



Northern Ireland
Assembly

**COMMITTEE FOR
SOCIAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

**Response to the Consultation on
Pavement Cafes**

8 September 2011

NORTHERN IRELAND ASSEMBLY

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SOCIAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Mrs Judith Cochrane
Mr Sammy Douglas
Mr Mark Durkan
Mrs Pam Lewis
Mr Fra McCann

Witnesses:

Mr Henry Johnston)
Mr Gary McAlorum) Department for Social Development

The Chairperson:

We will now turn to the response to the consultation on pavement cafes, which we will receive a presentation on. Henry, you are on the oche once again. Joining Henry Johnston is Gary McAlorum from the urban regeneration strategy directorate in the Department for Social Development (DSD). I welcome you both.

I remind members of the briefing papers on this matter, and particularly of the annex to the DSD letter dated 27 July. I also remind members that Hansard will be recording this session. I formally welcome Henry and Gary to the meeting. Would you like to make your presentation?

Mr Henry Johnston (Department for Social Development):

I will kick off, and I will then hand over to Gary so that he can comment. The background to this issue was a proposal from the Department to introduce a statutory licensing scheme for pavement cafes. There is no licensing regime for that at the minute, but if you go around a number of towns and cities, you will see chairs and tables outside cafes on the pavement. In the absence of a licensing regime, the Department for Regional Development (DRD) has adopted a toleration policy, and as long as cafes are not deliberately obstructing pavements, it leaves them be.

We are looking at a new licensing regime that will permit the hospitality sector to place tables and chairs on the public pavement outside premises for the benefit of customers. We think that district councils are best placed to administer the scheme. In our consultation and in line with approaches elsewhere, we envisaged quite a light touch on the legal framework, which would have allowed councils to work up the detail of the licensing scheme. Councils would have been given the power to grant, vary and revoke licences, set conditions and charge a reasonable fee, which is an issue that I will return to later. At that stage, we envisaged that Roads Service would have the power to enforce any obstruction of the pavement that was required for unlicensed operators or operators who were working outside their licences.

We received some 45 responses to the consultation, including 20 from councils, and you have an analysis in your papers of the views that were expressed. Overall, the responses were very positive. However, some concerns were expressed about the plans for enforcement, with the majority of the councils wanting to assume the full mantle of responsibility for licensing and enforcement rather than relying on Roads Service for operational support. Roads Service has also changed its stance a bit, and it is now of the view that its existing legislation is not sufficiently targeted to allow it to discharge that role in any event. Given the views that were expressed, the Minister for Social Development and the Minister for Regional Development are now content to go forward on the basis that district councils will be given full responsibility for licensing and enforcement subject to the Committee's views. We envisage bringing forward new powers to develop an appropriate set of enforcement powers and to complete detailed work on the licensing conditions for councils.

As to the licensing fees, I do not know how much you will have seen of how similar schemes operate elsewhere, particularly in GB. However, the licensing fees that councils have set for pavement cafes there vary quite widely, depending on the particular council area. Some of the fees are simple cost-recovery charges, but in other places, such as areas of London, the fees are seen as an income generator for councils whereby they take from the operator a rateable charge per table or per chair.

The Chairperson:

Thank you, Henry.

Mr F McCann:

Chair, I have been following this, and I remember debates going back a number of years in Belfast City Council about the spaces outside cafes and bars. Some concerns were raised that, as we were moving into a more tourist-driven era, many premises were being held back, and complaints were received about that. Therefore, any move to address that must be welcomed.

Concerns were also raised about who would operate the scheme. I am glad to see that it will be placed with councils, because they are the best-placed organisations. I believe that a time frame should be built in by which, on application from bars and shops, the applications need to be dealt with, as sometimes they are lost in the ether and can be dragged out.

You mentioned the possibility of the fees being an income earner, but there may be concerns that some councils will jump on the bandwagon and try to price themselves out of the market. Advice needs to be given that there should be a minimal charge, such as a cost-recovery fee or maybe a fee that charges an additional sum.

Recently, I came across a case where a city centre-based premises had tables at the front of its premises but the overhang meant that it had to have planning permission. I do not know whether that has been taken into consideration, but the planners need to be brought up to speed, because we could create legislation that allows you to deal with the issue only to have the planners come in and cause delays. I think that that also needs to be taken into consideration.

