



ENVIRONMENTAL HEALTH SERVICE  
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Ref: SM/MC

18 September 2013

The Committee Clerk  
Room 410  
Parliament Buildings  
Stormont  
Belfast  
BT4 3XX

Dear Sir/Madam

**Pavement Café Licensing Bill**

Please find attached response on behalf of Larne Borough Council in relation to the above. I can confirm that the response was endorsed by the Council after a meeting of its Environment Committee on 16<sup>th</sup> September 2013.

Yours faithfully

A handwritten signature in cursive script that reads 'Sean Martin'.

Sean Martin  
Head of Environmental Health

## **Larne Borough Council - Pavement Café Licensing Response**

Larne Borough Council welcomes the introduction of the Bill which we believe will allow for the appropriate regulation of pavement cafes. The use of pavements in this way has become increasing common and as such there is a need for a scheme which balances the needs of business and the local economy with public safety and nuisance issues.

While the introduction of the Bill is welcomed the Council would have some concern about the detail of the Bill. These concerns are set out below.

### **General Comments**

Larne Borough Council feel the inclusion of an offence for breaching the conditions of a pavement café licence would be beneficial particularly if fixed penalty provisions were enacted along with the offence. We believe that the suspension or revocation of a pavement café licence is a big step and feel that the inclusion of an offence for breaching the conditions of the licence would aid enforcement and provide for an early warning to those businesses that are causing a problem. The addition of such an offence with a fixed penalty notice would streamline enforcement in the small number of cases where it is necessary to take formal action and as a result the costs of administering the scheme would be reduced hence licenses themselves would be more affordable to businesses

The council is also unclear what would happen if Roads Service or a contractor need to carryout work on an area where a pavement café licence exists.

In supporting the general principle of pavement café licensing the council feel is important that the food or drink which is consumed is prepared and served from within the premises. This would ensure that this legislation does not become a way of evading street trading legislation.

### **Clause 1 meaning of pavement café licence and other key terms**

Clause 1 (4) provides a definition of temporary. Larne Borough Council feel that the definition provided is to subjective and that a more objective definition should be sought.

### **Clause 2 Offence of placing furniture on public area without pavement café licence**

The effect of clause 2 is to create an offence for those types of business which can avail of a pavement café licence but who have not done so, yet have placed furniture in a public area. This will run parallel to existing offences under legislation enforced by Roads Service which has a wider application. It is therefore important that Councils and Roads Service work effectively together to ensure a consistent approach to enforcement where items are placed in a public area.

#### **Clause 4 Grant or refusal of a licence**

Larne Borough Council are concerned that the grounds listed for refusal of a licence are very narrow and a greater degree of flexibility should be incorporated into the Bill.

The Council also notes the absence of a provision to allow the transfer of a licence where a business changes hands. We believe that the inclusion of a Clause allowing for transfer of an existing licence would be helpful.

#### **Clause 6 Conditions of licence**

Larne borough council are concerned that the grounds specified in clause 6(2)(b) for attaching an alcohol condition to a licence are two narrow and note that the Bill appears not to provide a definition of the term “disorder” which is used throughout the Bill.

#### **Clause 9 Variation by removal of alcohol prohibition**

The grounds for refusing to remove an alcohol condition are very narrow and it is Larne Borough Councils view that the Bill should provide councils with greater discretion. As noted above the term “disorder” is not defined.

#### **Clause 13 Change in person carrying on business**

As stated above we feel that the lack of a transfer process is an oversight.

#### **Clause 14 Revocation of licence**

Larne Borough Council believes that this clause should include a more general reason for permitting the revocation of a licence. We would suggest that the following could be inserted

“(1) A council may at any time revoke a pavement café licence if it is satisfied;

(e) that continuing to allow the placing of tables and chairs in the area covered by the licence is no longer in the best interests of persons working or visiting or living in the general area”

#### **Clause 15 Suspension of licence**

As outlined in relation to clause 14 above we feel that a more general reason for suspension of a licence should be included.

#### **Clause 17 Compulsory variation: prohibition of alcohol**

Clause 17(3)(a) seems unnecessary given that such a condition is required under clause 6(2)(a)

Clause 17(3)(b) is drafted very narrowly and does not provide sufficient discretion to councils in determining whether to attach an alcohol condition. Larne Borough Council feel that councils should be given a greater degree of discretion and are concerned that the term “disorder” which is not defined in the Bill does not provide for a sufficient range of factors to be considered.

#### **Clause 18 Compulsory variation of area covered by the licence**

Larne Borough Council are concerned as to the meaning that will be applied to the terms “interference or inconvenience” and as indicated earlier to the meaning of the term “disorder”. Given the lack of definition of these terms in the Bill we are concerned that there is insufficient scope to deal with pavement cafes which are becoming problematic.

#### **Clause 24 Offence of obstruction**

Larne Borough Council feel that preventing officers from carrying out their functions is a serious offence and the council believes that a level 3 penalty is insufficient and sends out the wrong message.