

SOCIAL DEVELOPMENT COMMITTEE

SHORT SUMMARY OF LICENSING OF PAVEMENT CAFÉS BILL CONTENT

Background

- The NI Executive Committee has agreed to the introduction of the Licensing of Pavement Cafés Bill into the Assembly. The Bill will bring Northern Ireland into line with the rest of the United Kingdom where local authorities have responsibility for licensing pavement cafés.

Consultation

- In September 2011 officials briefed SDC on the outcome of the earlier public consultation. That consultation was taken forward by DSD in conjunction with DRD Roads Service. SDC was very supportive of the proposal to introduce a statutory licensing scheme and recommended that district councils act as the 'single' licensing and enforcement authority.

Overview

- The licensing scheme caters for proprietors of relevant businesses such as cafés, restaurants and pubs who wish to provide a designated outdoor area on the public highway, furnished with tables and chairs. In broad terms the Bill prohibits the operation of a pavement café unless a licence has been granted by a district council. The Bill provides that no consent shall be unreasonably withheld but may be given subject to any reasonable conditions. Councils may vary, suspend or revoke the licence, and if they wish, charge a reasonable fee. The Bill sets out the circumstances in which an applicant or a licence holder can appeal to a Magistrate's Court against a decision of a district council.
- District councils will have the power to inspect relevant premises and remove facilities at unlicensed pavement cafés. Several new offences are created prosecutable by councils through a Magistrate's Court.

SUMMARY OF MAIN PROVISIONS

Eligibility

- 1 Open to any person carrying on a business involving the supply of food or drink (from premises) to seek permission to place tables, chairs etc in a public area. Tables, chairs etc may be placed in 'a public area' outside (but not necessarily immediately adjacent to) the premises. The definition of a public area is widely drawn to include any place in the open air to which the public have access as of right.

Application Process

- 2 Applications for the grant, renewal, etc of a licence must be made in a form (including a plan of the public area) and at a time specified by the council. The applicant must fix a notice to the premises, indicating that an application has been submitted for a pavement café licence.

Grant of a Pavement Café Licence

3 The Bill places an onus on a council to grant / renew a pavement café licence unless the area is deemed unsuitable or its use may cause undue interference etc to the public. An application may also be refused where an applicant has not complied with due procedures or has had a licence revoked for disciplinary reasons.

Duty to consult

4 The Bill places a duty on councils, when considering new applications, to consult with the Roads Service and, where the associated premises has a pub licence, the PSNI, before arriving at a decision. Councils may also consult any other interested parties.

Power to impose conditions on licence

5 The Bill allows a council to specify in the licence a range of conditions including conditions relating to the design and layout of the pavement café, operating times, public liability insurance, etc. Councils may impose a prohibition on the consumption of alcohol in the pavement café area in certain circumstances. Where alcohol consumption is permitted in the pavement café area relevant conditions of the licensing law will automatically apply. Pavement café areas of licensed premises will be exempt from the restrictions on drinking in designated areas.

6 The conditions or area covered by a licence may be varied on application by the licence holder or compulsorily by a council where there is a material change in circumstances. A licence will remain valid for an indefinite period (unless specified in the licence). Appeals against licensing decisions will be heard by a Magistrate's Court.

Enforcement

7 Councils will have powers of inspection and enforcement. For this purpose the Bill creates three new offences prosecutable through a Magistrate's Court.

- Operating a pavement café without a valid licence.
- Resisting or intentionally obstructing a council official in the execution of his duties; and
- Making a false statement in connection with an application.

8 Offences will each be punishable by a fine of up to £1 000 (level 3). In addition, councils will have the power to inspect premises in connection with an application, and will be able to remove facilities at any pavement café operating without a licence.

Suspension / Revocation

9 The Bill specifies grounds where a council can suspend or revoke a licence such as the location being no longer suitable, failure to comply with licence conditions or making a false statement in the application process. A council may suspend a licence for a specified time, if the circumstances outside the licensee's control have changed since the granting of a licence leaving the location **temporarily** unsuitable.

Implementation

10 The main provisions of the Bill will come into operation on a date appointed in an Order made by the Department, following liaison with district councils about their readiness to begin receiving applications.