

**Committee for Social Development:
Licensing of Pavement Cafes Bill**



Consultation response submitted by:
The Guide Dogs for the Blind Association

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A response from The Guide Dogs for the Blind Association (Guide Dogs)

Introduction

Guide Dogs wants a society in which people who are blind and partially sighted enjoy the same freedom of movement as everyone else. We seek to remove the many barriers which inhibit or discourage people who are blind and partially sighted from going about their daily lives, whether that be going to work, visiting friends, going out socially, shopping, or accessing health services.

Guide Dogs seeks to work in collaboration with others to create modern, attractive and accessible public realm which enables the greater social inclusion of people who are blind and partially sighted.

Guide Dogs will be using a number of photographs to illustrate some of the challenges pavement cafes currently pose to people who are blind and partially sighted. In doing so it is not our intention to single out any particular premises or proprietor. It is our intention to illustrate points of principle and to highlight the need for effective regulation. Guide Dogs acknowledges that without legislation and regulation these proprietors are working within current accepted practice.

Social Inclusion and Pavement Cafes

For someone who is blind or partially sighted going out independently takes a lot of confidence and courage and negative experiences can be most damaging. If a person who is blind or partially sighted has a negative experience when navigating the street environment they may stop going to that particular place. Like anyone else who has a bad experience (eg. if you have a bad meal at a restaurant) the blind or partially sighted person will not only stop going to that place themselves, but they will tell others of their experience which in turn puts them off from going to that particular place. It can mean that people who are blind and partially sighted start to restrict where they go because they feel vulnerable or unsafe, negatively impacting on their freedom of movement, social inclusion and quality of life. Staying away from areas or pavement cafes was recognised by Mark Durkin MLA during a debate at the second stage of the Bill: 'about the problems for those with visual impairments and disabilities accessing, and in truth be told, avoiding pavement cafes. Greater consultation with such groups will ensure their safety and make for more appropriate schemes'.

Many people who are blind and partially sighted want to be socially included, to live varied and fulfilling lives which may include embracing the café culture that has evolved in our town and city centres over recent years. Many also have money to contribute to a thriving economy. However they do not want to be unnecessarily hindered as they go about their daily lives. Although acknowledging the right and need of proprietors to optimise income in times of economic recession the recent upsurge in unregulated pavement cafes presents many challenges and difficulties for people who are blind or partially sighted and highlights the need for legislation and effective regulation. Guide Dogs therefore welcome the opportunity to respond to this consultation.



Negotiating the A-board and open seated area to find the entrance door would be extremely challenging for any blind or partially sighted person.



A-board opposite the open seated area narrows the street and makes finding the door difficult.



The open seated area on both sides of the door makes locating the door difficult without walking into the tables and chairs. The A-board positioned at the side of the seated area only compounds orientation difficulties on approach.



A-board, utility pole, bench seating, and the open café seating area make the area very disorientating and finding the door incredibly difficult.

Legal Obligation, Good Practice and Existing Practice

The future licensing and regulation of pavement cafes must comply with current statutory and legal obligations of public bodies in relation to people with a disability. Under Section 75 of the Northern Ireland Act 1998 public bodies are required to consider equality impacts on disabled people and under the Disability Discrimination Order (2006) they are also required to promote the participation of disabled people in public life and to promote positive attitudes to disabled people. There is also a need to ensure that access to the premises and services of café are maintained under the Disability Discrimination Act 1995.

Mickey Brady MLA expressed the views of several members of the Assembly during a debate on pavement cafes at the second stage of the Bill when he said ‘one general concern that the Committee had was the potential implications of pavement cafes for those with disabilities’ and ‘it is the Committees view that it is important that groups that represent people with disabilities are consulted’.

‘Manual for Streets’ and ‘Inclusive Mobility’ provide best practice guidance for an inclusive and accessible pedestrian environment. Both documents recommend a minimum unobstructed pavement width of 2 metres and are routinely used as standard guidelines by both Roads Service and DSD. It is essential that the regulation and licensing of pavement cafes is developed within this accepted framework for an accessible and inclusive pedestrian environment.

The Imtac Position Paper on the regulation of pavement cafes looked at how the Highways Act 1980 in Great Britain had been implemented by local authorities in England. This web based research identified 61 local councils with detailed guidance on the licensing of pavement cafes. Key findings included

- A specific requirement to maintain a minimum area of unobstructed footway around the pavement café – 8% required an area greater than 2 metres, 49% an area of at least two metres, 28% an area of at least 1.8metres and 13% an area less than 1.8m.



Unnecessary obstruction combined with screened café area creates chicane effect. This is compounded by the A-board opposite the entrance which requires further change of direction causing disorientation. This area is very difficult and challenging to negotiate, but particularly when the street is busy



Unscreened café in side street



Unscreened café in side street

- 34% of local authorities require larger unobstructed areas around pavement cafes on pavements where footfall is high and in pedestrian areas, this ranges from 2.4 metres to 5 metres



Attractive screened off café in pedestrianised area

- 66% of local authorities require pavement cafes to be enclosed. Most local authorities are explicit about the design of screening and require for instance a tap rail to be included at a height of 100mm.



