



Northern Ireland  
Assembly

Committee for Social Development

# OFFICIAL REPORT (Hansard)

Licensing of Pavement Cafés Bill: Evidence  
from Northern Ireland Independent Retail  
Trade Association and Pubs of Ulster

24 October 2013

# NORTHERN IRELAND ASSEMBLY

## Committee for Social Development

Licensing of Pavement Cafés Bill: Evidence from Northern Ireland Independent Retail Trade Association and Pubs of Ulster

24 October 2013

**Members present for all or part of the proceedings:**

Mr Alex Maskey (Chairperson)  
Mr Mickey Brady (Deputy Chairperson)  
Mr Gregory Campbell  
Mr Trevor Clarke  
Mr Michael Copeland  
Mrs Dolores Kelly  
Mr Fra McCann

**Witnesses:**

Mr Glyn Roberts Northern Ireland Independent Retail Trade Association  
Mr Colin Neill Pubs of Ulster

**The Chairperson:** I welcome Colin Neill and Glyn Roberts to the Committee. The Floor is yours, gentlemen. You are well experienced in presenting evidence to the Committee.

**Mr Colin Neill (Pubs of Ulster):** I thank the Committee and the Chair for allowing us the opportunity to give evidence. I am sure that Glyn will second me on that.

Members are probably well aware of Pubs of Ulster as a voice for the pub industry in the Province and, hopefully, as a champion for the responsible retail of alcohol. However, we are also much more than that. As a membership organisation that covers pubs, bars, cafe bars, restaurants and hotels, we are the largest hospitality and tourism organisation in the Province. The Licensing of Pavement Cafés Bill is very important to us, because it covers that range of membership. I read some of the minutes from previous Committee meetings and saw some of the concerns that were raised. If the Committee is happy enough, I will touch briefly on some of those concerns to open the discussion.

Obviously, alcohol is always a major concern, particularly whenever we talk about pavement cafes. I reassure the Committee that it is a concern for us as well. As a responsible industry, we do not want pavement cafes to be just an easy way to roll a boozier on to the street. That is not what it is for, and it is why we have been involved with the Department over a number of years since the inception of this concept. The Bill has a duty to consult with the PSNI where a pub licence is involved. A council can prohibit the granting of a licence if there is potential for disorder, and the police can bring of evidence that to the council. The Bill prohibits off-sales, meaning that the cafe society-type arrangement will allow consumption outside. There is also by-law exemption. The Bill does not exempt us from by-laws; it means that, if the automatic exemption is applied for and granted, councils can take the approach of not allowing alcohol sales in the by-law areas. That means that there is a redress. It keeps it simple for councils, which is important and is better than having to redraw every by-law to suit.

I noticed that there was some discussion on penalties and on having a greater range of penalties for breaches, as well as lesser penalties. As the industry body, we feel that the penalty of suspension or removal is appropriate. It may be the wrong term, but a healthy fear of the law often brings people into line. I think that there should be heavy penalties for breaches rather than small fines that people can take as part of the running cost. A decent penalty will keep the thing in order.

There is obviously the issue of whether these areas will become smoking areas. The Bill requires that, in the cafe society area, people are seated. I think that that will prevent them from being smoking areas. If you move to make the areas non-smoking, you will find that people will stand and smoke beyond them, blocking more of the footpath. So, there is a better way to manage it. I am a non-smoker, but we have to make provision for people to smoke in the right way and not to let these areas become smoking zones.

Disability access is very important to us in not only allowing people past on the footpath but allowing them into our members' premises. People with disabilities are a valuable customer base, and access for them is enshrined in law. It is important that whatever is put in place allows adequate footpath space to allow people with disabilities to pass. However, it has to be flexible because of the different widths of footpaths and different volumes of people in particular areas. I think that that is why it is important that councils have the power to decide what best suits their own area rather than taking a blanket approach. I did a bit of research. The Inclusive Mobility manual gives a minimum width of 2 metres, then 1.5 metres, and then 1 metre. So, it comes down to the particular situation. There will be areas where a pavement cafe is just not suitable, and I think that councils will make that call.

