officers had worked with Department for Regional Development representatives to produce guidance notes for councils and applicants on the legislation and had contributed to three awareness raising sessions which that Department had facilitated primarily for councils.

He informed the Members that, due to the regulatory nature of the legislation and the fact that associated applications could be subject to challenge and public representations, the Council now needed to ensure that the necessary governance arrangements, processes and policies were put in place. He pointed out that the Council, at its meeting on 1st May, 2007, had delegated to the Licensing Committee authority to determine applications on various matters, including Entertainments Licensing, and he recommended that, since the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 was similar in nature to those, the Committee assume responsibility also for determining applications under the Act. The Legal Services Section had advised that there would be no requirement to amend the Council's Standing Orders to make specific reference to the Act, as that could be accommodated therein under the definition of "such other matters of a licensing nature". He recommended also that, in order to deal as expediently as possible with applications, the Council's Scheme of Delegation be amended, in line with other licensing applications, to enable the Director of Health and Environmental Services to make Orders relating to special events, except in circumstances where representations were received. In such cases, or in others as the Director deemed appropriate, the relevant application would be submitted to the Committee for its consideration.

After discussion, the Committee agreed that:

- (i) the Council be recommended to delegate authority to the Licensing Committee to determine all applications, under the provisions of the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010, for an Order to temporarily prohibit or restrict the use of public roads in connection with special events; and
- (ii) the need for the Committee to consider all applications would be reviewed one year after the commencement of the Order.

The Committee noted that the provisions contained within the aforementioned Act would come into operation upon the publication by the Department for Regional Development of the Commencement Order.



Subject:	Licensing of Pavement Cafés – Scale of Fees
Date:	14th December, 2016
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	To consider a variety of options regarding the appropriate level of fees Belfast City Council may charge for a Pavement Café Licence.
2.0	Recommendations
2.1	<p>The Committee is requested to consider the contents of the report and:</p> <ol style="list-style-type: none"> 1. choose which fee charging option you consider most appropriate to introduce for a Pavement Café Licence, or 2. determine appropriate fees for a Pavement Café Licence, arising from your discussions on the various options presented.
3.0	Main Report
	<u>Key Issues</u>
3.1	Members will recall that, at your meeting on 10th November, you considered the outcome of the public consultation on the proposed fees for a Pavement Café Licence and the period for which they should be granted.
3.2	At that meeting, the Committee agreed to defer until its next meeting consideration of the fees, to enable officers to consider in greater detail the charging structure which had been proposed by Alderman Spence and to review the costs to be incurred by the Building Control Service in administering the Pavement Café licensing process, with a view to formulating further options, which should take into account the comments which had been received during the public consultation exercise from Belfast City Centre Management (BCCM).
3.3	A copy of the minute from that meeting is attached.

3.4 Below is a summary of the proposed fees which you provisionally agreed at your meeting on 15th June:

	2016 / 2017
Grant Application Fee – Non refundable	£660
Renewal Application or Variation Fee – Non refundable	£435
Licence Fee (Annual)	£110

3.5 The table below is an extract from the report of 15th June, which illustrates how the average annual cost of a licence reduces the longer the period for which a licence is granted.

	Year 1	Year 2	Year 3	Year 4	Year 5	Total	Ave cost
1 Year Lic	£770	£545	£545	£545	£545	£2,950	£590
3 Year Lic	£770	£110	£110	£545	£110	£1,645	£329
5 Year Lic	£770	£110	£110	£110	£110	£1,210	£242

Fee Options

3.6 A number of fee charge options are outlined below for consideration following your previous meeting.

OPTION 1

3.7 As this is a new piece of legislation, we have worked with officers from other councils to agree reasonable application processing times based on our collective experience in dealing with other types of licences administered. Every task in the process was carefully considered and an estimated time for completing that task established. These times formed the basis for costing the original fees proposed.

3.8 By far the largest expense identified in dealing with the pavement café licensing scheme arises from the tasks associated with the application for the grant of a new licence. We have critically re-visited these estimated times and identified some areas where processes could be streamlined in an effort to reduce costs.

3.9 It should be stressed however that we are still basing costs on estimated processing times and it is proposed that once we start receiving applications we will monitor time spent and officer involvement at each level of the Service so that we can base costs on actual processing times.

3.10 Since the original fees exercise was carried out we have created a new temporary post in the Service to help administer pavement café licensing. This post is at a lower salary grade than existing officers and will be able to deal with a reasonable proportion of the applications thus helping reduce costs.

3.11 In order to reduce costs further we have also re-examined the previous proposals for licence compliance checks to determine if we can reduce the annual licence fee element of the costs. This fee is charged once a licence is granted and the original annual licence fee proposed of £110 was based on 1 compliance check per premises per year, some of which we envisaged may be required to take place at the weekend.

<p>3.12</p> <p>3.13</p> <p>3.14</p> <p>3.15</p> <p>3.16</p> <p>3.17</p> <p>3.18</p>	<p>If Members deem it appropriate, there is scope to reduce our level of continuing control and enforcement activity by only carrying out compliance inspections during normal working hours from Monday to Friday. Further savings can be made by only visiting a proportion of pavement cafés each year; primarily those about which complaints have been received. It is therefore proposed to only inspect 25% of the licensed premises in the first year and adjust licence costs accordingly.</p> <p>Again, it is proposed that once we start issuing licences we will monitor time spent on enforcement and dealing with complaints so that we can base Annual Licence fee costs on actual times.</p> <p>By undertaking these proposals the following revised fees associated with the grant of a licence have been calculated:</p> <table border="1" data-bbox="295 622 1410 752"> <thead> <tr> <th></th> <th>2016 / 2017</th> </tr> </thead> <tbody> <tr> <td>Grant Application Fee – <i>Non refundable</i></td> <td>£440</td> </tr> <tr> <td>Licence Fee (Annual)</td> <td>£24</td> </tr> </tbody> </table> <p>As Members were content that a Pavement Café Licence should be issued for a period of 5 years it is proposed that the Committee does not determine a renewal fee at this stage. We will have a much more accurate understanding of the resource implications associated with administering Pavement Café Licences in 12 months' time and it is suggested that this matter be deferred until then when proposals for the fee for the renewal or variation of a Licence will be brought before you for consideration.</p> <p>Advantages and disadvantages of option 1 fees:</p> <p>Advantages</p> <ul style="list-style-type: none"> Attains a significant reduction in the grant fee based on an estimate of actual cost recovery. The average annual cost of a 5-year licence reduces by over 50% to £112. Fee reflects the work associated with processing an application not the size of the pavement café. There will be a light touch approach to enforcement. <p>Disadvantages</p> <ul style="list-style-type: none"> There is no concession for smaller businesses that may operate with very few tables and chairs. Processing of applications may be slower than expected by licensees Some re-prioritisation of other licensing work will be required There may not be scope to deliver the regulation and monitoring of pavement cafés expected by stakeholders and pavement users. <p><u>OPTION 2</u></p> <p>To consider the charging fee structure proposed by Alderman Spence:</p> <ul style="list-style-type: none"> Grant Application Fee £225.00 (No annual licence fee in the first year) Annual Licence Fee £55.00 Variation / Renewal Fee £112.50 <p>Based on the revised grant and annual licence fee proposed in option 1, an applicant would pay £464 in the first year of their licence compared to £225 proposed by Alderman Spence, which would therefore realise a 48% level of cost recovery for administering the function.</p>		2016 / 2017	Grant Application Fee – <i>Non refundable</i>	£440	Licence Fee (Annual)	£24
	2016 / 2017						
Grant Application Fee – <i>Non refundable</i>	£440						
Licence Fee (Annual)	£24						

3.19 Conversely, assuming a licence is issued for a period of 5 years then the annual renewal fee for years 2-5 proposed in option 1 would total £96, compared to £220 based on Alderman Spence's proposal.

3.20 Overall a 5 year licence, as proposed by Alderman Spence, would cost £445 compared to £560 based on option 1.

3.21 Advantages and disadvantages of option 2 fees:

Advantages

- The fees are less than proposed in the public consultation and may be more acceptable to business.
- The fees compare favourably with those charged by other councils in N. Ireland.
- There will still be a light touch approach to enforcement although more time could be attributed to dealing with complaints due to a higher annual licence fee in years 2-5.

Disadvantages

- Over 50% of the cost associated with the grant of a licence will be rate borne.
- There is no concession for smaller businesses that may operate with very few tables and chairs.
- Processing of applications will be slower than expected by licensees.
- Re-prioritisation of other licensing work will be required.
- There may still not be scope to deliver the regulation and monitoring of pavement cafés expected by stakeholders and pavement users.

OPTION 3

3.22 The Committee requested Officers to take consideration of the views expressed by BCCM that fees should be commensurate with the status of the business and based on the quantities of tables and chairs to give businesses a degree of control over their outlay and (in general) be proportionate, relative to independent and multi-nationally owned businesses.

3.23 The process for dealing with an application does not change depending on the number of tables and chairs to be licensed; as the process is the same the costs associated with it are the same too.

3.24 However, reflecting on the views of BCCM and some of the comments arising from the consultation process a suggested incremental fee structure is outlined below based on the area used for a pavement café.

3.25 To determine how fees might be apportioned, reference is made to a survey of potential pavement cafés in the City we have undertaken and identified the percentage falling within various area sizes.

Size (in square metres)	% of premises within that size
Up to 2 m ²	17%
2 - 4 m ²	51%
Over 4 m ²	32%

3.26

Based on these areas it is suggested that the following fees may apply;

Size (in square metres)	Proposed grant application fee
Up to 2 m ²	£0*
2 - 4 m ²	£220 – non-refundable (50% of the fee proposed in option 1)
Over 4 m ²	£440 – non-refundable (fee as proposed in option 1)

3.27

* Members may wish to consider that a nominal fee be charged for the smallest pavement cafés rather than no fee.

3.28

Based on the fees proposed this will achieve an approximate 58% level of cost recovery for the Council.

3.29

However, should a large proportion of premises decide to reduce their café size to comply with the minimum area then there will be very little income and the cost for administering the scheme will be almost entirely rate borne.