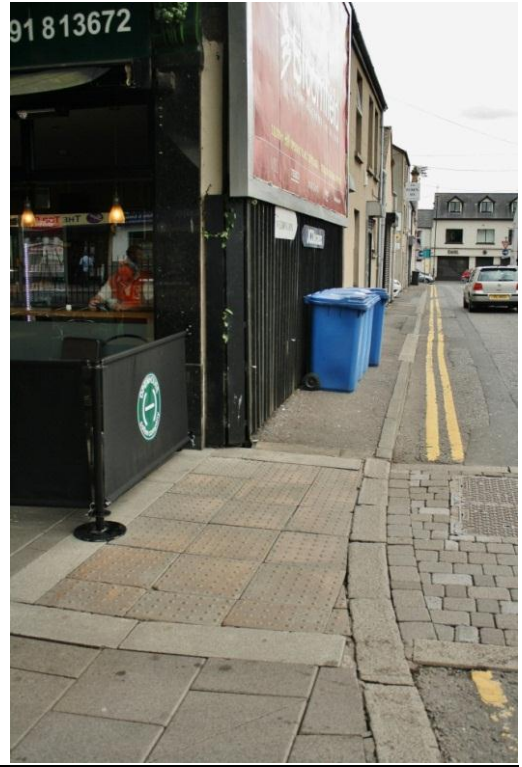
Poor example of screening. Screening although secured to the pole is too loose making detection with a long cane inconsistent. Screening stops short of seated

area. Anyone expecting to turn at the end of the screening to locate the door would instead walk into the open seated area.

- 25% of local authorities will take into account the wider access impact on the environment surrounding a proposed pavement café – this includes proximity to pedestrian crossings, bus stops and taxi ranks



Screening directly in-line with tactile paving causes obstruction and disorientation after having crossed the road.



The screening is right in front of the tactile paving blocking the way and preventing straight line travel. The photograph on the left shows that if a blind or partially sighted person 'veers' left to avoid the screening they walk into the path of oncoming pedestrians or unscreened café seating area.



Pedestrians funnelled between open seated café area and bus stop. Very challenging if busy. A-board on the periphery of the sated area only adds to difficulties and disorientation.

- 16% of local authorities do not permit A-boards and other clutter outside the screening of the pavement café



The A-board positioned on the outer shoreline opposite the entrance to the café reduces pavement width



A-board positioned in front of door between open seated area on both sides. A blind or partially sighted person turning left or right to avoid the A-board would walk into the open seated area.



The café illustrates a good example of screening . However the A-board positioned at the entrance (at the end of the screening) causes further inconvenience and disorientation for blind and partially sighted person

- 36% of local authorities require service providers to demonstrate that both the pavement cafes and associated premises remain accessible to disabled people.

Detailed Comment on the Bill

3 4(a) 'Application for License' requires an application to include the 'location and dimensions of the public area (or each of the public areas) on which the applicant wishes to place temporary furniture' Guide Dogs believes this submission must also detail the remaining unobstructed pavement width, and the cafes position in relation to other street furniture, tactile crossing points, accessible parking bays or bus stops.

3 4(b) 'Application for License'. Guide Dogs would like to see specific reference to how the café will be screened off and the location of any other proposed promotional/ information material such as A-Boards

4 (2) (b) 'Grant or refusal of license' states that a license may be refused where it 'would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity...'. Guide Dogs believes that unscreened seated areas, having less than 2 metres unobstructed pavement width, or having the café close to other environmental features such as crossing points with tactile paving constitutes interference or inconvenience and therefore may give reason for the refusal of a license.

4 (2) (b) 'Grant or refusal of license' states that a license may be refused where it 'would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity...' Guide Dogs believes that the term 'persons' should be more specific and changed to 'pedestrians'.

5 (1) (b) 'Form, duration etc of license' requires the licence to 'include a plan showing the location and dimensions of the public area to which it relates'. See previous response to 3 (4) (a) - Guide Dogs believes this submission must also detail remaining unobstructed pavement width, and the cafe position in relation to other environmental features such as crossing points, accessible parking bays, planted trees, signposts etc.

5 (3) (b) 'Form, duration etc of license' states that 'an area at least 75% of which falls within an area which was so proposes...'. Guide Dogs would like wording to ensure that the 25% falling outside of the original submitted plan cannot impact on other environmental features such as minimum pavement width, proximity to tactile paving etc. A proprietor cannot be seen to be meeting license requirements while causing interference or inconvenience to pedestrians because their café meets the 75% criteria. Interference or inconvenience must take precedence.

5 (5) (b) 'Form, duration etc of license' states that 'if no period is specified in the license, remain valid indefinitely. Guide Dogs is concerned that where there may be changes to the immediate street environment eg. a new crossing point, new street furniture (eg. sign posts, lighting columns), new accessible parking provision or any other significant changes that such eventualities must take precedence over a license validated indefinitely. Guide Dogs wishes to see wording that any license should be reviewed where changes to the immediate street environment occurs.

