



District Council Chief Executives

Level 4, Lighthouse Building  
1 Cromac Place  
Gasworks Business Park  
Ormeau Road  
Belfast BT7 2JB  
028) 90829510 Network: 38510

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Dear Chief Executive

### **IMPLEMENTATION OF THE LICENSING OF PAVEMENT CAFÉS ACT (NI) 2014**

I am writing to advise you of the Department's intention to bring the Licensing of Pavement Cafés Act (NI) 2014 (the Act) fully into operation with effect from **1 April 2016**.

The Act balances the need for robust regulation of pavement cafés with the necessary flexibility for district councils to respond to local circumstances. Key stakeholders, including councils, have been calling for the introduction of a statutory licensing scheme for a number of years and the passing of the Act presents an opportunity to deliver in this respect.

The licensing scheme will allow owners of cafés, restaurants, pubs, or other premises selling food or drink, to apply to their local council for a pavement café licence. The Act places an onus on a council to grant a licence unless it has a good reason to refuse an application. When considering applications, councils will be required to consult with Transport NI and, where the associated premises is a public house, with the PSNI, before coming to a final decision. Councils will be able to impose a range of licence conditions, charge a reasonable fee and may vary, suspend or revoke the licence in certain circumstances. The Act provides councils with the power to remove facilities at unlicensed pavement cafés and creates several new offences to aid enforcement by council officers.

Here is a link to the Act and the Explanatory Notes <http://www.legislation.gov.uk/nia/2014/9/contents> The licensing scheme is similar to that for street trading, which as you know is regulated by councils. Local licensing officers will therefore be readily familiar with the detailed licensing and administrative tasks involved in bringing the new scheme into operation.

During its Assembly passage, NILGA gave evidence to the Social Development Committee about issues relating to scheme implementation, including the drafting of a guide to the Act, model terms/conditions, transitional arrangements and initial funding. It may be helpful to clarify the Department's position on these issues.

As regards scheme guidance the Department gave a commitment to take forward work on this when the legislation was passed. Since then we have received some 'informal' feedback from council licensing officers on a working draft of the guidelines and these have been amended to take account of a number of points made. The Department has also been engaged in discussions with Inclusive Mobility Transport Advisory Committee (Imtac) about issues in the guidelines relating to pedestrian access. Organisations representing visually impaired people have concerns that district councils will not enforce the scheme robustly; they have asked that the current working draft of the scheme guidelines be strengthened to protect pedestrians. In particular, they would like a minimum of 2m unobstructed width around a pavement café. This is dealt with in more detail in Para. 4.11 of the guidelines.

The Act does not specify minimum standards in terms of the size, layout or design of a pavement café. However, the Department believes the licensing scheme itself and measures incorporated in the Act; provide sufficient safeguards to ensure that authorised pavement cafés will be safe, well managed and sensitive to the needs of street users and the surrounding area. The most significant safeguard is the statutory requirement for councils to consult with Transport NI on individual applications. Transport NI is considered best placed to advise councils on the needs of pedestrians and access issues in relation to applications for a pavement café. While the draft guidelines state that a clear pedestrian route must be maintained at all times, it is considered that each pavement café application will need to be assessed on a site by site basis, having regard to the existing streetscape, traffic volume and the level of footfall.

The latest working draft of the guidelines is attached; the Department would be happy to consider any comments councils may wish to make on the draft. In particular, we would welcome your views on the concerns raised by Imtac and how far the guidelines need go in terms of setting minimum standards for pavement cafés.

NILGA also asked the Department to consider establishing a working group to look at this issue of 'model' terms and conditions for grant of a pavement café licence, in line with those applying to entertainment licences. The Department acknowledges the need to look in detail at the terms and conditions for grant of an entertainment licence, given the health and safety risks associated with the gathering of large numbers of people in a confined indoor area, where alcohol may be available. The Department questions the need to establish such a group for pavement cafés as the conditions of a licence are likely to vary, depending on factors such as site location and nature of the associated premises. Establishing such a group would also have resource

implications. The Department is however, currently drafting the 'form of licence' regulations which we believe should provide a 'template' for considering specific terms and conditions to be included in a licence. In due course, we will augment the draft guidelines in this regard.

NILGA also expressed some concerns about the volume of first-time applications and the cost of administering the scheme, which may exceed what a council will be comfortable charging businesses. We would expect that the majority of initial applications will be made in response to pro-active enforcement by council officials and as such the scheme can be rolled-out as resources are deployed by each council. As regards initial funding support, the Department believes this would be difficult to justify in the current economic climate, as the facility to apply for a licence does present an opportunity for a business to add to its profits. Ultimately, it will be for local businesses to decide whether or not to make an application, having regard to licensing and operational costs and the expected commercial benefits.

The Department now looks to district councils to make the preparations necessary to administer the new licensing scheme. The Department will, in due course, finalise the draft guidelines and technical regulations and update councils on progress. We would be grateful to receive, **by 30 September**, your confirmation that arrangements should be made to **bring the Act into operation on 1 April 2016**, and would welcome **your comments on the working draft of the guidelines** to the Act.

Yours sincerely

A handwritten signature in black ink that reads "Liam Quinn". The signature is written in a cursive, flowing style.

**Liam Quinn**  
**Head of Social Policy Unit**

**Enc. Working draft of guidelines for councils**