3.30

It is suggested that an annual licence fee as outlined in option 1 of £24 be charged for every successful applicant for a licence under this option; assuming Members are content with the limited level of enforcement proposed to ensure costs are minimised.

Advantages

- The fees are less than proposed in the public consultation and may be more acceptable to business.
- Smaller pavement cafés will benefit – Council seen to be supporting small businesses.
- The fees compare favourably with those charged by other councils in N. Ireland.
- There will be a light touch approach to enforcement.

Disadvantages

- At least 40% of the cost associated with the grant of a licence will be rate borne.
- Many businesses may choose the ‘Up to 2m²’ option, which will mean significantly more cost to the Council.
- Potential criticism for greater fees for some businesses, likely to impact on hospitality venues.
- Processing of applications will be slower than expected by licensees.
- Re-prioritisation of other licensing work will be required.
- It may not deliver the regulation and monitoring of pavement cafés as expected by stakeholders and pavement users.

3.31

OPTION 4

For completeness, a further option is to consider the proposed fees you provisionally agreed at your meeting of 15th June 2016:

	2016 / 2017
Grant Application Fee – Non refundable	£660
Renewal Application or Variation Fee – Non refundable	£435
Licence Fee (Annual)	£110

	<p>*Total fee year one = £770</p>
3.32	<p>Advantages</p> <ul style="list-style-type: none"> • A more realistic representation of the costs involved in administering the scheme. • More likely to deliver the regulation and monitoring of pavement cafés expected by stakeholders and pavement users. • Fee reflects the work associated with processing an application not the size of the pavement Café. • Timely processing of applications more likely to be achieved.
3.33	<p>Disadvantages</p> <ul style="list-style-type: none"> • May have an adverse effect on the pavement café culture as responses received in the consultation were not positive. • There is no concession for smaller businesses that may operate with very few tables and chairs. • The fees are higher than any of the other councils in N. Ireland.
	<p><u>Payment Plan</u></p>
3.34	<p>The Act allows councils to determine the time and manner in which fees or charges are to be paid.</p>
3.35	<p>In order to further accommodate prospective licence holders, annual licence fees may be spread over a one year period and paid in twelve equal instalments. The first payment must be received before the licence is issued but the remaining eleven instalments may be made by direct debit or eleven payments in person. This process is managed by the Council's Central Transactions Unit.</p>
3.36	<p>However, the grant application fee must, as with all our other application types, be made in full along with the application as this covers the cost of administration whether a licence is issued or not. As this forms the bulk of the cost to new applicants, it is doubtful whether there is merit in introducing a payment plan for the annual licence fee given that the maximum figure proposed in any of the options is £110.</p>
	<p><u>Financial and Resource Implications</u></p>
3.37	<p>There are significant financial and resource implication associated with this report.</p> <p>The proposed Pavement Café Licence fees at option 1 are most likely to ensure the cost of the operational and administration processes are proportionate to the licensing scheme.</p>
	<p><u>Equality or Good Relations Implications</u></p>
3.38	<p>The Council's Equality and Diversity Officer has been consulted to ensure there are no issues with regards to the setting of fees.</p>
4.0	<p>Document Attached</p>
	<p>Copy of the minute from 10th November</p>

After further discussion, it was

Moved by Councillor Boyle,
Seconded by Councillor Hutchinson,

That the Committee, in its capacity as Licensing Authority, agrees to defer consideration of an application by Mr. T. O’Kane for a Stationary Street Trading Licence for a designated site in Lombard Street, at its junction with Rosemary Street, to allow for a review to be undertaken of the street trading function generally, including the designation process and the Stall Design Policy, and that the Planning Service should be consulted as part of that review.

Amendment

Moved by Councillor Collins,
Seconded by Councillor Bell,

That the Committee, in its capacity as Licensing Authority, agrees to grant to Mr. T. O’Kane a Stationary Street Trading Licence permitting him to sell telecommunications products and services from Monday to Saturday between 9.00 a.m. and 6.30 p.m. and on a Sunday between 11.00 a.m. and 4.00 p.m. from a designated site in Lombard Street, at its junction with Rosemary Street, subject to the submission of the required documentation and the appropriate licence fee.

On a vote by show of hands eight Members voted for the amendment and ten against and it was declared lost.

The original proposal was thereupon put to the meeting when eleven Members voted for and seven against and it was declared carried.

The Committee noted that it would receive from officers information on all sites across the City which had, to date, been designated under the street trading legislation.

Non-Delegated Matters

Fees Chargeable for the Licensing of Pavement Cafes

The Committee considered the following report:

“1.0 Purpose of Report/Summary of main Issues

To report on the outcome of the public consultation on the proposed fees for a Pavement Café Licence and the period for which a licence should be granted.

1.2 Members will recall that, at your meeting on 15th June 2016, the Committee agreed to initiate the 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 and an indication that the Committee favours a five year fee, which would equate to an annual cost of £242.

1.3 The Committee agreed also that officers include within the consultation document information on the fees being charged by councils of a similar size to Belfast and whether the fees were being subsidised by those councils.

2.0 Recommendations

2.1 The Committee is requested to consider the contents of the report and, taking into account any representations received, agree:

1. to set the fees for Pavement Café Licences at the level outlined in the public consultation, or
2. to set the fees for Pavement Café Licences at a lower level, or
3. that there should be no fees for Pavement Café Licences and that the cost of administering the function should be rate borne, or
4. that further options for fees for Pavement Café Licences arising from your discussions be developed for your next meeting.

2.2 Members are also required to determine the period for which a licence will be granted.

3.0 Main Report

Key Issues

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

3.2 Consultation on the proposed fees commenced on the 6th September and closed on 3rd October, after the statutory 28 day period, as required by the Act.

3.3 Notice of the consultation was published in the three main newspapers and over 1,000 letters were sent to businesses

across Belfast notifying them of the new Act and the proposed fees consultation.

- 3.4 The consultation sought the views from interested parties and a statement outlining how the fees were prepared was published and made available on the Council's website and at the Building Control offices.
- 3.5 Members are reminded that we have engaged extensively with a range of stakeholders throughout the process since the Act was introduced.
- 3.6 The matter has been a regular agenda item for our Licensing Customer Forum panel, we have published articles in City Matters, sent e-mails to existing licensees and attended various trade forum meetings including those of Belfast City Centre Management (BCCM) and Belfast Chamber of Trade and Commerce (BCTC) regarding our plans for the implementation of the Act and the proposed fees.
- 3.7 As a result of the consultation, a total of 19 responses were received which, based solely on the letters that we sent to potential licensees, equates to a response rate of less than 2% and only 1.5% from individual businesses.
- 3.8 A synopsis of the responses received, which includes a return from Hospitality Ulster, has been circulated to the Committee.

Summary of Responses

Response from:	Total	Percent
Members of the public	7	37%
Business owners	9	47%
A group or organisation	3	16%

- 3.9 Of these:
- all of the business owners indicated that their business would be affected by the proposals.
 - 60% of respondents felt that a licence should be for a period of five years or more, with most favouring five years.
 - of the businesses owners who responded, five operated businesses in the City centre, whilst three operated in East Belfast.
 - Strandtown Traders' Association and Hospitality Ulster responded online.

- 3.10** The majority of respondents to the consultation disagreed with the proposed licence fees, with most favouring a zero fee structure. The respondents, who did suggest an alternative fee, recommended an amount significantly lower than the proposed fee.
- 3.11** When asked about how the cost of administering the legislation should be met, opinion was mixed. Most respondents thought it should be added to the commercial rates and others were more concerned about the impact this and/or the fees in general would have on businesses.
- 3.12** BCCM expressed general concern that a proposed 'one size fits all' approach to pavement cafe licensing fees will not be viewed as proportionate and balanced across the hospitality sector. It disagreed with the fees because they do not consider the contrasting financial resources of the multi-national and independently owned businesses.
- 3.13** In its view:
- fees should be commensurate to the status of the business i.e. less for independently owned businesses and more for multinationals; or
 - a payment plan should be introduced for independently-owned businesses to minimise impact on cash flow.
 - fees should be based upon the quantities of tables/chairs which would give businesses a degree of control over their outlay and (in general) be proportionate, relative to independent and multi-nationally owned businesses.
- 3.14** It stated also that:
- the full cost associated with administering the Act should be recovered from the fees, and
 - Licences should be issued for five years.
- 3.15** A copy of BCCM's response has been forwarded to the Committee.
- 3.16** We have also consulted with BCTC and are currently awaiting their response. However, Officers will endeavour to obtain a response from them for your meeting.
- 3.17** Whilst the remaining businesses may believe that their views are being represented by trade bodies, such as Hospitality

Ulster, the level of return is unexpectedly low given the concerns that some had expressed about the proposed fees.

- 3.18 To remind the Committee, below is a summary of the proposed fees you provisionally agreed at your meeting on 15th June 2016:

	2016/2017
Grant Application Fee – Non refundable	£660
Renewal Application or Variation Fee – Non refundable	£4235
Licensed Fee (Annual)	£110

Comparisons

- 3.19 Research on the cost of a Pavement Café Licence in other larger local authorities across Great Britain and Ireland has been undertaken and a summary of findings has been circulated to the Committee.
- 3.20 Northern Ireland is unique in that we are the first region to have specific legislation for the licensing of Pavement Cafés. Other areas use highway permissions and effectively rent the land to the licensee.
- 3.21 This has made it difficult to give accurate comparisons but the following example may be of assistance. For a Pavement Café Licence, based on 3 tables and 12 chairs, in an area measuring 4m x 2m the annual (or equivalent annual fee) for other Cities is set out below.

Council	Annual (or equivalent annual) fee
Dublin (city centre pedestrian zone)	£880
Edinburgh	£800
Glasgow (city centre)	£450
Liverpool	£283(equivalent annual)
Manchester	£437
Southwark	£978
Sheffield	£95
Surrey County	£104
Newcastle	£363 (equivalent over 5 years)
Oxford	£700
Birmingham	£750

- 3.22 As reported at your meeting on 15th June, if Pavement Café Licences were to be granted for five years, the total licensing cost over that period would be £1210, with the greatest expense occurring in the first year due to application processing costs. This would be the equivalent of £242 per year. From the table above, only Sheffield and Surrey County Council have a lower fee.

