



<b>Subject:</b>	<b>Update on the Licensing of Pavement Cafes Act (Northern Ireland) 2014</b>
<b>Date:</b>	21 September, 2016
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<b>Is this report restricted?</b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<b>Is the decision eligible for Call-in?</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report/Summary of Main Issues</b>
1.1	The Committee is reminded that the Licensing of Pavement Cafes Act (NI) 2014 (the Act) will come into operation on 1st October 2016. From that point onwards, the operation of a pavement café will be subject to a licence granted by the council.
1.2	The purpose of this report is to outline progress to date and to: <ul style="list-style-type: none"><li>• provide an update on engagement with our stakeholders;</li><li>• outline the fees setting process;</li><li>• review the role of Committee in the decision making process; and</li><li>• seek an agreed interim position on enforcement from 1st October.</li></ul>
<b>2.0</b>	<b>Recommendation</b>
2.1	The Committee is requested to note the content of the report and take such action as may be required arising from discussion at the meeting.
<b>3.0</b>	<b>Main Report</b>
	<b><u>Key Issues</u></b>
3.1	Members are reminded that the Department for Social Development (“DSD”), after it had 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 (Northern Ireland) Act 2014 (“the Act”) was introduced in the Northern Ireland Assembly.

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 and comes into force on 1st October 2016.
3.3	The Service is mindful of the businesses which 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; an approach which is similarly shared by officers in the other Councils with whom we have been engaging.
3.4	Through the Licensing Forum Northern Ireland, officers have been examining the operational issues that introducing the Act will create for local government and exploring ways to reduce the administrative burden on business. Officers from the Building Control Service have taken a lead role in this work.
<b><u>Planning Permission</u></b>	
3.5	One aspect that has been discussed relates to the need for planning permission for a pavement cafe. Should a planning application be required, this will result in a significant increase in the cost to businesses and may, potentially, act as a deterrent to applying for a Pavement Café licence, thus negating the intent of the legislation.
3.6	Despite discussions with the Heads of Planning Group, we have been unable to establish a unanimous view in this regard, as the requirement for planning permission will depend on a number of factors, including the scale and degree of the proposed development.
3.7	The Licensing Forum has brought this matter to the attention of The Society of Local Authority Chief Executives (Solace), suggesting that it write to the Minister for Infrastructure requesting that the Planning Order be amended to provide permitted development rights for Pavement Cafes. This would clarify the situation and ensure that there was a consistent approach to planning across all councils.
<b><u>Engagement with stakeholders</u></b>	
3.8	The Service has been operating a Customer Forum for some time and, through this, we have been raising awareness of the introduction of the Act, we will continue this engagement over the coming months.
3.9	We have also engaged with and sought input from Hospitality Ulster, Belfast City Centre Management, Belfast City Council Retail Forum, Imtac, RNIB, Disability Action, Guide Dogs NI, Transport NI and the PSNI.
3.10	Articles have been published in City Matters and information is also available on the Council's website.
3.11	A letter has been sent to all pavement café operators advising them of the legislation and the application process. In addition officers from the Service have begun visiting premises with staff from Transport NI to start the process of assessing the current pavement cafes we have in the City and how the licence application process will impact on business.
<b><u>Fees</u></b>	
3.12	Notice of the proposed fees has been published in the Belfast Telegraph, Irish News and Newsletter seeking views from interested parties. A statement outlining how the fees have been prepared is available for inspection in the Building Control reception and has also

been published on the Council's website <http://www.belfastcity.gov.uk/buildingcontrol-environment/licences-permits/pavement-cafes.aspx>. Comments on the proposed fees can be made via our online consultation forum entitled 'Citizen space' <https://yoursay.belfastcity.gov.uk/>

3.13 Through the consultation, we are also seeking views on the length of time for which a licence should be granted.

3.14 The consultation closes on 3rd October and a summary of the responses to the proposed fees will then be brought to Committee for consideration.

### **Role of Committee in the Decision-Making Process**

3.15 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.

3.16 Discussions are ongoing with the Legal Services Section to consider any necessary amendments which may be required to the Council's Standing Orders and Scheme of Delegation. In respect of other licensing matters, the Licensing Committee has delegated authority for determining matters such as the grant, renewal, transfer or variation of licences where objections are received and the suspension and revocation of licences.

3.17 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, except in the case of Entertainments Licences where representations have been made. For Pavement Café licences, the scope of delegated authority for the Director must be agreed.

3.18 A further report will shortly be brought to Committee to consider the proposed governance arrangements for implementing the Act.

### **Initial Approach to Enforcement of the Act**

3.19 As stated, the Act will come into operation on 1st October, meaning that any person placing a pavement café on the street will require to be licensed by the Council.

3.20 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 cafe culture.

3.21 In line with the Council's Regulation and Enforcement Policy, it is, therefore, the intention to adopt a compliance based approach to enforcement, particularly during the early period after the introduction of the Act. This is consistent with the principles set out in the Government's Better Regulation agenda aimed at improving compliance with legislation while minimising the burden on businesses, individuals, organisations and the Council.

3.22 Initially, this will involve helping and encouraging pavement cafe owners to understand their legal requirements via mailshots, dissemination of advice and guidance, follow-up visits by staff and seeking further feedback from stakeholders to refine and improve our procedures.

3.23 After allowing sufficient time for applications to be received and processed, we will, in consultation with the Legal Services Section, adopt a risk based approach to determining when to use the sanctions contained in the Act for failure to comply.

3.24	<p><b><u>Financial and Resource Implications</u></b></p> <p>None associated with this report.</p> <p><b><u>Equality or Good Relations Implications</u></b></p>
3.25	<p>We have been assessing the equality and good relations implications with the introduction of the legislation and are continuing to liaise with the Council's Equality and Diversity Officer to ensure all potential issues are appropriately addressed.</p>
4.0	<p><b>Documents Attached</b></p>
	<p>None</p>