

# Licensing of Pavement Cafés Act (Northern Ireland) 2014 - Councils

## Overview

The Department for Communities is undertaking an evaluation to help determine the broad level of stakeholder awareness of the statutory licensing scheme for the regulation of pavement cafés by district councils, and how successful the legislation which established the scheme has been in delivering its original policy objectives.

The Licensing of Pavement Cafés Act (Northern Ireland) 2014 (the Act) was commenced on 1 October 2016. The Act introduced a statutory licensing scheme for the regulation of pavement cafés by district councils. In effect, the Act makes provision for the regulation by district councils of the placing in public areas of furniture for use for the consumption of food or drink.

The aim of the legislation is to facilitate the controlled expansion of suitable premises, such as cafés, restaurants and pubs, in support of the creation of a vibrant daytime and evening economy and for the general well-being of communities.

## Why your views matter

In order to help the Department to complete the evaluation of the Act, we would be grateful if you could provide answers to the following questions on behalf of your organisation.

The survey should take no longer than 20 minutes to complete.

## Introduction

### 1 Please confirm which Council you are replying on behalf of.

*(Required)*

*Please select only one item*

- Antrim and Newtownabbey Borough Council
- Ards and North Down Borough Council
- Armagh City, Banbridge and Craigavon Borough Council
- Belfast City Council
- Causeway Coast and Glens Borough Council
- Derry City and Strabane District Council
- Fermanagh and Omagh District Council
- Lisburn and Castlereagh City Council
- Mid and East Antrim Borough Council
- Mid Ulster District Council
- Newry, Mourne and Down District Council

### 2 Please confirm your name?

*(Required)*

Stephen Hewitt

### 3 Please confirm your work email address.

*(Required)*

hewitts@belfastcity.gov.uk

### 4 What is your job title?

*(Required)*

Building Control Manager

## Awareness and guidance

**5** Has your Council produced any guidance in relation to pavement cafés licensing in your area?

*(Required)*

*Please select only one item*

- Yes  
 No

## Guidance material

**5a** How has this guidance been made available? (Tick all that apply)

*(Required)*

*Please select all that apply*

- Online - through Council website  
 Printed guidance  
 Advice sessions  
 Other - please specify below

## No guidance material

**5a** Is there a reason for this?

*(Required)*

N/A

## Awareness and guidance

**6** Since October 2016, has your Council carried out any promotion of pavement cafés licensing law to make stakeholders, retailers or the general public aware of its implications?

*(Required)*

*Please select only one item*

- Yes  
 No

## Promotion of the Act

**6a** How has this been done? (Tick all that apply)

*(Required)*

*Please select all that apply*

- Online - through Council website / social media
- Advert in local / national press
- Printed promotional material
- In person promotional events
- Other - please specify below

No promotion of Act

**6a** Is there a reason for this?

*(Required)*

N/A

Applications

**7** Since the introduction of the Act, has your Council received any applications for a pavement café licence?

*(Required)*

*Please select only one item*

- Yes
- No

Applications received

**7a** How many pavement café licences have been issued by your Council since 1 October 2016 to date?

*(Required)*

*94 issued Pavement Café licences to date, but only via a temporary process to assist the hospitality sector during recovery from covid lockdowns.*

Applications refused

**7b** Has your Council refused any pavement café licences since 1 October 2016?

*(Required)*

*Please select only one item*

- Yes  
 No

#### Refusal of licences

**7c** How many pavement café licences has your Council refused since 1 October 2016?

*(Required)*

N/A

**7d** Which parts of section 4(2) of the Act have been applied when refusing any licence applications? (Tick all that apply)

*(Required)*

*Please select all that apply*

- The area proposed in the application is unsuitable.
- The area proposed in the application would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder.
- The applicant made a knowingly false statement in a material area or failed to comply with Section 11 of the Act.
- The applicant has previously been granted a pavement café licence which was revoked, or could have been revoked, for reasons within the applicant's control.

**7e** Has your Council received any appeals against refusing pavement café licence applications since 1 October 2016?

*(Required)*

*Please select only one item*

- Yes  
 No

#### Refusal of licence - Appeals

**7f** Have any appeals been successful?

*(Required)*

*Please select only one item*

- Yes  
 No

#### Successful appeals

**7g** Please briefly summarise the main grounds for any successful appeals?

(Required)

N/A

## 28 day notice

Section 11(2) of the Act requires that, where an application for the grant, renewal or variation of a pavement café licence is made, the applicant must ensure that, on the day when the application is sent to the council, the required notice is fixed to the premises specified in the application so as to be easily visible and legible to the public from outside the premises. This notice must also remain in position and be visible and legible until the end of the period allowed for representations. The period allowed for representations is specified in Section 10(5) of the Act as meaning 28 days beginning with the first working day after the date when the application is received by the Council. The Council is also required to make applications available to be viewed by the public until the end of the period allowed for representations.