3.23 The table below is an extract from the report of 15th June which may also assist Members in deciding the appropriate period of the licence.

	Year 1	Year 2	Year 3	Year 4	Year 5	Total	Average cost
1 Year Licence	£770	£545	£545	£545	£545	£2,950	£590
3 Year Licence	£770	£110	£110	£545	£110	£1,645	£329
5 Year Licence	£770	£110	£110	£110	£110	£1,210	£242

3.24 The other Councils in Northern Ireland are currently setting their fees for Pavement Café 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
Ards and North Down	£225	£150	£150	3
Armagh, Banbridge and Craigavon	£213*	£111	£111	3
Belfast	£660	£435	£435	5
Causeway Coast and Glens	£375	£285	£285	3
Derry and Strabane	tbc	tbc	tbc	tbc
Fermanagh and Omagh	£375	£285		3
Lisburn and Castlereagh	£480	£360	£85	tbc
Mid and East Antrim	Free	Free		3
Mid-Ulster	£370	£285	£285	3
Newry, Mourne and Down	£375	£280	£280	3

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

3.25 Whilst all the other councils have opted for, or are considering, three year licences, their equivalent annual licence cost is less than that proposed for Belfast and two councils have decided to waive fees completely.

Financial and Resource Implications

- 3.26 There are significant financial and resource implication associated with this report.
- 3.27 The proposed Pavement Café Licence fees will ensure the cost of the operational and administration processes are proportionate to the licensing scheme. Details outlining the costings associated with administering Pavement Café Licences have been forwarded to the Committee.

Equality or Good Relations Implications

- 3.28 The Council's Equality and Diversity Officer has been consulted to ensure there are no issues with regards to the setting of fees."

The Building Control Manager provided an overview of the report and, whilst providing clarification on a number of issues which had been raised by Members, confirmed that the Council had a statutory responsibility for enforcing the Licensing of Pavement Cafés Act (Northern Ireland) 2014, which precluded it from employing an external organisation to undertake the administration of the licensing process on its behalf.

After a lengthy discussion, it was

Moved by Alderman Spence,
Seconded by Councillor Boyle,

That the Committee agrees to adopt the following charging structure for Pavement Cafés Licences:

- | | | |
|------|---|---------|
| i. | Grant Application Fee | £225.00 |
| | (No Licence Fee should be payable in the first year) | |
| ii. | Annual Licence Fee | £55.00 |
| iii. | Variation/Renewal | £112.50 |
| iv. | Licences should cover a period of five years, with fees being reviewed on an annual basis | |
| v. | Applicants should be offered the opportunity to avail of a payment plan to assist them in meeting the cost of licensing their premises. | |

Amendment

Moved by Councillor McDonough-Brown,
Seconded by Councillor Heading,

That the Committee agrees to defer until its next meeting consideration of the fees to be applied to Pavement Café licences, to enable officers to consider in greater detail the charging structure which had been proposed by Alderman Spence and to review the costs to be incurred by the Building Control Service in administering the Payment Café licensing process, with a view to formulating further options, which should take into account the comments which had been received during the public consultation exercise from Belfast City Centre Management, as set out within paragraphs 3.13 and 3.14 of the report.

On a vote by show of hands eleven Members voted for the amendment and four against and it was declared carried.

The amendment was thereupon put to the meeting as the substantive motion when thirteen Members voted for and four against and it was declared carried.



Subject:	Licensing of Pavement Cafés - Proposed Standard Conditions
Date:	14th December, 2016
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	This report is to enable Members to determine the standard conditions considered appropriate to attach to licences issued under the Licensing of Pavement Cafés Act (NI) 2014.
2.0	Recommendations
2.1	<p>The Committee is requested to consider the proposed standard conditions of licence to be attached to Pavement Café Licences, as outlined in the attached and agree that:</p> <ol style="list-style-type: none"> 1. they be adopted, or 2. they be adopted in accordance with any amendments deemed necessary, and 3. that a condition prohibiting the consumption of alcohol when using furniture on the area covered by the licence will only be attached to that licence if: <ol style="list-style-type: none"> i. representations are received that the consumption of intoxicating liquor when using furniture on the area covered by the Pavement Café Licence would be likely to result in disorder, and ii. after consideration by the Committee it is determined that the condition is attached to that specific licence, or iii. if the premises specified in the licence are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(b) of that Order (i.e. off-licences).
2.2	As these decisions are not a delegated function of the Licensing Committee, any decision will be subject to ratification by Council.

3.0	Main Report
	<p data-bbox="272 226 432 255"><u>Key Issues</u></p> <p data-bbox="165 293 1455 353">3.1 The Licensing of Pavement Cafés Act (NI) 2014 (“the Act”) came into operation on 1st October, 2016.</p> <p data-bbox="165 394 1455 454">3.2 The legislation makes provision for the regulation by district councils of the placing in public areas of furniture for use for the consumption of food or drink.</p> <p data-bbox="165 495 1455 555">3.3 DSD, now the Department for Communities, when introducing the Act, stated that its aim was to create ‘light touch’ legislation aimed at encouraging the creation of a café culture.</p> <p data-bbox="272 595 727 624"><u>General Conditions of a Licence</u></p> <p data-bbox="165 665 1455 757">3.4 The Act requires that a Pavement Café Licence must include a condition requiring temporary furniture not to be placed on any public area other than the area covered by the licence.</p> <p data-bbox="165 797 1455 1294">3.5 The Act also permits that a council may specify in a Pavement Café Licence such other conditions as it considers reasonable, and these may in particular include conditions –</p> <ul style="list-style-type: none"> <li data-bbox="304 898 1390 958">i. limiting the furniture which may be placed on the area covered by the licence by reference to the kind, amount, size or nature of the furniture; <li data-bbox="304 965 1219 994">ii. limiting the days or times when the furniture may be on that area; <li data-bbox="304 1001 1390 1061">iii. for ensuring that adequate arrangements are made for storing the furniture when not on that area; <li data-bbox="304 1068 1193 1097">iv. regulating the arrangements for payment to the council of fees; <li data-bbox="304 1104 1390 1164">v. for ensuring that such insurances and indemnities as may be specified in the licence are put in place; <li data-bbox="304 1171 1390 1232">vi. requiring the council to be notified of such matters as may be specified in the licence; <li data-bbox="304 1238 1390 1299">vii. requiring the surrender of any other pavement café licence in respect of the premises. <p data-bbox="165 1328 1455 1458">3.6 Members are asked to consider the proposed standard conditions set out in the attached appendix and determine if you wish to adopt these as the standard conditions of licence which will be attached to Pavement Café Licences in Belfast, under the Licensing of Pavement Cafés Act (NI) 2014.</p> <p data-bbox="272 1498 1267 1527"><u>Conditions Regarding the Consumption of Alcohol in a Pavement Cafe</u></p> <p data-bbox="165 1559 1455 1816">3.7 If the Council grants a Pavement Café Licence, then the bye-laws prohibiting the consumption of alcohol do not apply to the area which is licensed. The Council may, however, include a condition prohibiting the consumption of alcohol at a pavement café, if it is satisfied that permitting persons to consume intoxicating liquor in the area covered by the Pavement Café Licence would be likely to result in disorder. If the Pavement Café Licence is one which has been granted to off-sales premises, the Council must impose a condition prohibiting persons from consuming intoxicating liquor in the area covered by the licence.</p> <p data-bbox="165 1848 1455 1977">3.8 If Members decide that there should be a standard condition prohibiting the consumption of alcohol on all licences, then all bars, hotels and restaurants which apply for a Pavement Café Licence will have to come before Committee to seek the removal of the condition (assuming they wish to serve alcohol in their pavement café).</p>

<p>3.9</p> <p>3.10</p> <p>3.11</p> <p>3.12</p> <p>3.13</p>	<p>In order to keep the impact of the Act on licensees to a minimum, to process applications in a timely fashion and to reduce the administrative burden (and hence costs) on the Council, Members may wish to determine that a condition prohibiting the consumption of alcohol does not become a standard licence condition and will only be attached to a licence if:</p> <ul style="list-style-type: none"> I. representations are received that the consumption of intoxicating liquor when using furniture on the area covered by the Pavement Café Licence would be likely to result in disorder, and II. after consideration by Committee it is determined that the condition is attached to that specific licence, or III. if the premises specified in the licence are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(b) of that Order (off-licences). <p>Members are advised that the conditions of licence may be reviewed and amended if necessary once the regime has been in operation for a period of time and nothing prevents the Committee from attaching any other condition it considers reasonable to any particular application that may come before it.</p> <p>Any decision of the Committee in relation to policy and legislation concerning licensing matters must be ratified by Council.</p> <p><u>Financial and Resource Implications</u></p> <p>There will be additional Officer resource implications in implementing the Act and these costs will increase the greater the number of reports relating to Pavement Café applications that must be brought to Committee.</p> <p><u>Equality or Good Relations Implications</u></p> <p>None associated with this report.</p>
<p>4.0</p>	<p>Documents Attached</p>
	<p>Proposed standard conditions to be attached to Pavement Café Licences in Belfast.</p>

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Proposed Standard Conditions to be attached to Licences issued under the Licensing of Pavement Cafes Act (NI) 2014

DEFINITIONS:

Furniture	Includes tables, chairs, umbrellas, barriers, heaters, menu boards or other approved fittings
Licensed area	A public area as defined on a plan approved by the Council as a pavement café.
Licensed period	The days and hours approved by Council when the licensed area can be used as a pavement café.
Licensee	Shall include their nominee in their absence
Licensing Order	The Licensing (Northern Ireland) Order 1996
Pavement Café Licence	The permission given by Council to allow the placing of temporary furniture on a specified public area for customers to consume food or drink supplied from the licence holder's premises

CONDITIONS OF LICENCE

1. The Licensee shall be responsible at all times for compliance with the terms and conditions of the Pavement Café Licence.
2. The licensed area must only be used to place temporary furniture for the purpose of consuming food and/or drink supplied from the licence holder's premises.
3. The Licensee shall at all times ensure that the pavement café furniture is not placed outside the licensed area.
4. Only furniture permitted by the Council shall be used in the licensed area and such furniture shall be placed in accordance with the layout plan as agreed in writing by the Council.
5. The licensee shall only place furniture on the licensed area on those days and during those hours as permitted by the licence.
6. Any furniture provided in the licensed area shall not mark or damage the surface of the pavement.
7. Furniture should be sufficiently portable that it can be removed within 20 minutes.
8. Adequate storage approved in writing by the Council must be provided to ensure that furniture can be stored securely when the premises are closed.