There also has to be flexibility with the furniture and enclosures. If we prescribe a certain type, that will impact on the footpath. There will be different levels, in that what you would want in the city centre may not be what you would want in a village or a seaside resort. So, I think that it is important that councils are allowed some flexibility on that.

As you will have seen from our response, cost is one of the major issues. The fact that the term that is used is "cost recovery" concerns us slightly, because how long is a piece of string? Under the economic pact from Westminster, there are moves to remove red tape and cost, and we are concerned that we are adding more. If you take a small restaurant or cafe, for example, you will see that figures of £250 for the first year and £100 a year after that are being knocked about. If you are running a 20% margin and you can use the area for only a limited time, you would have to sell £1,250 worth of goods just to pay that initial fee. You could use the area today but probably not tomorrow.

So, I think that we have to be realistic. I look at it from the point of view that we already pay considerable business rates. There are lots of areas, particularly in Belfast, where the cafe society exists and has grown. If we came in with a heavy charge, albeit with a bit of a concession, that would take away the opportunities that businesses have had. We should look at this as a method of giving businesses opportunities to stay in existence and to pay their rates. I know that councils were concerned about the extra burden and extra cost. However, if it is done at low cost and inspections are done alongside all the other inspections, such as those for health and safety and entertainment licences, there should be no real cost. We are really keen that this should be an opportunity for business rather than a charge against their operation.

**Mr Glyn Roberts (Northern Ireland Independent Retail Trade Association):** Just following on from that, we broadly welcome the legislation in the context of putting the social into shopping. As we have said in previous submissions to the Committee, the future of our town centres is as much social as retail. It is about developing our hospitality and cafe culture and making our town centres fun and making them destinations. So, in that context, we are very keen to engage on the Bill.

It should be seen with a sense of urgency, in that one in four shops in our town centres is vacant. As members know, that is not just the highest in the UK but twice the UK national average. So, as a matter of priority, we need to ensure that there is proper joined-up policy on town centres. Individual Departments have done some good things, but I think that we need better coordination. On a number of occasions, we have put to Ministers the need for the four main Departments at least — the Department for Social Development (DSD), the Department of the Environment (DOE), the Department for Regional Development (DRD), and the Department of Finance and Personnel (DFP) — to work together under an umbrella group called the "Northern Ireland Town Team" to ensure better coordination.

Broadly speaking, the legislation will bring us into line with the rest of the UK. I think that it could lead to the creation and controlled expansion of pavement cafes and support the thriving of a day-to-evening economy in our town centres. Alongside business improvement districts (BIDs), this is a step up for our town and city centres. It is positive that clause 4 places the onus on the council to grant the licence. In our opinion, each application that goes before councils should be considered based on the current circumstances and not on previous decisions that may have been made because of different historical conditions.

We need to ensure that accessibility is key. I met Guide Dogs principally about the growth of A-frames on pavements, which has obviously created problems for a lot of its members. Guide Dogs made some very valid points in its submission. We want to ensure that town and city centres and high streets are as inclusive for people with disabilities as they are for everybody else. At the end of the day, they are paying customers. That inclusivity is very much in the spirit of the Disability Discrimination Act, which was passed some years ago. A common sense, flexible approach is the way forward; that is very much the essence of the Bill. It boils down to fact that every town and city centre is different. Every pavement is different. Compared with streets in Belfast or other town centres, Holywood, for instance, has very narrow pavements. Every town and city centre is different, so that flexibility is needed.

The wording of clause 6 is a bit vague. We need to ensure that there is a minimum standard for the furniture and so on that is put out on the pavement. Appearance is everything for town and city centres. So, we need to ensure that these areas contribute to a vibrant atmosphere in the town centres. In that sense, we say that, for a large part of the Bill, light-touch regulation is very much what is needed.