### 8 Does your council guidance inform applicants of the requirement to make notices of application visible to public?

(Required)

Please select only one item

- Yes  
 No  
 N/A (No guidance produced)

### 9 Does your Council make applications for pavement café licences available to be viewed by the public for the full period allowed for representations?

(Required)

Please select only one item

- Yes  
 No  
 N/A - No applications received

## 28 day notice for public

### 9a How do you do this?

(Required)

Template notice displayed at the premises by applicant and application details on Belfast City Council's website

### 9b As this is a requirement of the Act, how do you intend on doing this going forward?

(Required)

Template notice displayed at the premises by applicant and application details on Belfast City Council's website

## 28 day notice - Objections

### 10 Have you received any objections to applications?

(Required)

Please select only one item

- Yes  
 No  
 N/A - No applications received

## 28 day notice - Objections

### 10a Have any objections been successful?

(Required)

Please select only one item

- Yes  
 No

## 28 day notice - Reasons for successful objections

### 10b Please advise on the key grounds on which the objections have been successful. (Tick all that apply)

(Required)

Please select all that apply

- That all or any part of the public area to which the application applies is unsuitable  
 That granting the application would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder  
 That the applicant made a knowingly false statement in the application in a material respect or failed to comply with section 11 of the Licensing of Pavement Cafés Act (NI) 2014  
 That the applicant has at any time been granted a pavement café licence by the council which was revoked, or could have been revoked, for reasons within the applicant's control

Fees – please note this relates to the period prior to Covid and the suspension of fees by most/all councils

### 11 Prior to the Covid-19 Pandemic, did your Council charge a fee for a pavement café licence?

(Required)

Please select only one item

- Yes  
 No

## Fees structure

**11a** Please provide details of any fees which had been agreed.

*(Required)*

The Council agreed appropriate fees and charges in December 2016, as follows:

- Grant Application Fee = £225.00 (No annual licence fee in the first year)
- Annual Licence Fee = £55.00
- Variation / Renewal Fee = £112.50

*Licences cover a five-year period and fees will be reviewed on an annual basis and applicants will be offered the opportunity to avail of a payment plan, where appropriate, to assist them in meeting the cost of licensing their business.*

**11b** Prior to the Covid-19 Pandemic, did your Council publicise the fees associated with pavement café licences?

*(Required)*

*Please select only one item*

Yes

No

## Fees

**11c** How did your Council publicise the associated fees? (Tick all that apply)

*(Required)*

*Please select all that apply*

Through the Council website

Within guidance documents

Newspaper/local or national media

Letters - mail campaign

Other – please specify below

## Flexibility

The Licensing of Pavement Cafés Act (Northern Ireland) 2014 was designed to combine robust regulation of pavement cafés with the necessary flexibility to allow councils to respond to local circumstances and to help with the cost of administration. It was also designed with the intention of limiting burdens on businesses and enabling enforcement action to be proportionate to the risks involved.

\*Please note your responses should reflect the views of the Council.

**12** In your opinion, has the flexible approach worked well for your Council?

*(Required)*

*Please select only one item*

- Yes  
 No  
 Don't know

**13** What are the main benefits, if any, of the flexible approach to the Act? Please comment in the box below.

Pavement café licensing was only introduced during the Covid – 19 Pandemic and 94 businesses were able to avail of the temporary scheme. This enabled them to serve food and drink outside when indoor dining was no longer an option and provided financial relief to those that were struggling during/post lockdown. With licences being issued under such unusual circumstances it is difficult to comment on the how well the intention of permitting a flexible approach outlined when the scheme was introduced was achieved.

**14** What are the main drawbacks, if any, of the flexible approach to the Act? Please comment in the box below.

With licences being issued under such unusual circumstances it is difficult to comment on this point.

### Community well-being

One of the aims of the Licensing of Pavement Cafés Act (Northern Ireland) 2014 was to support general community well-being by permitting pavement cafés to operate under licence, support the creation of a vibrant daytime and night-time economy whilst also giving local communities opportunities to have a say in the expansion of pavement cafés in their areas should they wish.

