



EXTENSION OF SUNDAY TRADING HOURS IN BELFAST

USDAW CONSULTATION RESPONSE

APRIL 2017

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Usdaw (Union of Shop, Distributive and Allied Workers) is the main trade union for retail staff. It is the UK's fourth largest and fastest growing Union. Membership is over 440,000 and has increased by nearly a third in the last decade, with over 18,000 members in Northern Ireland.

Retail is the largest sector of employment in Northern Ireland with 127,360 staff – an average of 7,075 retail workers in each Northern Ireland constituency, comprising 17.7% of all employment. Usdaw's members working in retail have always felt strongly about Sunday trading hours.

Summary

If Belfast City Council allow opening for longer hours, some large stores would open to gain competitive advantage over others, who would then be forced to open as well.

There would be a detrimental impact on small and convenience stores, who can already open longer hours on Sundays and many of which are vital to their local communities. These stores rely on the small boost in trade they get on Sundays to keep going.

There would be a heavy toll on staff who work in large shops who would come under even more pressure to work on Sundays, on families who would have less time to spend together (especially those with children at school) and on communities which would be less able to organise sports and leisure activities on Sundays.

Sundays would lose a lot of what makes them special and we do not believe that Belfast City Council should pass these proposals.

This issue is not a new one in Northern Ireland. When a change in the law was considered in 2011, it was rejected following consultation. The Minister for Social Development stated in an answer to an oral question of 17 October 2011 that 'there is no firm evidence that deregulation would bring economic benefits' and that he agreed that the campaign to extend Sunday opening hours was 'wrong' and that it is important to 'protect the difference that Sunday brings in the weekly calendar: it should be a day for family, relaxation and recreation'.

This outcome upheld the view that 'the current law was regarded by those who introduced it as a reasonable compromise between strongly held and competing views'.

Crucially, even the proponents of extended Sunday opening hours have not been able to show it will lead to economic benefits or job creation – longer opening hours do not mean people have more money to spend, so large stores have higher opening costs, but similar takings. Retailers are used to changing staffing hours to suit shopping times, so staff would simply lose working hours in the week and have to work on Sundays.

Results of Usdaw's Survey of Members: Headlines

In November 2016 Usdaw conducted a survey of a representative group of over 600 of our members working in retail in Northern Ireland. The results of this survey clearly demonstrate the strength of feeling of Usdaw members, and retail workers, on this subject:

- 81% of respondents currently **work at least some Sundays** whilst over a quarter work every Sunday.
- 85% of respondents thought that shops **should not open longer on Sundays**.
- Almost two thirds of respondents said that they **already come under pressure** to work on Sundays.
- Over half of respondents have some form of **caring responsibilities**, either for children or sick or elderly relatives. Of these, over three quarters work some Sundays already and over two-thirds are under pressure to work on Sundays. 41% find it difficult to arrange suitable alternative care whilst they are at work.

The Case Against Extending Sunday Trading in Belfast

1. Background – Shops (Sunday Trading & c) (Northern Ireland) Order 1997

The Shops (Sunday Trading & c) (Northern Ireland) Order 1997 allows:

- Small shops (those with a floor area not exceeding 280 square metres) to open at anytime on a Sunday.
- Large shops (those with a floor area greater than 280 square metres) to open between 1.00 pm and 6.00 pm (except on Easter Sunday or when Christmas Day falls on a Sunday).
- Local authorities to designate particular areas as 'holiday resorts'. In these areas, large shops may open at any time on a Sunday for up to 18 Sundays (other than Easter Sunday) between 1 March and 30 September.

The current arrangement provides a reasonable level of balance, allowing large shops to trade for part of the day and meaning that smaller shops can open for longer, staffed by family members, or by very few staff, helping small shops remain viable and preserve the high street. Designating a large area such as Belfast as a 'holiday resort' would upset this balance.

It also means that people who want to work can do so, sometimes for a higher rate of pay, but preserve Sunday as a special day, especially for families.