Mr Gary McAlorum (Department for Social Development):

If I may comment on that, we have been working with DRD and the Department of the Environment (DOE) on the scheme, and you are absolutely right that we need to take account of all the various planning issues. We are proposing to have a very simple scheme developed. As Henry said, the legislation will have a fairly light touch to it, and we will back that up with best practice guidance about what councils need to look at and so forth.

The onus will very much be on applicants to ensure that any consents that they require from the statutory authorities are pursued and that the licence for pavement cafes in no way substitutes the need to go through the planning process. The intention is that the legislation will state that charges that councils make will be cost neutral. We are aware that, in instances in England and Wales in which councils own the pavement, bed and soil, they may impose an economic charge. That is an issue that we would like to have a look at as we get into the detail of the scheme.

Mr Johnston:

The other matter worth mentioning is the curtilage of premises. For a variety of reasons, the exact boundaries of premises in Northern Ireland have not been indicated clearly. When I go around a number of other cities, I see little stars in the pavements that show the curtilage of the premises. If the pavement is being upgraded, for instance, the owner of that property will do up his bit at the front, but the little star shows that it is still his wee bit. That is one thing that will have to be resolved as people take this forward. It will have to be decided what is the public pavement and what should be their piece of pavement, because people may not have been as clever as they should have been about delineating their boundaries. The overhang issue might be significant there. I can think of one premises where there is an area that looks like the pavement, but it is not the pavement; it is within the curtilage of the building.

Mr F McCann:

I have another comment to make. I know that, a number of years ago, Belfast City Council moved to ensure that street stalls were upgraded to fit in with the surroundings rather than their being mere tables. I take it that the street furniture will also be included as part of this.

Mr McAlorum:

Absolutely. We will cover that in the best practice guidance. The idea of plastic chairs and so forth outside will not be tolerated.

Mr F McCann:

Mickey is looking for an armchair or a rocking chair.

The Chairperson:

If we keep on talking, we will need a recliner.

Mr Durkan:

I declare a remote interest, as my family own a pub in Derry. Thank you for your presentation, and, as the previous Member who spoke said, I welcome the progress that has been made. The legislation could have a very positive impact not only on our tourist industry but on the day-to-day lives of people living in our towns and cities. It will be a cheap physical renewal, but it will reanimate our streets, towns and city centres.

I welcome the fact that a single agency — the city councils — will be responsible for the licensing and enforcement. Had enforcement fallen to Roads Service while councils were in charge of licensing, it might not have had a big enough stick, I suppose, to beat offenders with. There will obviously be work to do with the Planning Service, as Fra suggested, but there will also be work to be done with licensing laws. Owners of licensed premises might be thinking of moving outdoors, so to speak, and there would be implications for their liquor licences.

The submission does not address the weather.

Mr F McCann:

That is where the overhang comes in.

Mr Johnston:

The weather is an issue in Northern Ireland, but some places that have even worse weather than ours have a lot of pavement cafes that work not only in the summer but all year round. Our

sustainable energy lobby might complain a bit about the electric heaters and gas heaters, but the cafes animate the streets. They are particularly useful for tourists. As a non-smoker, my only personal complaint is that the public areas outside might be occupied by smokers. I like sitting outside, and I do not want to be surrounded by smoke. I am sure that the best practice guidance will sort that out.

Mr McAlorum:

That is right. We will be talking to the Department of Health about the implications of the effect of the smoking.

On the issue of the licensing law, our unit also has the liquor licensing legislation, so we will make a very careful assessment of the impact that this may have on licensing law. We do not see any particular problems with it, but we will make that assessment.

Mr Durkan:

I am thinking of areas where city councils may have by-laws on on-street drinking.

Mr McAlorum:

Yes. We also have responsibility for the drinking by-laws, so we need to ensure that the necessary exemptions are made for areas in which councils are prepared to license a pavement cafe.

The Chairperson:

No other members have indicated that they wish to speak. There are no dissenting voices, so I presume that people welcome the developments thus far. I think that it has been welcomed that there will be a single point of licensing and that the Departments that are involved or that may influence the outcome of this are being involved in the discussions as we speak. I hope that that represents an opportunity and a vehicle to facilitate the initiative, as opposed to being restrictive. The idea is to try to encourage this to happen.

Thank you, Gary and Henry, for your presentation and for your responses to members' questions.