9. The Licensee shall ensure that adequate Public Liability insurance cover is in force to cover the licensed area and provide proof of that insurance upon demand by the Council.
10. The licensee shall ensure good order is maintained during all times the Pavement Café is open.
11. The licensee shall ensure that the pavement café is operated in a manner ensuring that there is no safety risk, nuisance, public health issue or detriment to amenity caused to other users of the highway or nearby premises.
12. This licence does not in any way permit the playing of live or recorded music for the entertainment of customers in the licensed area.
13. The licensee must have in place a commercial waste collection contract and provide proof of that contract upon demand by the Council.



Subject:	Licensing of Pavement Cafés - Role of the Licensing Committee
Date:	14th December, 2016
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	The purpose of this report is to consider the scope of the Licensing Committee in the decision making process relating to the licensing of Pavement Cafés and to consider proposed amendments to the Scheme of Delegation.
2.0	Recommendations
2.1	<p>As these decisions are not a delegated function of the Licensing Committee, the Committee is requested to agree that:</p> <ol style="list-style-type: none"> 1. the Licensing Committee assumes responsibility for determining all matters under the Licensing of Pavement Cafés Act (NI) 2014, with the exception of those which have been delegated to the Director of Planning and Place; 2. the Scheme of Delegation be amended, as outlined in paragraph 3.20; and 3. that feedback from Members will be incorporated into a subsequent report to the Strategic Policy and Resources Committee on the amendments proposed.
2.2	Any decision of Committee in relation to amendments to Standing Orders or the Scheme of Delegation will be subject to ratification by the Council.

3.0	Main Report
	<p data-bbox="272 221 432 253"><u>Key Issues</u></p> <p data-bbox="164 288 1452 454">3.1 Members are reminded that the Department for Social Development, after they carried out an appraisal of the impact of pavement cafés in Northern Ireland, concluded that a common, clear and transparent legislative framework would be required in order to enable a café culture to develop and hence the Licensing of Pavement Cafés Act (NI) 2014 (“the Act”) came into operation on the 1st October 2016.</p> <p data-bbox="164 490 657 521">3.2 A copy of the Act is attached.</p> <p data-bbox="164 557 1452 622">3.3 The legislation makes provision for the regulation by district councils of the placing in public areas of furniture for use for the consumption of food or drink.</p> <p data-bbox="164 658 1452 757">3.4 The Service is mindful of the businesses that are currently placing tables and chairs on the pavement in the City and are very keen to develop a fair and reasonable approach to the enforcement and administration of the legislation within Belfast.</p> <p data-bbox="164 792 1452 891">3.5 The DSD, now the Department for Communities, when introducing the Act stated that its aim was to create ‘light touch’ legislation aimed at encouraging the creation of a Café culture.</p>
	<p data-bbox="272 929 1050 960"><u>The Role of Committee in the Decision-Making Process</u></p> <p data-bbox="164 987 1452 1120">3.6 Due to the regulatory nature of the legislation and that there will be applications submitted under it which may be subject to challenge and public representations, the Council needs to ensure that the necessary governance arrangements, processes and policies are put in place to administer this function and to minimise the potential risks to the Council.</p> <p data-bbox="164 1146 1452 1319">3.7 As Members are aware the Licensing Committee has delegated authority for determining applications in relation to a variety of matters, such as Entertainments Licences, where objections have been received. In addition the Committee is also responsible for determining such other matters of a licensing nature as the Director of Planning and Place, in consultation with the Town Solicitor, deems appropriate.</p> <p data-bbox="164 1346 1452 1547">3.8 Given the licensing/regulatory nature of the Act and the similarities with the role of the Licensing Committee in terms of process, it is recommended that the Licensing Committee assumes responsibility for determining those applications for a pavement café where representations have been received either as a result of the public notice of an application or as a result of consultation with the Department for Infrastructure, PSNI, or such other persons the council considers appropriate.</p> <p data-bbox="164 1574 1452 1673">3.9 Advice from Legal Services is that Standing Orders will be amended to include reference to the pavement café legislation and to confirm those aspects of the Act for which the Licensing Committee shall have delegated authority in determining.</p>
	<p data-bbox="272 1709 584 1740"><u>Scheme of Delegation</u></p> <p data-bbox="272 1767 1153 1798"><u>1. Applications where no adverse representations are received</u></p> <p data-bbox="164 1834 1452 1966">3.10 To deal with applications as expediently as possible, it is recommended that the Council’s Scheme of Delegation be amended in line with the delegated powers for other licensing matters which will enable the Director of Planning and Place to issue Pavement Café Licences, except in circumstances where adverse representations are received.</p>

2. Revocation, suspension or compulsory variation of a licence

- 3.11** The Council has powers under the Act to revoke, suspend or make a compulsory variation of a licence in a variety of circumstances.
- 3.12** For example a council may at any time revoke a licence if it is satisfied that the licence holder has persistently failed to comply with any condition of licence or may suspend a licence if satisfied that all or part of the public area where the licence permits the placing of temporary furniture has become, or is going to become, temporarily unsuitable for that purpose.
- 3.13** The council may also make a compulsory variation of a licence, for example, to limit the days or times when furniture may be placed on the licensed area.
- 3.14** If it considers that there are particular circumstances which make it necessary to do so in the public interest, a council may decide to revoke, suspend or make a compulsory variation of a licence without first notifying the licence holder of its proposal so to do.
- 3.15** There will be circumstances such as the carrying out of road works, utility works or construction work at an adjacent building which will require the temporary suspension of a licence. There will be other circumstances including events which attract large crowds, e.g. Christmas Lights Switch On, where it would be prudent in the interests of public safety to suspend a licence. These may not always come to our attention in sufficient time that we might bring them before Committee in order that it may determine if the licence should be suspended.
- 3.16** It is not envisaged that there would be circumstances where a similar need would arise in relation to the revocation or compulsory variation of a licence.
- 3.17** Members may therefore wish to consider making provision under the Scheme of Delegation that the Director of Planning and Place has, in conjunction with the Town Solicitor, authority to suspend a licence where it is in the public interest to do so.
- 3.18** A decision to suspend a licence will in no way affects an individual's right of appeal against that decision.
- 3.19** In order to deal with the majority of Pavement Café Licence applications in a timely fashion and with the aim of keeping administrative costs to a minimum it is therefore suggested that the following amendment is made to the Scheme of Delegation to cater for the introduction of pavement café licensing:
- 3.20** Under the Scheme of Delegation the Director of Planning and Place is responsible for exercising all powers in relation to the issue, but not refusal, of Pavement Café Licences, excluding provisions relating to:
- applications for the grant, renewal, transfer or variation of licences where adverse representations are received.
 - compulsory variation of licences.
 - revocation of licences.
 - setting of licence fees.
 - suspension of licences except where in the public interest the Director, in consultation with the Town Solicitor, considers that there are particular circumstances which make it necessary to suspend a licence immediately.

3.21	Members are advised that the ultimate responsibility for the Licensing of Pavement Cafés Act will remain with the Committee.
3.22	Any decision of the Committee in relation to policy and legislation concerning licensing matters must be ratified by Council.
	<u>Financial and Resource Implications</u>
3.23	There will be additional Officer resource implications in implementing the Act and these costs will increase the greater the number of reports relating to pavement café applications that must be brought to Committee.
	<u>Equality or Good Relations Implications</u>
3.24	There are no equality or good relations implications associated with this report.
4.0	Document Attached
	The Licensing of Pavement Cafés Act (NI) 2014



Licensing of Pavement Cafés Act (Northern Ireland) 2014

CHAPTER 9

£6.00



Licensing of Pavement Cafés Act (Northern Ireland) 2014

CHAPTER 9

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Licensing of Pavement Cafés Act (Northern Ireland) 2014

2014 CHAPTER 9

An Act to make provision for the regulation by district councils of the placing on public areas of furniture for use for the consumption of food or drink.

[12th May 2014]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Requirement for pavement café licence

Meaning of “pavement café licence” and other key terms

1.—(1) In this Act a “pavement café licence” means a licence authorising the licence holder to place on a public area (identified by the licence) temporary furniture for use for the consumption of food or drink supplied, in the course of a business carried on by the licence holder, in or from premises specified in the licence.

(2) In this Act “a public area” means a place in the open air—

- (a) to which the public has access, without payment, as of right; and
- (b) which is not in a market area.

(3) For the purposes of this Act, “furniture” means all or any of the following—

- (a) tables;
- (b) chairs;
- (c) umbrellas, barriers, heaters and other articles for facilitating the use, by persons consuming food or drink, of tables and chairs in a public area.

(4) For the purposes of this Act, furniture placed on a public area by or on behalf of a person is “temporary” if that person can remove, or cause to be removed, all of it in 20 minutes.

(5) In subsection (4) “remove” means remove to a place which is not a public area.

(6) In this Act “supplied”, in relation to food or drink, means supplied to members of the public or of a section of the public.

(7) In this Act references to placing a thing are to placing it personally or by an employee or agent.

Offence of placing furniture on public area without pavement café licence

2.—(1) Subject to subsection (2), if at any time while a business involving the supply of food or drink in or from any premises to members of the public, or of a section of the public, is being carried on (“the time in question”)—

- (a) furniture for use for the consumption of food or drink supplied in or from the premises is placed on a public area in the course of the business, or
- (b) furniture for such use which has been placed on a public area in the course of the business remains on that public area,

each responsible person commits an offence.

(2) Subsection (1) does not apply if the furniture is temporary and, at the time in question, the person carrying on the business holds a pavement café licence in respect of the premises.

(3) For the purposes of subsection (1) each of the following is a “responsible person”—

- (a) the person carrying on the business; and
- (b) any other person concerned in the management of the premises who is responsible for the furniture being placed on, or (as the case may be) remaining on, the public area.