2. Lack of Economic Benefits

It is often claimed that moves to allow additional opening hours on Sundays would boost local economies and assist with regeneration. However there are numerous sources including UK Government consultations, economic analyses and the results of the trials of extended Sunday trading during the Olympics which have shown that there is no economic benefit and that longer Sunday opening by large stores damages the viability of small stores:

- **Extensive consultation by the Northern Ireland Assembly** in 2011 concluded that 'there is no firm evidence that deregulation would bring economic benefits' (Mr McCausland, Minister for Social Development, Oral Answer 17 October 2011 AQO 562/11-15).
- **The British Retail Consortium's figures** showed that during the Olympic Sunday Trading period, retail sales fell by 0.4% compared to the previous year (BRC monthly footfall indices, August 2012). BIS reported that analysis of ONS data for the period shows the impact was, 'largely inconclusive in terms of economic benefits, with modest benefit to the larger retailers but a more significant loss to smaller retailers'. (Letter from Jo Swinson MP, BIS Minister, to John Hannett, June 2014).
- **The UK Government's Red Tape Challenge** in 2011 received around 3,000 responses from companies, retail staff and third parties. At least 90% of respondents supported the retention of the Sunday Trading Act. Following the consultation, the UK Government's 'retail sector champion' Kevin Hawkins, a former Director General of the British Retail Consortium, said about supermarkets and restricted Sunday opening:

"They have all lived with it very well. What we have got is a workable compromise. Most people seem to be satisfied with it most of the time."

- **The UK Government's Cost-Benefit Analysis** of deregulation of Sunday trading in 2006 concluded that extending the hours of Sunday trading would not result in any increase in retail sales or in employment.

Furthermore, the report stated that liberalisation of Sunday trading would have a detrimental effect on small stores (and therefore on High Streets) and would also speed up reductions in Sunday premium pay for staff.

3. **Lack of Impact on Tourism**

The link between a strong retail sector and a city's tourist appeal is nuanced and debatable. It is not as simple as saying that a strong retail sector automatically translates to a strong offer to tourists.

In many ways a diverse and balanced retail sector, with unique and independent local businesses, complementing cafes, bars, and other cultural attractions is the most desirable combination when developing and marketing a city to tourists.

This proposal will only benefit large stores, most likely part of chains which also have a presence in other cities. There is evidence that the proposal would have a detrimental impact on the small independent stores that would be a key part of any unique retail offer developed by Belfast as they can already open longer hours on Sundays and would face increased competition from larger stores.

This proposal is not the first time that extension of Sunday trading hours have been considered in relation to catering for and boosting tourist numbers. The extension during the 2012 Olympics and the relaxation of Sunday trading restrictions on Guernsey at the end of 2015 were both linked with tourism.

The lack of any benefit, and negative impact on small stores, from the Olympic Sunday Trading extension is covered in the previous section and demonstrates that whilst there were a significant number of tourists, there was not a corresponding demand for increased retail provision with our information showing that towards the end of the period many larger stores reverted to their usual shorter Sunday opening hours.

In the case of Guernsey, which had much more restrictive Sunday trading arrangements than those currently in operation in Belfast, arguments were made that extended Sunday trading would be beneficial for tourists and increase the appeal for cruise ships.

Whilst there has not been a definitive economic analysis of the impact of the extension, there are two clear indications that it has not had the desired effect:

- Retailers have reported that there has not been a noticeable improvement in trade.
- At the time of the extension, the Jersey Chamber of Commerce said it would be monitoring the situation on Guernsey with a view to pushing for a similar move on Jersey if the extension proved successful. There has been no push for extended Sunday trading on Jersey to date.

4. **'Domino Effect'**

In spite of the lack of economic benefits, retail is essentially competitive and it is vital for stores that they do not lose customer loyalty.

Local Authorities would come under severe pressure from a few large retailers, who think they could gain competitive advantage by opening longer on some Sundays. Often those stores which refuse to pay any extra for Sunday work feel they can undercut employers who do pay a Sunday premium.

If Belfast City Council were to designate its area as a 'holiday resort' with extended Sunday trading hours, stores in neighbouring council areas would complain that they were losing trade to shops which can open longer. So we would see a 'domino effect' where more councils would feel forced to extend opening hours for large stores, regardless of the impact on retail staff, small stores and local communities.

5. Divisive Zoning of Sunday Opening

The Shops (Sunday Trading & c) (Northern Ireland) Order 1997 allows for Local Authorities to specify particular areas within their boundaries as 'holiday resorts' within which extended Sunday trading hours are permitted.

If areas were zoned, with some allowing longer opening on some Sundays, this could lead to a souring of relationships with some large and important local employers who would feel excluded. Usdaw also believe legal challenges could be mounted where retailers have been 'zoned out' of additional Sunday opening hours.

Essentially, once the doors to longer Sunday trading hours are opened, there would be a continual pressure to see the areas where those longer hours apply expand, even if the original intention was for a limited implementation.

6. Impact on Small Stores

The ability of small stores of under 280 square metres (about the size of a tennis court) to open longer hours on Sundays is often a lifeline that helps to keep small stores and convenience stores open, and this helps to preserve local high streets.

