



Focus on
COVID-19
Coronavirus

COVID-19: Commercial landlord and tenant in Northern Ireland – Key points for a sitting out licence

Belfast City Council have been accepting applications for pavement cafe licences since Monday 22 June 2020.

This recent announcement will be seen as a welcome boost to the hospitality sector and will help Belfast city centre bounce back after lockdown as the indoor operation of bars, restaurants and cafes will be constrained by social distancing.

This is in addition to the announcement last month that the Department for Infrastructure plans to pedestrianise Hill Street and Gordon Street in the Cathedral Quarter.

It is understood that local councils are being encouraged to take a flexible and pragmatic approach to cafes, restaurants and bars that will be seeking such licences for on-street seating in order to comply with social distancing measures.

Other councils are considering taking a similar approach. Mid and East Antrim Borough Council is to temporarily relax controls on pavement cafes so that local businesses can use public spaces within town centres to facilitate street cafes.

With this in mind, we examine 5 key points you should be aware of in respect of a sitting out licence.

1. Who owns the pavement (or the outside area)?

Check the lease plan of the premises or the title plan of the premises in order to determine the extent of the boundaries of the premises. The outside area may already be demised under the lease or in your ownership.

The lease of the premises should also be checked to see if the landlord granted a right to occupy

the outside area to the tenant. The landlord will need to own the area in question in order to be able to grant this right in the first place.

If you do not own the outside area or it is not demised to you under your lease, you will need a sitting out licence, also known as a pavement licence. This applies if the outside area is on a pavement used by pedestrians which is an adopted street or road maintained by the local council.

2. Do you need planning permission for outdoor seating?

Some councils may also require a planning application for change of use depending on what the intended use of the outdoor area is and the extent of the seating. It is best to check with the local council or seek the guidance of a local planner.

3. Does your liquor licence allow outdoor seating?

Check that the proposed outdoor area is included in the area shown on your licensing plans filed with the Court Office and that it is an area that is designated for the consumption of alcohol. If the outdoor area is a licensed area, you should also check the liquor licence to confirm what the designated hours are for the outdoor area.

If the outdoor area is not within the premises that are currently owned or demised and a sitting out licence is required, such an outdoor area will not be licensed for the consumption of alcohol and therefore the sale and consumption of alcohol in the outside area will not be permitted.

Provided it has not been expressly excluded from the sitting out licence, it will be possible to permit non-licensed premises with a sitting out licence to allow their customers to “bring their own” and consume the alcohol within the sitting out area.

4. What kind of conditions will a licensee have to comply with?

The local council will seek to set out a variety of conditions in the sitting out licence that the licensee will have to adhere to. This is to protect the local area from litter and anti-social behavior. For example:

- The licensee will have to remove the furniture from the outside area after hours and to store them in the premises.
- It will be the responsibility of the licensee to keep the outside area clean and free of litter, during the licensed hours and at the conclusion of business each day.
- The conduct of customers using the licensed area will be the responsibility of the licensee.
- The licence will not permit the use of amplified music or loudspeaker equipment. If a licensee wishes to provide entertainment they must apply for an entertainment licence.
- Licensees must promote a safe, clean and generally welcoming environment in the outside area.
- It is the responsibility of the licensee to ensure that the outside area and the equipment used complies with all appropriate legislation in relation to food safety, health and safety and alcohol consumption requirements.

5. Public liability and third party insurance

You must have adequate insurance to cover the outside area governed by the sitting out licence. You shall need to contact your insurer and ask them to include this additional area which may lead to an increase in your premium.

In addition, the local council will likely seek an indemnity in the sitting out licence from any claims arising in any way from the licence or any breach of the licensee's obligations.

For further information please contact [Tomás McLaughlin](#), Senior Associate or any member of the Commercial Property team at A&L Goodbody Belfast for support on any specific COVID-19 related queries you have.

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