(4) Where the business is carried on by more than one person—

- (a) the reference in subsection (2) to the person carrying on the business includes any of those persons; and
- (b) the reference in subsection (3)(a) to the person carrying on the business is to each of those persons.

(5) Subsection (1)(b) applies whether the furniture was placed on the public area before or after the commencement of this section.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) It is a defence for a person charged with an offence under this section to prove that that person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Application for licence

Application for licence

3.—(1) A person who carries on, or proposes to carry on, a relevant business may apply to the relevant district council for a pavement café licence in respect of premises specified in the application.

(2) The premises specified must be premises in or from which food or drink is, or will be, supplied in the course of the business.

(3) Only one set of premises may be specified in the application, but this does not prevent a person from making two or more separate applications in respect of different sets of premises.

(4) The application must include a plan which—

(a) shows the location and dimensions of the public area (or each of the public areas) on which the applicant wishes to place temporary furniture for use for the consumption of food or drink supplied in or from the specified premises; and

(b) meets such other requirements as the council may specify.

(5) Any such area must be situated in the district of the relevant district council.

(6) Sections 10 and 11 apply in relation to an application under this section.

(7) In this section—

“a relevant business” means a business involving the supply of food or drink to members of the public, or of a section of the public;

“the relevant district council” means the council in whose district the premises specified in the application are situated.

Grant or refusal of licence

4.—(1) A council must grant an application for a pavement café licence which is made to it in accordance with this Act unless it considers that it ought to refuse the application on one or more of the grounds set out in subsection (2).

(2) The council may refuse the application on any of the following grounds—

(a) that all or any part of the public area where the applicant wishes to place temporary furniture for use for the consumption of food or drink is unsuitable for that purpose;

(b) that placing such furniture on, or on a particular part of, that area for use for the consumption of food or drink supplied in or from the premises specified in the application would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder;

(c) that, in connection with the application, the applicant made a statement which the applicant knew to be false in a material respect or failed to comply with section 11;

(d) that the applicant has at any time been granted a pavement café licence by the council which was revoked, or could have been revoked, for reasons within the applicant’s control.

(3) Where the applicant wishes to place temporary furniture for use for the consumption of food or drink on more than one public area—

(a) subsection (2)(a) applies as if the reference to the public area were to any of the public areas; and

(b) subsection (2)(b) applies as if the reference to that area were to those areas.

(4) Before deciding an application for a pavement café licence, a council—

- (a) must consult the Department for Regional Development as regards that department's functions with respect to roads and the regulation of road traffic; and
 - (b) if the premises to which the application relates are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(a) of that Order, must (and in any other case may) consult the district commander for the police district in which the premises are situated.
- (5) The council may consult such other persons as it considers appropriate.
- (6) In deciding an application for a pavement café licence, the council must take into account any representations relating to the application which are made by any person to the council within the period allowed for representations (as defined by section 10(5)).

Form, duration etc. of licence

- 5.—(1) A pavement café licence must be in the prescribed form and must—
- (a) specify the holder of the licence, the premises to which it relates, and such other matters as may be prescribed; and
 - (b) include a plan showing the location and dimensions of the public area to which it relates.
- (2) In this Act, in relation to a pavement café licence, “the area covered by the licence” means the area shown under subsection (1) on the plan in the licence.
- (3) That area must be—
- (a) an area which was proposed under section 3(4) in the application for the licence; or
 - (b) an area at least 75% of which falls within an area which was so proposed;
- but this is subject to any power under the following provisions of this Act to vary the area covered by the licence.
- (4) If more than one public area was proposed in the application for the licence, the licence may relate to one public area or more than one, and if it relates to more than one—
- (a) the plan included in the licence under subsection (1) must show the location and dimensions of each of the public areas to which the licence relates;
 - (b) references in this Act to “the area covered by the licence” are to any of the areas shown on the plan in the licence; and
 - (c) subsection (3) applies in relation to any such area.
- (5) A pavement café licence shall (except where it is surrendered, revoked or suspended)—
- (a) remain valid for such period as is specified in the licence; or
 - (b) if no period is specified in the licence, remain valid indefinitely.
- (6) Subsection (5)(a) is subject to section 7 (renewal of licence).
- (7) A licence holder may at any time surrender a pavement café licence to the council and the licence shall then cease to be valid.

Conditions of licence

6.—(1) A pavement café licence must include a condition requiring temporary furniture not to be placed for use as mentioned in the licence on any public area other than the area covered by the licence.

(2) A condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area covered by the licence—

(a) must be included in a pavement café licence if the premises specified in that licence are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(b) of that Order (off-licences); and

(b) may be included in any other pavement café licence (whether or not the premises specified in that licence are licensed under the Licensing Order) if the council is satisfied that permitting persons to consume intoxicating liquor when using furniture on the area covered by the pavement café licence would be likely to result in disorder.

(3) A council may specify in a pavement café licence such other conditions as it considers reasonable, and those conditions may in particular include conditions—

(a) limiting the furniture which may be placed on the area covered by the licence by reference to the kind, amount, size or nature of the furniture;

(b) limiting the days or times when the furniture may be on that area;

(c) for securing that adequate arrangements are made for storing the furniture when not on that area;

(d) regulating the arrangements for payment to the council of fees imposed under section 12;

(e) for securing that such insurances and indemnities as may be specified in the licence are put in place;

(f) requiring the council to be notified of such matters as may be specified in the licence;

(g) requiring the surrender of any other pavement café licence in respect of the premises.

Renewal

Renewal of licence

7.—(1) A person who holds a pavement café licence in respect of any premises may apply to the council in whose district the premises are situated for renewal of the licence.

(2) Sections 10 and 11 apply in relation to an application under this section.

(3) A council must grant an application for renewal of a pavement café licence which is made to it in accordance with this Act unless it considers that it ought to refuse the application on one or more of the grounds set out in section 4(2).

(4) Before deciding an application for renewal of a pavement café licence the council may consult such persons as it considers appropriate.

(5) In deciding an application for renewal of a pavement café licence, the council must take into account any representations relating to the application

which are made by any person to the council within the period allowed for representations.

(6) Sections 5 and 6 (form, duration and conditions of licence) apply to a pavement café licence as renewed as they apply to a pavement café licence as initially granted.

- (7) When renewing a pavement café licence, a council may vary the licence—
- (a) by varying the conditions (if any) specified in the licence under section 6(3);
 - (b) by specifying new conditions under section 6(3);
 - (c) by making a variation (within the meaning given by section 8(9)) of the area covered by the licence;
 - (d) by exercising any power that the council has under section 17 to insert an alcohol condition in the licence;
 - (e) subject to subsection (9), by removing an alcohol condition from the licence.

(8) The licence may be varied under subsection (7)(a) to (c) whether or not an application has been made under section 8 and whether or not the council has power under any other provision of this Act to make the variation concerned.

(9) The licence may be varied under subsection (7)(e) only if an application under section 9 has been made and the council has decided in accordance with that section to remove the alcohol condition.

(10) In this section “alcohol condition” has the same meaning as in section 17.

Variation on application of licence holder

Variation of section 6(3) conditions or of area covered by licence

8.—(1) A person who holds a pavement café licence in respect of any premises may apply to the council in whose district the premises are situated for—

- (a) a variation of the conditions, if any, specified in the licence under section 6(3); or
- (b) a variation of the area covered by the licence.

(2) The application must specify the variation that the applicant wishes to be made.

(3) Sections 10 and 11 apply in relation to an application under this section.

(4) Where an application for a variation of conditions specified in a pavement café licence under section 6(3) is made to a council in accordance with this Act, the council may—

- (a) make the variation applied for;
- (b) make such other variation of the conditions as it thinks fit (including by specifying conditions under section 6(3) that were not specified in the application); or
- (c) refuse the application.

(5) Where an application for a variation of the area covered by a pavement café licence is made to a council in accordance with this Act, the council must grant

the application unless it considers that it ought to refuse the application on one or more of the grounds set out in section 4(2).

(6) Before deciding an application under this section the council may consult such persons as it considers appropriate.

(7) In deciding an application under this section, the council must take into account any representations relating to the application which are made by any person to the council within the period allowed for representations.

(8) Any reference in this Act to the variation of conditions specified in a licence under section 6(3) includes the removal of any such conditions.

(9) Any reference in this Act to a variation of the area covered by a pavement café licence is a reference to a variation of that area such that, after the variation, at least 75% of the area falls within the area as it was before the variation.

(10) In section 4(2)(a) as it applies for the purposes of subsection (5) above, the reference to the public area where the applicant wishes to place temporary furniture for use for the consumption of food or drink is to be read as a reference to the part of that area which is not already covered by the licence.

Variation by removal of alcohol prohibition

9.—(1) This section applies where—

- (a) a person holds a pavement café licence in respect of any premises;
- (b) the pavement café licence includes a condition (“an alcohol condition”) requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area covered by the licence; and
- (c) the premises specified in the pavement café licence are not premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(b) of that Order (off-licences).

(2) The holder of the pavement café licence may apply to the council in whose district the premises are situated for the pavement café licence to be varied by the removal of the alcohol condition.

(3) Sections 10 and 11 apply in relation to an application under this section.

(4) Where an application under this section is made to a council in accordance with this Act, the council may—

- (a) remove the alcohol condition; or
- (b) if it is satisfied that permitting persons to consume intoxicating liquor when using furniture on the area covered by the licence would be likely to result in disorder, refuse the application.

(5) Before deciding an application under this section the council—

- (a) must consult the district commander for the police district in which the premises are situated; and
- (b) may consult such other persons as it considers appropriate.

(6) In deciding an application under this section, the council must take into account any representations relating to the application which are made by any person to the council within the period allowed for representations.

Applications: general provision

Applications: general provision

10.—(1) In this section “an application” means an application for the grant or renewal of a pavement café licence or for the variation of a pavement café licence under section 8 or 9.

(2) An application—

- (a) must be made in writing, and in such form and way and at such time as the council to which the application is made may specify; and
- (b) if the council so requires, must be accompanied by any fee (or such part as the council may determine of any fee) payable under section 12.

(3) An application must—

- (a) confirm that the notice required by section 11 has been fixed as required by that section, and the date on which this was done; and
- (b) contain such information, and be accompanied by such documents, as the council may reasonably require.