We also need to look at clause 6(3)(e). I think that it needs to be rewritten to specify that the liability of the pavement cafe falls to the owner and that, therefore, all pavement cafes should be required to possess the relevant insurance. That is crucial.

Clause 12 deals with fees, and it needs to ensure that the licensing scheme does not in any way disadvantage traders or make life difficult for them. As Colin said, many of those people are already paying a substantial amount in rates, so we need to ensure that there is light-touch regulation and a common sense approach to all this.

Generally, we are happy with the Bill. Obviously, a bit of tweaking to various clauses is needed, but, by and large, it is a step forward, alongside BIDs and things that other Departments do. I think that we can gradually turn around the fortunes of our town and city centres. Thank you for your time, Chair.

**The Chairperson:** Glyn and Colin, thanks very much. Before I bring in other members, I have a couple of questions. We dealt with the whole question of flexibility. Glyn, you referred to speaking to people in the blind sector. Where competing rights are concerned, disability rights advocates will argue that they need some degree of certainty to protect those people's rights. You said that you want places to be inclusive and so forth. How would we or the Department navigate through the question of the flexibilities or light-touch regulation that you are asking for? Some of the people who have presented evidence to the Committee said that they want certainty in this. They were asking for clearways of 2 metres and so on and so forth to allow those people to be able to progress down the street unhindered and unhurt.

**Mr Roberts:** Every town centre and every pavement is different. Some are wider than others. Obviously, A-frames are very important for a lot of our members, because every customer who comes through the door is vital in these very difficult economic times. The discussions that we have had with DRD on A-frames are about ensuring that there is flexibility rather than rigorous regulation. Guide Dogs put up a number of photographs of what it cites as good and bad practice. It put forward as good practice some tables being almost enclosed off the street so that you do not have chairs and tables spreading right on to the edge of the kerb and blocking the entire pavement. So, there are some sensible and practical things that can be done. Probably the best example of that is Ten Square opposite the City Hall, whose chairs and tables are enclosed so that they do not spread out on to the street. So, there are sensible things that can be done.

It gets back to the point that we very much want to see people with disabilities coming into our shops, restaurants and pubs, because, after all, they are paying customers. It sits with our vision of town and city centres as inclusive, shared spaces. Many people with disabilities rely on local shops, so we need to make it as easy as possible. That is why, if we approach this from a common sense position, there

is room for flexibility for people who have disabilities as well as for pub, restaurant and shop owners. So, if we can approach it in that way, I am fairly sure that we can overcome such issues.

**Mr Campbell:** Further to the issue of inclusiveness, which Glyn mentioned, quite a few establishments have what might be regarded as internal guidelines for patrons on the wearing of tops and that sort of thing, particularly when there are sporting events on, for example. Most of those guidelines seem to work fairly well on most occasions.

I am just wondering how the legislation might be implemented in the small number of establishments where those guidelines are not used internally at the moment. If that were replicated for the pavement position, what steps could be taken to ensure that there was not a problem, which, at the minute, is contained inside those small number of places where there is not such a policy? If that policy were then re-enacted outside, there could be difficulties with people who are not patrons but who are out on the main road or on the pavement.

**Mr Neill:** Most premises will now have customer policies, whether it be on sports gear or behaviour and so forth. I think that it could be easily written in to the document that, in their application to the council, the premises are required to have a policy outlining customer behaviour and what is tolerable and what is not. Again, depending on the circumstances and the areas, it allows that flexibility. It is very hard to prescribe policy, and that is why such policies vary greatly from establishment to establishment.

**Mr Campbell:** Just so that I am clear, do you think that the councils should have in the application process that commercial premises go through a designation about restrictions or strictures on patrons and what could be worn?

