



Brendan Hegarty B.S.Sc. F.C.A. Chief Executive

Our ref: LH/VK

12th September 2013

committee.socialdevelopment@niassembly.gov.uk

Dear Sir/Madam,

RE: LICENSING OF PAVEMENT CAFÉ'S BILL

Fermanagh District Council has considered the proposed Bill and would make the following comments in an effort to try and achieve consistency across Councils in the interpretation and application of the legislation:

Section 1 – Meaning of pavement café licence

- (a) Further definition/explanation required regarding "public place", in particular, clarification regarding 'as of right'.
- (b) It is recommended that the set up time of 20 minutes is removed from Section 1 (4). A time may be specified in the guidance but it is felt that this is too prescriptive to be included within the Bill.

Section 2 – Offences

- (a) The Bill allows it to be an offence to place furniture on a public area without a pavement café licence and that the licence may be revoked or suspended for a variety of reasons including:

"that any of the conditions of licence have not been complied with". The offence is then that there is no licence and the person, if guilty, is liable on summary conviction to a fine not exceeding Level 3.

Other recently introduced legislation includes provision for Fixed Penalty Notices offering the person committing the offence the opportunity to discharge any liability to conviction for that offence by payment of a fixed penalty. This provides a less burdensome approach for Councils.

In addition, new legislation enables District Councils to use receipts from these penalties. It is recommended that the Department consider the introduction of fixed penalties as a cost effective means of enforcing this piece of legislation and to include additional offences for non-compliance with licence conditions.

Desmond Reid F.R.I.C.S. D.M.S. Director of Regulatory Services

Section 4 – Grant or Refusal of Licence

(a) Clarification is required on use of Section 4 (b). Can this be used for the refusal of a licence on the grounds of limiting disabled access? If no, provision should be included to ensure there is no impact on people with disability.

IMTAC (The Inclusive Mobility and Transport Advisory Committee) have produced a position paper on the Regulation of Pavement Café's in Northern Ireland in July 2013 which makes a number of recommendations including that, in line with Inclusive Mobility Guidance, the minimum unobstructed width should be 2 metres. Consideration should be given to not allowing pavement café's where there is a restricted width of pavement.

Section 10 – Applications – General Provision

(a) Any guidance should refer to the 'appropriateness' of Councils to publicise the application – is displaying on Council premises or on their website deemed 'appropriate'?

(b) The applicant should be responsible for publicising the application in local papers as is the case with Entertainment Licences.

Section 12 – Fees

(a) It is strongly recommended that a fixed fee (or scale of fees) be specified in the legislation to achieve consistency across all Councils.

(b) If a licence is revoked there should be no requirement to return all or part of the fee – (the work has been done by the Council).

Yours faithfully,



LYNDA HUTTON (MRS.)
Head of Environmental Health