\*Please note your responses should reflect the views of the Council.

**15** In your opinion, does the Act give those within the community a chance to voice their opinion on how licensing decisions might affect them?

*(Required)*

*Please select only one item*

- Yes  
 No  
 Don't know

Please provide a reason for your answer (optional)

**16** In your opinion, does the Act support efforts to improve the economic outlook in your council area?



*(Required)*

Please select only one item

- Yes  
 No  
 Don't know

Please provide a reason for your answer (optional)

Writing in the August 2022 edition of The Planner, Huw Morris highlights that the hospitality industry estimates that each outdoor seat could be worth up to £6,000 in revenue.

<https://www.theplanner.co.uk/2022/08/04/street-and-level-will-levelling-bill-revive-our-ailing-high-streets>

**17** In your opinion, has having pavement cafés open and operating helped towns and villages within your council area to become more vibrant?

*(Required)*

Please select only one item

- Yes  
 No  
 Don't know

Please provide a reason for your answer (optional)

In its response to the consultation of the Licensing of Pavement Cafes Bill, the NI Independent Retail Trade Association stated that Pavement Cafes have the potential to create a 'cafe culture' in Belfast, mirroring successful developments in other European cities, adding vibrancy, increasing trade and boosting tourism, if successfully managed.

**18** In your opinion, has having pavement cafés open and operating helped to enhance the appeal of the towns and villages within your council area to visitors and tourists?

*(Required)*

Please select only one item

- Yes  
 No  
 Don't know

Please provide a reason for your answer (optional)

Belfast City Council's Future City Centre Programme seeks to create "a vibrant, unique and thriving place where people spend time, live, work, visit and invest". The programme further seeks to increase footfall levels, dwell time and consumer spend through a unique retail mix and leisure experience which creates more reasons to visit the city centre. We believe that that pavement cafes have the potential to create the aforementioned 'café culture' in Belfast which will contribute towards more people spending time within the city centre.

**19** Are you aware of any negative impacts for the local communities in your council area, as a result of pavement cafés?

*(Required)*

Please select only one item

- Yes  
 No  
 Don't know

### Community well-being - negative impacts

**19a** What have these been? (Tick all that apply)

*(Required)*

Please select all that apply

- Crime  
 Nuisance noise  
 Anti-social Behaviour  
 Other – please specify

Pavement cafes have the potential to present accessibility issues for a range of users including Section 75 groups for example the elderly, wheelchair users, blind and partially sighted people, and parents with young children.

The Council's cleansing and waste management crews have experienced difficulties in getting their vehicles in to empty bins and clean the streets as pavement café furniture is not being removed at the end of trade.

Additionally, the pavement is not being cleaned and litter generated by customers using the area is not being collected by the business. This is contributing to the ongoing cleanliness issues in the City.

There is also concern that some pavement café customers sit or stand very close to moving vehicles.

### Enforcement

**20** Since 1 October 2016 has your Council ever had to deal with any enforcement issues, with regards to the Act?

*(Required)*

Please select only one item

- Yes  
 No

### Enforcement issues

**20a** Which of the following enforcement issues have you had to deal with? (Tick all that apply)

*(Required)*

Please select all that apply

- Removal of unlicensed furniture from public space.  
 Businesses not having adequate Public Liability Insurance.  
 Serving alcohol where condition of licence does not allow for this.  
 Any other compliance issues when completing an on-site check.

## Enforcement

**21** Has your Council had to revoke any pavement café licences at any time since the 1 October 2016?

*(Required)*

*Please select only one item*

- Yes
- No
- N/A - No applications received

## Enforcement - revoking of licence

**21a** How many licences have been revoked since 1 October 2016?

*(Required)*

N/A

**21b** What have been the reasons for revoking licences? (Tick all that apply)

*(Required)*

*Please select all that apply*

- That the public area where the licence permits the placing of temporary furniture for the consumption of food or drink has become, or is going to become, unsuitable for that purpose.
- That continuing to place such furniture on, or on a particular part of, the permitted area is likely to result in undue interference or inconvenience to persons or vehicles in the vicinity, or in disorder.
- That the licence holder, in connection with an application for the grant, renewal or variation of the licence, made a statement which the applicant knew to be false in a material respect or failed to comply with section 11 of the Licensing of Pavement Cafés Act (NI) 2014.
- That the licence holder persistently failed to comply with any condition of the licence
- That the licence holder has, without reasonable explanation, failed to pay any fee due to the council under section 12 .