**Mr Neill:** One council can control the hours that the area is available for use, but I think that it would not be unreasonable for councils to expect anybody who is applying to come forth with their own policy. The council can accept that in the context of the area, rather than just prescribing the rules. Most businesses nowadays would have that, and I think that encouraging them to have it through the Bill would help.

**Mr F McCann:** I have a couple of points. I have stated here before that I think that the introduction of the pavement cafe is long overdue. It has flourished elsewhere, but I understand and realise that, although the vast majority of either pub or restaurant owners operate under good practice, there are a number of people there who, no matter what you do, will try to take it the extra mile. Certainly, the presentation that the people from the blind sector gave last week opened up my eyes and told me that there are serious problems there. How do you cater for or legislate for people who just will not listen?

**Mr Neill:** It is one of the reasons that I touched on earlier. I think that the severe penalties should not be watered down. There is a clear line: if you breach the rules, the license is suspended or removed, rather than a £50 fine being given and then six months down the line, you can work with people. It is a black-and-white situation; it is about making sure that this is a plus to our town centres and villages and not a negative. Whether it is breaching the area that you are allowed to trade in, allowing rowdy behaviour or allowing the space to be a smoking area, I think that it should be clear that the penalty is that your licence is suspended until you can prove that you can operate properly and, if you cannot, you will not get it back.

**Mr F McCann:** You mentioned penalties. What is a decent penalty?

**Mr Neill:** I believe that the penalties in the Bill are immediate suspension or removal of licence. Those are strong; they are not watered down. I know that you could argue that there could be penalty points and a £100 fine if you do this, that or whatever. However, I think that people may get lax and, if they are making a reasonable turn out of it, the fine is just part of their profit margin, whereas if they have a fear of losing the licence, they will toe the line.

**Mr F McCann:** Thanks. I understand what you were both saying about there having to be regulations that determine and dictate what type of furniture is used. It does not have to be one fixed thing, but if you walk through Belfast city centre today, you will see that a lot of places have aluminium tables and chairs. They are all over the place. They are easily pushed out of the road, and they prove to be a blockage for people getting by. How do you deal with that?

**Mr Neill:** The existing problem in Northern Ireland is that the street furniture that we have is a halfway house. We do not have designated areas, and the furniture is what can be bought locally. On the continent, most of the street cafe furniture is smaller chairs and smaller tables. In some areas on the continent, there will be a row of chairs and tables along the front of the building. In other places, there will be a wider fenced-off area.

The Bill will allow businesses to go out and buy the proper furniture. There has to be a minimum standard, because the last thing that we want is people dragging a bench out from the back shed, and, all of a sudden, that is your cafe society. However, I think that if we are too prescriptive, we will just end up with what we have rather than better than that. If we do it right and allow it, there are good opportunities to have some really nice, attractive cafe furniture out on the street.

It is complicated, because how do you describe the quality of tables and chairs? I also think that local authorities should be allowed a degree of flexibility to say, "For our city centre, we want to have this quality. For our rural or seaside resort, it can be like that.". So, it has to be flexible. It is really about councils and businesses working in partnership, with the council having the ability to say, "No, that is not good enough."

**The Chairperson:** Are members happy enough? I think that members are content, Glyn and Colin. That does not indicate the level of interest in the Bill; the Committee is very keenly interested in it. It is because we have heard a fair amount of this before. Is there anything else that you want to add?

**Mr Neill:** I will add one thing about the commencement date. As members will know, the Bill has been a long time in the making. I encourage the Committee to keep on line with the commencement date for the summer of 2014. If we delay because of RPA and other things, another year will be lost, and with more RPA matters, we might then lose the date again.

**The Chairperson:** Departmental officials are giving evidence following this session. My intention is to commence consideration of all the evidence at our meeting on 7 November. We will then move swiftly into the clause-by-clause scrutiny, and the Bill will move out of the Committee's consideration. I concur with your sentiment that we should move swiftly and without any delay. Colin and Glyn, thanks very much and good morning.