(4) Where a council receives an application made in accordance with this Act, it must, by such means as it thinks appropriate—

- (a) make the application available to be viewed by the public until the end of the period allowed for representations; and
- (b) publicise the fact that representations relating to the application may be made in writing to the council until the end of that period.

(5) In this Act “the period allowed for representations”, in relation to an application, means 28 days beginning with the first working day after the date when the application is received by the council.

(6) The council may require the applicant to provide such further information or documents as it may consider necessary for dealing with the application.

(7) If it refuses an application, a council must give the applicant notice in writing of its decision and of—

- (a) the grounds for that decision; and
- (b) the applicant’s rights under section 21 (appeals).

(8) A person who, in connection with an application, makes a statement which is false in a material respect and does so knowing it to be false commits an offence.

(9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Notice of application to be displayed

11.—(1) This section applies where an application is made for the grant or renewal of a pavement café licence or for the variation of a pavement café licence under section 8 or 9.

(2) The applicant must ensure—

- (a) that, on the day when the application is sent to the council, the required notice is fixed to the premises specified in the application so as to be easily visible and legible to the public from outside the premises; and
- (b) that the notice remains in position and so visible and legible until the end of the period allowed for representations.

(3) In this section “the required notice” means a notice, in such form as may be specified by the council to which the application is made, which—

- (a) states that an application for the grant, renewal or variation of a pavement café licence (as the case may be) has been made in relation to the premises;
- (b) specifies the date of the application;
- (c) indicates that the council will make the application available to be viewed by the public until the end of the period allowed for representations;
- (d) indicates how the application may be viewed;
- (e) indicates that representations relating to the application may be made in writing to the council until the end of that period; and
- (f) contains such other information as the council may specify.

Fees

12.—(1) A council may charge fees—

- (a) for the grant or renewal of a pavement café licence;
- (b) for a variation of a pavement café licence under section 8 or 9.

(2) Any fees charged by a council under this section shall be such as the council may determine.

(3) But fees charged by a council under this section may only be—

- (a) such fees as may be sufficient in the aggregate, taking one year with another, to cover any reasonable administrative or other costs in connection with the council’s functions under this Act that are not otherwise recoverable; or
- (b) such lower fees as the council may determine.

(4) Before determining or altering any fees under this section the council must—

- (a) give notice of the proposed fees to licence holders affected by the proposal; and
- (b) publicise the proposed fees by such means as it thinks appropriate.

(5) The notice under subsection (4)(a) and publicity under subsection (4)(b) must indicate—

- (a) that a statement has been prepared showing how the proposed fees have been calculated;
- (b) that the statement will be available to be viewed by the public until the end of a period specified in the notice and publicity, and how it may be viewed; and
- (c) that representations relating to the proposed fees may be made in writing to the council until the end of that period.

(6) The period specified under subsection (5)(b) must be at least 28 days beginning with the day after the date when the proposed fees are first publicised.

(7) In reaching a decision about the determination or alteration of the fees, the council must take into account any representations made to it within the period specified under subsection (5)(b).

(8) Where the council has reached its decision, it must—

- (a) give notice of the decision to licence holders affected by the decision; and
- (b) publicise the decision by such means as it thinks appropriate.

(9) The council may determine the time and way in which fees are to be paid.

(10) Where a council refuses an application for the grant, renewal or variation of a pavement café licence, it must refund any fee paid less any costs necessarily incurred by the council in deciding the application.

(11) Where a pavement café licence is revoked under section 14(1)(a) or (b), the council must refund such part of any fee paid for the grant or renewal of the licence as appears to the council appropriate, having regard to—

- (a) the period for which the licence had been in force when revoked; and
- (b) any costs necessarily incurred by the council in deciding the application to grant or renew the licence.

(12) The council may refund, in such other circumstances as it considers appropriate, the whole or part of any fee.

Change in persons carrying on business

Change in persons carrying on business

13.—(1) Subsection (2) applies where—

- (a) a pavement café licence was granted to two or more persons carrying on, or proposing to carry on, a qualifying business;
- (b) one or more of those persons has died or withdrawn from the business;
- (c) one or more of those persons (“the remaining person”) is still carrying on a qualifying business; and
- (d) the licence has not expired or been revoked or surrendered.

(2) The remaining person is to be treated as the holder of the licence.

(3) Subsection (4) applies where—

- (a) a pavement café licence was granted to a person or persons carrying on, or proposing to carry on, a qualifying business;
- (b) that person (or, if the licence was granted to two or more persons, any of them) is carrying on a qualifying business together with a person who is not a holder of the licence; and
- (c) the licence has not expired or been revoked or surrendered.

(4) The licence is to be taken to authorise the placing by the licence holder and that other person on the area covered by the licence of temporary furniture for use as mentioned in the licence.

(5) A pavement café licence may not be transferred from one person to another.

(6) But subsection (5) does not affect—

- (a) any power of a person to apply for a new pavement café licence in respect of premises for which a pavement café licence held by another person is in force;
- (b) the power of a licence holder to surrender a pavement café licence in respect of premises on the grant to another person of a new pavement café licence in respect of the premises.

(7) In this section “a qualifying business” means a business involving the supply of food or drink to members of the public, or of a section of the public, in or from the premises specified in the licence.

Revocation, suspension and compulsory variation

Revocation of licence

14.—(1) A council may at any time revoke a pavement café licence if it is satisfied—

- (a) that all or any part of the public area where the licence permits the placing of temporary furniture for use for the consumption of food or drink has become, or is going to become, unsuitable for that purpose;
- (b) that continuing to place such furniture on, or on a particular part of, that area for use for the consumption of food or drink supplied in or from the premises specified in the licence would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder;
- (c) that the licence holder, in connection with an application for the grant, renewal or variation of the licence, made a statement which the applicant knew to be false in a material respect or failed to comply with section 11;
- (d) that the licence holder has persistently failed to comply with any condition of the licence; or
- (e) that the licence holder has, without reasonable explanation, failed to pay any fee due to the council under section 12.

(2) Where a pavement café licence permits the placing of temporary furniture on more than one public area—

- (a) subsection (1)(a) applies as if the reference to the public area were to any of the public areas; and
- (b) subsection (1)(b) applies as if the reference to that area were to those areas.

Suspension of licence

15.—(1) A council may at any time suspend a pavement café licence if it is satisfied—

- (a) that all or any part of the public area where the licence permits the placing of temporary furniture for use for the consumption of food or drink has become, or is going to become, temporarily unsuitable for that purpose; or
- (b) that placing such furniture on, or on a particular part of, that area for use for the consumption of food or drink supplied in or from the premises

specified in the licence would, temporarily, be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity or in disorder.

(2) A council may also suspend a pavement café licence at any time (as an alternative to revoking it) if it is satisfied that any of the grounds set out in section 14(1)(c) to (e) is met.

(3) While a pavement café licence is suspended the licence is to be treated for all purposes (and, in particular, for the purposes of section 2(2)) as not being a valid pavement café licence.

(4) But subsection (3) does not apply for the purposes of—

- (a) the provisions of this Act relating to the surrender, renewal or variation of pavement café licences;
- (b) any requirement in section 12 to give notice to licence holders;
- (c) section 22 (powers of entry and inspection).

(5) Subsection (2) of section 14 applies for the purposes of subsection (1)(a) and (b) above as it applies for the purposes of subsection (1)(a) and (b) of that section.

Compulsory variation of section 6(3) conditions

16.—(1) A council may at any time vary a pavement café licence by—

- (a) varying the conditions (if any) specified in the licence under section 6(3); or
- (b) specifying new conditions under section 6(3).

(2) But a council may make a variation under this section only if it considers that it ought to do so as a result of a material change in the circumstances on which the conditions specified in the licence under section 6(3) were based (or on the basis of which a particular condition was not so specified).

Compulsory variation: prohibition of alcohol

17.—(1) A council may at any time vary a pavement café licence which does not include an alcohol condition by inserting such a condition, but this is subject to subsection (3).

(2) In this section “an alcohol condition” means a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area covered by the licence.

(3) A council may insert such a condition only if—

- (a) the premises specified in the licence are premises licensed under the Licensing Order of a kind mentioned in Article 5(1)(b) of that Order (off-licences); or
- (b) the council is satisfied that permitting persons to consume intoxicating liquor when using furniture on the area covered by the licence would be likely to result in disorder.

Compulsory variation of area covered by licence

18.—(1) This section applies if at any time a council is satisfied, as respects part of the public area where a pavement café licence permits the placing of temporary furniture for use for the consumption of food or drink—

- (a) that that part has become, or is going to become, unsuitable for that purpose; or
- (b) that continuing to place such furniture on that part for use for the consumption of food or drink supplied in or from the premises specified in the licence would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder.

(2) Where this section applies, the council may (as an alternative to revoking the licence) make a variation of the area covered by the licence.

(3) Where a pavement café licence permits the placing of temporary furniture on more than one public area—

- (a) the reference in subsection (1) to part of the public area includes any of those public areas, or any part of any of those areas (and the references in subsection (1)(a) and (b) to “that part” are to be read accordingly); and
- (b) the power under subsection (2) to make a variation of the area covered by the licence includes power to vary the licence so that one or more of the areas covered by the licence (or any part or parts of them) cease to be covered by the licence.

Notice of revocation, suspension or compulsory variation

19.—(1) Before deciding to revoke, suspend or make a compulsory variation of a pavement café licence, a council must (subject to subsection (5)) notify the licence holder in writing of its proposal to revoke, suspend or vary the licence.

(2) A notification under subsection (1) must state—

- (a) the grounds for the proposed revocation, suspension or variation; and
- (b) that representations in writing relating to the proposal may be made by the licence holder to the council until the end of a period specified in the notification.

(3) Any period specified under subsection (2)(b) must be at least 21 days beginning with the date when the notification is sent unless the council considers that there are particular circumstances which make a shorter period necessary in the public interest.

(4) In deciding whether to revoke, suspend or make the proposed variation of the licence the council must take into account any representations made by the licence holder within the period specified under subsection (2)(b).