During the eight weeks of longer Sunday trading for the 2012 Olympics, members of the Association of Convenience Stores reported up to a 20% reduction in sales over the eight week period and a 30% reduction in footfall.

The 'more significant loss to smaller retailers' recorded by BIS, would be detrimental to many small and convenience stores, many of which provide a vital service to customers who do not have a car and would be greatly affected by the loss of these local stores.

These small stores are often at the heart of local communities and their viability needs to be protected.

7. Impact on Shopworkers

The recent intensifying of competition in retail, the squeeze on costs and overall staffing reductions have led to more widespread practices of changing staff hours 'to suit the needs of the business' and increased flexibility demanded of staff to match their working hours to the times when shops are most busy.

Many retail workers are parents and/or carers. Sundays are important family time when children are not at school and few care options are available. Most staff have to work on Saturday, retail's busiest day, so Sundays are very important to them.

In response to the UK Government's proposed changes to the law that would have allowed councils in England and Wales to deregulate Sunday trading in a similar manner to the current proposal from Belfast City Council, the Social Market Foundation tested the proposals against the principles of the 'families test'. The findings were that:

'the risks to family life posed by Government's proposed change to Sunday trading laws are significant. Retail is already a sector where workers are working long and atypical hours, putting pressure on their ability to achieve a balance between work and family life. Working for longer on Sunday will add to that pressure, hurting families by stopping them from spending time together; and the countervailing benefits are small.'

Usdaw's recent survey of shopworkers in Northern Ireland conducted during November 2016 showed that almost two thirds already came under pressure to work on Sundays when they did not wish to, with a higher percentage of carers, over twothirds, coming under pressure.

Whilst shopworkers do have the right to opt out of Sunday working, many find they are unable to use it due to pressure from management, and the fact that their working hours can be cut if they opt out of Sundays – which most cannot afford. Employers are under no obligation to replace a shopworker's Sunday hours with hours elsewhere in the week. The practical impact of this is that many shopworkers cannot afford to exercise their rights in this regard.

Sunday working interferes with family life, especially on the ability of parents to spend quality time with their children who may well be at school, and partners who work Monday to Friday/Saturday. The shorter Sunday hours allow even those who do have to work to finish early and have some family/social time or to attend a religious service – often the only time for this is the weekend as so many staff have to work Saturdays (still the busiest day in retail).

85% of Usdaw's members in Northern Ireland do not want to see Sunday trading hours extended.

8. Public Opinion Opposes Longer Sunday Opening

The UK Government has consulted on the deregulation of Sunday trading hours three times in the last four years and each time has found an overwhelming majority opposed.

A ComRes poll commissioned by ACS in March 2014 found:

- 77% of consumers support existing Sunday trading legislation.
- Of those that want a change in Sunday trading laws, 56% called for greater restrictions on supermarket trading hours.

A Populus poll in September 2015 found that 67% of consumers support existing Sunday trading legislation, with less than a quarter opposing it.

There is no evidence to indicate that the public in Northern Ireland holds a substantially different view with regards to Sunday Trading.

Draft Equality Screening

Usdaw is concerned that the Draft Equality Screening does not adequately reflect the impact of these proposals on a number of Section 75 categories.

The Draft Equality Screening includes the following blanket statement as part of its analysis of the likely impact on each Section 75 category of the proposal:

'This policy should have a positive impact on all Section 75 groups, both directly and indirectly by contributing to the city's local economy and tourism offer.'

This statement is not only based on an unproven assertion about the economic benefits of the proposal which we heavily contest, but fails to acknowledge the high level of differential impact the proposals will have on certain Section 75 categories. As such we believe the Draft Equality Screening is flawed and, on the basis of the guidance issued to public authorities by the Equality Commission for Northern Ireland, the proposals should have been 'screened in' and referred for an Equality Impact Assessment.

The basis for this in relation to the affected Section 75 categories is laid out below:

- **Religious belief**

The Draft Equality Screening acknowledges that there would be a minor impact on people based on their religious belief.

With 91.3% of Belfast residents identifying as Christian, extension of Sunday trading hours, especially over traditional church service times on the principal Christian day of worship, would have a direct impact on people wishing to practice their religion.

The assessment of the level of impact seems to be based on mitigation stemming from a shopworker's right to opt out of Sunday working. In practice, through informal pressure in the workplace and significant financial pressure arising from their being no obligation for employers to provide replacement hours elsewhere in the week, this right provides only limited mitigation to the impact of this proposal.