## Covid

During the Covid pandemic many councils introduced a temporary process for pavement café licence applications, with no associated fee, to help businesses recover.

\* Please note your responses should reflect the views of the Council.

**22** During the Covid-19 Pandemic, did your Council introduce a temporary process for pavement café licence applications, with no associated fee?

*(Required)*

*Please select only one item*

- Yes
- No

**23** Since the beginning of the Covid-19 Pandemic in March 2020, have you noticed an increase in applications for pavement café licences?

*(Required)*

*Please select only one item*

- Yes, there has been an increase in applications
- No, there has been a decrease in applications
- No, there has been no noticeable change in the number of applications
- N/A - No applications received

**24** In your opinion, did the Act help the Council to support businesses in the hospitality industry throughout the Covid-19 pandemic?

*(Required)*

*Please select only one item*

- Yes
- No
- Don't know

**25** In your opinion, did the flexible approach with regards to pavement café licences, make it easier for the Council to support local businesses in the hospitality industry throughout the pandemic?

*(Required)*

*Please select only one item*

- Yes, it made things easier
- No, it was the same
- No, it made it more difficult

**26** In your opinion, what were the main benefits, if any, of adopting a flexible approach throughout the Covid-19 pandemic?

Providing a means to enable hospitality businesses to increase the footfall of patrons therefore generating income when indoor dining was no longer an option.

Pavement Cafes can help create a vibrant and inviting space which attracts both tourists and locals into the area.

**27** In your opinion, what were the main negatives, if any, of adopting a flexible approach throughout the Covid-19 pandemic?

Concerns around processing applications in the absence of definitive guidance from DfI Roads and, in light of the concerns of various disability groups, of compliance with Disability Discrimination Act 1995 requirements.

Potential negatives include:

- sets an expectation that anyone could do this, with or without a licence;
- that requirements for licensing post pandemic are unfair on small traders;
- temporary scheme encouraged a very liberal view when considering applications to allow the hospitality businesses to reopen which make the transition to a permanent scheme and the introduction of enforcement difficult.

**28** Since the easing of restrictions on indoor services in bars, restaurants etc. on 26 July 2021 have you noticed any change in the number of applications for pavement café licences?

*(Required)*

*Please select only one item*

- Yes, there has been a downturn in applications
- Yes, there has been an increase in applications
- There has been no change

**29** Since the easing of restrictions on indoor services in bars, restaurants etc. on 26 July 2021 have you noticed any change in the number of renewals for pavement café licences?

*Please select only one item*

- Yes, there has been a downturn in renewals
- Yes, there has been an increase in renewals
- There has been no change

*The Council has yet to receive renewal applications due to the temporary scheme being extended.*

Any other comments

**30** Do you have any other comments regarding the pavement café licensing scheme?

### **Concerns of disability action groups**

As DfC will be aware Local Government representatives, including Belfast City Council (LGA, IoL and LFNI), raised concerns with the Committee for Social Development in October 2013, prior to the introduction of the legislation, about the need to ensure disabled access issues were carefully addressed. As such the completion of technical guidelines, which DfI – Roads were drafting at the time the legislation was introduced, is still seen as important to assist with consistency of interpretation regarding the factors to consider for the layout and design of a pavement café and to take account of other pavement users.

We would ask that the Department seeks definitive guidance from DfI – Roads and that this be made available to Council as soon as possible.

### **Planning permission**

Despite efforts by Heads of Planning and the Licensing Forum NI to resolve the matter there has been no agreement reached across the 11 Councils regarding the Licensing of Pavement Cafés Act (NI) 2014. Whilst some have taken a pragmatic approach there are others who believe that a strict interpretation of the legislation means that a planning application is required. At the outset if consideration had been given to designating pavement cafés as permitted development, then this would have avoided any confusion and ensured no additional financial burden was placed on prospective applicants.

### **Additional comment in relation to previous questions in the survey above:**

- 19a we are surprised that there is not a category for concerns relating to access for pedestrians, especially wheelchair users, those with visual impairment, service dog users and pushchairs.
- Likewise with 21b – there is one tag for inconvenience to persons, but there should have been an opportunity to track disabled access issues, which is not even noted within this question.

The following option is voluntary, please be advised that the security of emails in transit across the internet cannot be guaranteed, as we are not in control over what security protocols are in place with your email provider once the email has been sent.