(5) If it considers that there are particular circumstances which make it necessary to do so in the public interest, a council may decide whether to revoke, suspend or make a compulsory variation of a pavement café licence even though no notification has been given under subsection (1).

(6) Where a council decides to revoke, suspend or make a compulsory variation of a pavement café licence, the council must give notice in writing to the licence holder of the revocation, suspension or variation.

(7) A notice under subsection (6) must—

- (a) state when the revocation, suspension or variation takes effect;
- (b) in the case of suspension, state when the suspension ends;
- (c) state the grounds for the revocation, suspension or variation; and
- (d) include notice of the licence holder's rights under section 21 (appeals).

(8) A notice under subsection (6) may provide for the revocation, suspension or variation to take effect on the date when that notice is served on the licence holder, but only where the council considers that there are particular circumstances which make this necessary in the public interest.

(9) In any other case, the notice must give the licence holder such notice of the revocation, suspension or variation as the council considers reasonable in all the circumstances.

(10) A notice under subsection (6) may be withdrawn at any time before the revocation, suspension or variation takes effect.

(11) Where a suspension of a pavement café licence has taken effect, the council may—

- (a) extend the suspension on one or more occasions;
- (b) revoke the suspension by notice in writing to the person whose licence was suspended.

(12) Subsections (1) to (10) apply to an extension of a suspension as they apply to a suspension.

(13) Any reference in this section to compulsory variation of a pavement café licence is to variation of a pavement café licence under any of sections 16 to 18.

Matters to be recorded in register

Matters to be recorded in register under Licensing Order

20.—(1) Regulations may make provision—

- (a) requiring a district council to notify prescribed matters relating to a relevant pavement café licence to the person responsible for keeping the licensing register;
- (b) requiring a district council to send prescribed documents to that person;
- (c) requiring that person—
 - (i) to record, in a prescribed part of that register, matters notified under the regulations; and
 - (ii) to keep prescribed documents sent under the regulations.

(2) The regulations may include provision, in relation to—

- (a) matters required by the regulations to be recorded in the register, or
- (b) documents required by the regulations to be kept,

which applies or corresponds to any provision of the Licensing Order relating to matters required by or under that Order to be recorded in the register or to any documents required by that Order to be kept.

(3) In this section—

“the licensing register” means the register kept under Article 34 of the Licensing Order in which matters relating to the licence under that Order for the premises are recorded;

“a relevant pavement café licence” means a pavement café licence in respect of premises which are licensed under the Licensing Order.

Appeals

Appeals

21.—(1) Where an application for—

- (a) the grant or renewal of a pavement café licence, or
- (b) a variation of a pavement café licence under section 8 or 9,

is refused, the person who made the application may appeal against the refusal.

(2) Where a pavement café licence is granted, the licence holder may appeal—

- (a) against any condition specified in the licence under section 6(2)(b) or (3);
or
- (b) if the area (or areas) shown in the plan in the licence are not the same as the area (or areas) proposed in the application, against the council’s decision with regard to any such area.

(3) Where a pavement café licence is granted or renewed and a period is specified under section 5(5)(a) in the licence, the licence holder may appeal against the council’s decision to specify that period.

(4) Where a pavement café licence held by a person is—

- (a) renewed subject to a variation under section 7(7),
- (b) varied under section 8(4)(b),
- (c) revoked under section 14,
- (d) suspended under section 15, or
- (e) varied under any of sections 16 to 18,

that person may appeal against the variation, revocation or suspension.

(5) Where a suspension of a pavement café licence is extended under section 19, the person whose licence was suspended may appeal against the extension.

(6) Any appeal under this section must be made to a court of summary jurisdiction by notice under Part 7 of the Magistrates’ Courts (Northern Ireland) Order 1981.

(7) An appeal under this section must be brought within 21 days beginning with the day after the date on which notice is given of the refusal, grant, renewal, variation, revocation, suspension or extension (as the case may be).

(8) On an appeal under this section, a court of summary jurisdiction may make such order as it considers appropriate and the council must give effect to that order.

Powers of entry, removal, etc.

Powers of entry and inspection

22.—(1) An authorised officer may at any reasonable time, in order to obtain information required by the council for a purpose mentioned in subsection (2)—

- (a) enter and inspect premises to which a pavement café licence relates, or to which an application for the grant, renewal or variation of such a licence relates;
- (b) inspect furniture placed on a public area for use for the consumption of food or drink supplied in or from any premises;
- (c) inspect any other object placed on a public area with such furniture.

(2) The purposes referred to in subsection (1) are—

- (a) the purpose of determining whether an application for a pavement café licence or the renewal or variation of such a licence should be granted or what conditions should be specified in such a licence;
- (b) the purpose of ascertaining whether a condition specified in a pavement café licence is being or has been complied with;
- (c) the purpose of determining whether a pavement café licence should be revoked, suspended, or varied under any of sections 16 to 18.

(3) An authorised officer exercising powers under this section must if required produce his or her authority.

(4) Any power under this section to enter and inspect premises does not apply to any part of the premises used as a dwelling.

Power to remove unlicensed furniture

23.—(1) A council may cause any temporary furniture which is unlicensed to be removed from a public area and stored.

(2) For the purposes of this section temporary furniture is “unlicensed” if—

- (a) it has been placed on a public area, in the course of a business, for use for the consumption of food or drink supplied in the course of that business in or from any premises; and
- (b) the person carrying on the business does not hold (or, if more than one person carries on the business, none of those persons holds) a pavement café licence in respect of the premises.

(3) Where any furniture is removed and stored under subsection (1), the council—

- (a) must, where the name and address of the person in the course of whose business the furniture was placed on the public area (“the responsible person”) is known, notify that person of the removal and storage and of how the furniture may be recovered; and
- (b) may recover from the responsible person the costs reasonably incurred by the council in removing and storing the furniture.

(4) Any charges incurred by a council in pursuance of subsection (1) shall be payable by the responsible person before the return of the furniture to that person.

(5) Where any furniture—

(a) has been removed under subsection (1), and

(b) has not been recovered by the responsible person within 3 months beginning with the date of its removal,

the council may take such steps as are reasonable to sell it or to dispose of it in such other way as the council thinks fit.

Offence of obstruction

24.—(1) A person who intentionally obstructs an authorised officer acting in the exercise of powers under section 22 or 23 commits an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Supplementary

Service of notices and documents

25.—(1) Without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, any notice or other document required or authorised to be served on or sent or given to any person under this Act may be served, sent or given, in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition in subsection (2), to that person at that address.

(2) That condition is that the notice or other document is—

(a) capable of being accessed by the recipient;

(b) legible in all material respects; and

(c) in a form sufficiently permanent to be used for subsequent reference;

and for this purpose “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if served or given by means of a notice or document in printed form.

(3) Where a person uses electronic communications to transmit any notice or other document for any purpose of this Act, that person shall be taken to have agreed, except where a contrary intention appears, to the use of such communications and that his or her address for that purpose is the address incorporated into, or otherwise logically associated with, the notice or document.

(4) In this section “electronic communication” has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001.

Power to make further provision

26.—(1) The Department may by regulations make such supplementary, incidental, consequential or transitional provision as it considers necessary or expedient for the purposes of, or in consequence of, or for giving full effect to, any provision made by or under this Act.

(2) The provision which may be made under subsection (1) includes provision which amends or modifies any statutory provision (including this Act) or any document.

Regulations

27.—(1) Subject to subsection (2), regulations made under this Act are subject to negative resolution.

(2) Regulations which include provision under section 26(1) that amends any statutory provision may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

Consequential amendments

28. The statutory provisions set out in the Schedule have effect subject to the consequential amendments specified in that Schedule.

Byelaws

29.—(1) Where, by creating an offence, a byelaw prohibits the consumption of intoxicating liquor in a particular place, the byelaw does not apply to any relevant pavement café area within that place.

(2) In this section “a relevant pavement café area” means a public area which—

(a) is an area shown under section 5 on the plan in a pavement café licence which is in force;

(b) for the time being has temporary furniture on it that under the terms of that licence is permitted to be on that area at that time;

(c) is associated with premises licensed under the Licensing Order which are—

(i) premises of a kind mentioned in Article 5(1)(a) of the Licensing Order;

(ii) a hotel;

(iii) a guest house in which the business of a restaurant is carried on;

(iv) a restaurant; or

(v) a refreshment room in public transport premises; and

(d) is not subject to an alcohol condition.

(3) For the purposes of subsection (2)(c)—

(a) the area is “associated with” particular premises if those premises are the premises in respect of which the pavement café licence relating to the area was granted;

(b) “hotel”, “guest house”, “restaurant”, and “public transport premises” have the same meanings as in the Licensing Order.

(4) For the purposes of subsection (2)(d), the area is “subject to an alcohol condition” if the pavement café licence relating to the area includes a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area.

(5) In subsection (1) the reference to intoxicating liquor includes any liquor of a similar nature which falls within the byelaw.

Definitions

30.—(1) In this Act—

“the area covered by the licence”, in relation to a pavement café licence, has the meaning given by section 5(2) or, where the licence relates to more than one public area, the meaning given by section 5(4)(b);

“authorised officer” means a person authorised by a council for the purposes of this Act;

“business” includes any business whether or not carried on for profit;

“council” means a district council;

“the Department” means the Department for Social Development;

“furniture” has the meaning given by section 1(3);

“intoxicating liquor” has the same meaning as in the Licensing Order;

“licensed under the Licensing Order”, in relation to premises, has the meaning given by subsection (2);

“the Licensing Order” means the Licensing (Northern Ireland) Order 1996;

“market area” means a place where a person has a right (exercisable at particular times) to hold a market or fair; and in this definition “right” means a right acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of a statutory provision;

“pavement café licence” has the meaning given by section 1(1);

“the period allowed for representations”, in relation to an application, has the meaning given by section 10(5);

“place”, when used as a verb, is to be read in accordance with section 1(7);

“premises” includes any place other than a public area, and any stall, moveable structure, vehicle or vessel;

“prescribed” means prescribed by regulations;

“public area” has the meaning given by section 1(2);

“regulations” means regulations made by the Department;

“sale of intoxicating liquor by retail” is to be read in accordance with Article 2(6) of the Licensing Order;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“supplied”, in relation to food and drink, is to be read in accordance with section 1(6);

“temporary”, in relation to furniture, is to be read in accordance with section 1(4) and (5);

“variation”—

(a) in relation to conditions specified in a licence under section 6(3), has the meaning given by section 8(8);

(b) in relation to the area covered by a pavement café licence, has the meaning given by section 8(9);

“working day” means a day which is not a Saturday, Sunday or public holiday.