We therefore think that the assessment of the policy having only a 'minor' impact is an underestimation.

- **Men and Women generally**

The majority of employees in the retail sector are women. Taking Usdaw's membership in this sector in Northern Ireland as an indicative example, the breakdown is 58% female to 42% male.

On this basis, the proposal would have a clear indirect differential impact for this Section 75 category. It is concerning that the Draft Equality Screening assesses the level of impact from the policy as 'none' when this is clearly not the case.

Once again, the Draft Equality Screening highlights the Sunday opt-out as providing mitigation to the impact of the policy. As previously outlined, in practice this right provides only limited mitigation.

Usdaw's research repeatedly demonstrates that women find it extremely difficult if not at times impossible to reconcile their caring commitments with demands for ever greater flexibility on the part of the employer. For women working in retail the pressure to work weekends, evenings and very early mornings can make reconciling work and family life extremely stressful on an ongoing basis.

We know of far too many cases where women are being pressurised to change their working hours and being told by the employer 'it's agree or face the sack'.

In this context, proposals to further deregulate Sunday trading and dismantle the current compromise protecting work life balance for shopworkers, most of whom are women juggling work and home life, are extremely concerning.

- **Dependants**

Retail employees with dependants will be disproportionately affected by this policy for a number of reasons which have not been adequately reflected in the Draft Equality Screening.

As previously outlined, part of the reasons behind the Sunday opt-out only providing limited mitigation to the impact of this policy is due to financial pressures. These pressures are increased for those with dependants.

In response to the UK Government's proposed changes to the law that would have allowed councils in England and Wales to deregulate Sunday trading in a similar manner to the current proposal from Belfast City Council, the Social Market Foundation tested the proposals against the principles of the 'families test'. The findings were that:

'the risks to family life posed by Government's proposed change to Sunday trading laws are significant. Retail is already a sector where workers are working long and atypical hours, putting pressure on their ability to achieve a balance between work and family life. Working for longer on Sunday will add to that pressure, hurting families by stopping them from spending time together; and the countervailing benefits are small.'

An additional consideration is that as the policy affects Sundays, part of the weekend, and specifically Sundays between March and October, thereby falling into the main school holidays. These two facts exacerbate difficulties around childcare. A survey of over 1,000 Usdaw members showed that school holidays are the time when most working parents find it difficult to juggle home and work life. The absence of any formal childcare on Sundays will make the extension of Sunday trading hours even harder to bear for working parents in school holidays.

A recent Usdaw survey of over 2,000 of our members found that over 50 per cent of women shopworkers said that their current hours of work did not fit round their families and extending Sunday trading will only make this situation worse. In our focussed survey of Northern Ireland shopworkers, 53% said they had caring responsibilities, either for children or sick or elderly relatives. Of these, over three quarters already work some Sundays already and over two-thirds are under pressure to work on Sundays. 41% find it difficult to arrange suitable alternative care whilst they are at work.

These factors mean that there is a clear and significant differential impact between those with dependants and those without.

- **Disability**

Recent research by the Northern Ireland Assembly shows that mental illness is the single largest cause of ill-health and disability in Northern Ireland. Northern Ireland has higher levels of mental ill-health than any other part of the UK with 1 in 5 adults having a mental health problem at any one time.

Shopworkers have reported feeling under considerably more pressure in their working lives than they did five years ago, with almost 8 out of 10 of our members expressing this view. In our survey of Northern Ireland shopworkers, 63% say they are currently under pressure to work on Sundays, a number that will only increase with any longer trading hours.

People suffering from mental ill-health are more likely to be disproportionately affected by pressure in the workplace and less likely to be able to effectively enforce their legal rights. This proposal would increase the pressure shopworkers are already under to work on Sunday and the supposed mitigation of the right to opt out of Sunday working is even less effective in the context of this Section 75 category and therefore there is a clear differential impact.

Conclusion

There is good reason to believe that should the powers in the Shops (Sunday Trading & c) (Northern Ireland) Order 1997 be used to designate either the centre or entire area of Belfast City Council as a 'holiday resort' and consequently Sunday trading hours be extended, that not only would the express aim of improving Belfast's tourist offer not be achieved, but that there would be a negative impact on shopworkers and local communities.

In addition, the consideration of the proposal, specifically including the Draft Equality Impact Assessment, appears to have made unwarranted assumptions about the underlying economic benefits and failed to adequately reflect the impact of the proposals on a number of Section 75 categories.

Based on this evidence, we do not believe that any part of the Belfast City Council area should be designated as a 'holiday resort'.