(2) For the purposes of this Act, premises are “licensed under the Licensing Order” if they are premises in which the sale of intoxicating liquor by retail is

authorised by a licence under the Licensing Order other than an occasional licence within the meaning of that Order.

(3) References in this Act to a business “involving” the supply of food or drink to members of the public, or of a section of the public, include a business where such supply of food and drink is ancillary to the principal activity of the business.

(4) A stall, moveable structure, vehicle or vessel in or from which food or drink is supplied is to be treated for the purposes of this Act as premises situated at the place where the stall, moveable structure, vehicle or vessel is when being used for the supply of food or drink.

(5) If a stall, moveable structure, vehicle or vessel is used for the supply of food or drink at more than one place, the premises which by virtue of subsection (4) are to be treated as situated at each such place are to be treated as separate premises.

Short title

31. This Act may be cited as the Licensing of Pavement Cafés Act (Northern Ireland) 2014.

Commencement

32.—(1) This Act, except sections 30 and 31 and this section, shall come into operation on such day or days as the Department may by order appoint.

(2) An order under this section may contain such transitional provisions as the Department thinks appropriate.

SCHEDULE

Section 28.

CONSEQUENTIAL AMENDMENTS

The Roads (Northern Ireland) Order 1993 (NI 15)

1. In Article 71(2) (offence of erecting structure on road), after paragraph (b) insert—

“(ba) in pursuance of a pavement café licence under the Licensing of Pavement Cafés Act (Northern Ireland) 2014; or”.

The Licensing (Northern Ireland) Order 1996 (NI 22)

2. After Part 5 insert—

“PART 5A

PAVEMENT CAFE AREAS

Pavement café areas: definitions

76A.—(1) In this Part, a “pavement café area” means a public area which—

- (a) is an area shown, under section 5 of the Licensing of Pavement Cafés Act (Northern Ireland) 2014, on the plan in a pavement café licence which is in force; and
- (b) for the time being has temporary furniture on it that under the terms of the pavement café licence is permitted to be on that area at that time.

(2) For the purposes of this Part, a pavement café area is “associated with” particular premises if those premises are (or are part of) the premises in respect of which the pavement café licence relating to the pavement café area was granted.

(3) In this Part the following expressions have the same meaning as in the Licensing of Pavement Cafés Act (Northern Ireland) 2014—

- “pavement café licence”;
- “public area”;
- “temporary furniture”.

Sale for consumption on pavement café area not prohibited by Article 5(3)(b) or 51 in certain cases

76B.—(1) This Article applies where—

- (a) a pavement café area is associated with premises for which a licence is in force;
- (b) those premises are—
 - (i) a hotel;

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- (ii) a guest house in which the business of a restaurant is carried on;
 - (iii) a restaurant; or
 - (iv) a refreshment room in public transport premises; and
- (c) the pavement café licence relating to the pavement café area does not include a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on that area.

(2) For the purposes of the reference in Article 5(3)(b) to consumption off the premises, the pavement café area is to be treated as part of the premises.

(3) If the premises are a hotel, the pavement café area is also to be treated as part of the premises for the purposes of the references in Article 5(5)(b) to consumption off the premises and to a diner in the premises.

(4) If—

- (a) the premises are a restaurant, or a guest house in which the business of a restaurant is carried on, and
- (b) the business of the restaurant is carried on partly on the pavement café area,

the pavement café area is also to be treated for the purposes of Article 51(4)(a)(ii) (and, in the case of a guest house, Article 51(2)) as being a part of the restaurant.

Pavement café area where consumption permitted: hours, conduct etc.

76C.—(1) This Article applies where—

- (a) a pavement café area is associated with premises for which a licence is in force;
- (b) those premises are—
 - (i) premises of a kind mentioned in Article 5(1)(a);
 - (ii) a hotel;
 - (iii) a guest house in which the business of a restaurant is carried on;
 - (iv) a restaurant; or
 - (v) a refreshment room in public transport premises; and
- (c) the pavement café licence relating to the pavement café area does not include a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on that area.

(2) For the purposes of the provisions mentioned in paragraph (3), the pavement café area is to be treated as part of the licensed premises with which it is associated.

(3) Those provisions are—

Article 41(1)(a)(ii), (c) and (d);

in Article 46—

- (a) any reference in paragraph (1)(a) to consumption in the premises;
- (b) the reference in paragraph (1)(b) to taking liquor from the premises;

Article 57A;

Article 60(1)(b) and (d)(i);

Articles 61 to 65;

in Article 69J(2), the reference to the premises;

Articles 73 and 74; and

Article 82.

(4) If the premises are of a kind mentioned in Article 5(1)(a), the pavement café area is also to be treated as part of the premises for the purposes of—

- (a) any reference in Article 43(2), 50(1) or 58(1)(a) to consumption off the premises or to consumption in the premises; and
- (b) where there is a condition under Article 43(2) in relation to the premises, any reference in that condition to consumption in the premises.

(5) If the premises are a hotel, the pavement café area is also to be treated as part of the premises for the purposes of the reference in Article 50(1) to consumption off the premises.

Young persons prohibited from certain pavement café areas

76D.—(1) This Article applies where—

- (a) Article 76C applies; and
- (b) the pavement café area is used exclusively or mainly for the consumption of intoxicating liquor.

(2) For the purposes of Article 58(1)(c) and (2) to (14) (young persons prohibited from certain premises), the pavement café area is to be treated—

- (a) as part of the licensed premises with which it is associated;
- (b) as if it were a part falling within Article 58(1)(c)(ii); and
- (c) accordingly, as being included in any reference in Article 58 to any part of the licensed premises as mentioned in paragraph (1) of that Article.

(3) If a children's certificate is in force in respect of any part of the premises with which the pavement café area is associated, then (subject to paragraph (4)) the pavement café area is also to be treated for the purposes of Article 58(5)(b) as if it were a part of the premises for which the children's certificate is in force.

(4) If a children's certificate is in force in respect of any part of the premises with which the pavement café area is associated—

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- (a) the powers of a court of summary jurisdiction under Article 59(8) include power, on the application of the holder of the licence, to revoke the children’s certificate so far as relating to the pavement café area; and
- (b) the powers of a court of summary jurisdiction under Article 59(9) include power to revoke the children’s certificate so far as relating to the pavement café area if the court is satisfied, upon complaint made under Part 8 of the Magistrates’ Courts (Northern Ireland) Order 1981—
 - (i) that the pavement café area does not constitute an environment in which it is suitable for a person under the age of 18 to be present; or
 - (ii) in the case of a complaint made as mentioned in Article 59(9)(b), that any condition specified in Article 59(2)(b) to (d) or in Article 58(5) is not being complied with in respect of the pavement café area.

Off-licence: penalty for consumption on pavement café area

76E.—(1) This Article applies where—

- (a) a pavement café area is associated with premises for which a licence is in force; and
- (b) those premises are of a kind mentioned in Article 5(1)(b).

(2) For the purposes of the provisions mentioned in paragraph (3), the pavement café area is to be treated as part of the licensed premises with which it is associated.

(3) Those provisions are—

- Article 57(1)(a);
- Article 82(3) and (4).”.

The Street Trading Act (Northern Ireland) 2001 (c. 8)

3.—(1) Section 2 (activities which are not street trading) is amended as follows.

(2) In subsection (1), after paragraph (e) insert—

- “(f) where a pavement café licence is in force, trading carried out in the area covered by the licence, if the trading—
 - (i) takes place at a time when that area has temporary furniture on it that under the terms of the licence is permitted to be there at that time;
 - (ii) is done in the course of a business which is carried on by the licence holder at the premises specified in the licence;
 - (iii) relates to the supply of food or drink in or from those premises for consumption on that area; and
 - (iv) does not involve a contravention of the conditions of the licence.”.

(3) After subsection (4) insert—

“(5) Expressions used in paragraph (f) of subsection (1) and in the Licensing of Pavement Cafés Act (Northern Ireland) 2014 have the same meaning in that paragraph as in that Act.”.

The Criminal Justice (Northern Ireland) Order 2008 (NI 1)

4.—(1) Article 70 (designated public places) is amended as follows.

(2) In paragraph (2) (places that are not designated public places for the purposes of Articles 68 to 71 of that Order), after sub-paragraph (a) insert—

“(aa) a relevant pavement café area;”.

(3) After paragraph (6) insert—

“(7) In this Article “a relevant pavement café area” means a public area which—

(a) is an area shown under section 5 of the Licensing of Pavement Cafés Act (Northern Ireland) 2014 on the plan in a pavement café licence which is in force;

(b) for the time being has temporary furniture on it that under the terms of that licence is permitted to be on that area at that time;

(c) is associated with licensed premises which are—

(i) premises of a kind mentioned in Article 5(1)(a) of the Licensing (Northern Ireland) Order 1996;

(ii) a hotel;

(iii) a guest house in which the business of a restaurant is carried on;

(iv) a restaurant; or

(v) a refreshment room in public transport premises; and

(d) is not subject to an alcohol condition.

(8) For the purposes of paragraph (7)—

(a) the area is “associated with” particular premises if those premises are (or are part of) the premises in respect of which the pavement café licence relating to the area was granted;

(b) the area is “subject to an alcohol condition” if the pavement café licence relating to the area includes a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area.”.

5.—(1) Article 72 (interpretation of Articles 68 to 71) is amended as follows.

(2) In the definition of “intoxicating liquor”, “licensed premises” and “occasional licence”—

(a) before ““intoxicating liquor” insert ““guest house”, “hotel”,”;

(b) for “and “occasional licence”” substitute “, “occasional licence”, “public transport premises” and “restaurant””.

(3) after that definition insert—

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““pavement café licence”, “public area” and “temporary furniture”
have the same meanings as in the Licensing of Pavement Cafés
Act (Northern Ireland) 2014;”.

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