11 (2) (a) 'Notice of application to be displayed' requires the applicant to ensure that 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. Guide Dogs is concerned that people who are blind and partially sighted will not be able to view this notice, be aware of the application or how to make any representation to the Council regarding the application should they choose to do so. Guide Dogs seeks clarification as to how the needs of people who are blind and partially sighted will be met and what reasonable adjustments will be made to ensure the information is made accessible

11 (3) (d) 'Notice of application to be displayed'– states that the notice would indicate 'how the application is to be viewed'. See response to 11(2) (a) Guide Dogs seeks clarification how the needs of people who are blind and partially sighted will be met and what reasonable adjustments will be made to ensure that the information is made accessible

11 (3) (e) 'Notice of application to be displayed' states that representations relating to the application may be made in writing to the council' See response to 11 (2) (a)

Guide Dogs seeks clarification how the needs of people who are blind and partially sighted will be met and what reasonable adjustments will be made to ensure that should they choose to do so how a blind or partially sighted can make representation to the Council

12 (5) (b) 'Fees' – See response (11) (a,d & e) Guide Dogs seeks clarification how the needs of people who are blind and partially sighted will be met and what reasonable adjustments will be made to ensure the information is accessible

12 (5) (c) 'Fees' - See response (11) (a,d & e) Guide Dogs seeks clarification how the needs of people who are blind and partially sighted will be met and what reasonable adjustments will be made to ensure the information is accessible.

14 (1) (b) 'Revocation of license' states that a license may be revoked where it 'would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity...' Guide Dogs believes that changes to the immediate street environment may constitute grounds for revoking a license

15 (1) (b) 'Suspension of license' states that a Council may suspend a license where placing such furniture would temporarily 'be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity. Guide Dogs welcomes this inclusion to allow for an appropriate response where temporary street or roads works may occur.

16 (2) 'Compulsory variation of section 6(3) conditions' states that a Council /may make a variation under this section only if it considers that it ought to do so as a result of material change in the circumstances on which the conditions specified in the license ..'.Guide dogs welcomes this inclusion to allow an appropriate response to changes in the immediate street environment eg. a new crossing point, new street furniture (eg. sign posts, lighting columns), new accessible parking provision

18 (1) (b) 'Compulsory variation of area covered by license' states that a compulsory variation may be made by the Council where that 'continuing to place such furniture'..'would be likely to result in undue interference or inconvenience to persons or vehicles in the vicinity' See previous response 16 (2) Guide dogs welcome this inclusion to allow an appropriate response to changes in the immediate street environment eg. a new crossing point, new street furniture (eg. sign posts, lighting columns), new accessible parking provision

22 (1) (c) 'Powers of Entry or Inspection' Guide Dogs welcomes the powers given to Councils to 'inspect any other object placed on a public area with such furniture. This will help to ensure additional street furniture such as A-boards are not put out after the granting of the license.

30 (1) 'Definitions'. See response to 5(3)(b) whereby Guide Dogs is concerned that 'the area covered by the license' cannot be manipulated so that the 25% allowed

under 5(3)(b) to fall outside of the original submitted plan is able to cause obstruction, interference or inconvenience.

Conclusion

Guide Dogs concurs with the recommendations contained within the Imtac Position Paper on the Licensing of Pavement Cafes and believe that they should form the basis of the licensing and regulation of pavement cafes.

The adoption of these standards would ensure the introduction of a thriving pavement café culture while protecting the rights and needs not just people who are blind or partially sighted but also wheelchair users, parents with buggies, or elderly people less able to cope with congested areas.

Ensuring accessibility for disabled people, older people and other pedestrians should be explicit within the clauses of pavement café legislation

- Each District Council should be required to issue detailed guidance in relation to licensing pavement cafes
- District councils should consult with Guide Dogs, Imtac, Disability Action and other organisations of and for disabled people when developing guidance
- Guidance should reflect statutory duties in relation to equality in general and disability in particular by providing explicit requirements in relation to access for disabled people
- Guidance should only permit pavement cafes where accepted standards of unobstructed minimum pavement width are maintained – in line with Inclusive Mobility guidance should make clear the minimum width should be 2metres.
- Greater unobstructed widths will be required in pedestrian areas and areas of high pedestrian usage
- Pavement cafes should not be permitted where it may restrict access at crossings, junctions or other facilities such as bus stops and taxi ranks
- All pavement cafes should be enclosed to a specified standard and include a tap rail
- All material including A-boards should be required to be within the screened area
- Service providers should be required to maintain access to their premises and the pavement café for disabled people in line with the requirements of the DDA.

Guide Dogs recognises the competing demands of pedestrians and proprietors. We also recognise the competition between proprietors and the effect this can have on incomes and livelihoods. We acknowledge that as a result of this legislation and regulation that proprietors in one street may be able to benefit from a café culture

while proprietors in another street may not be able to do so. We also acknowledge that proprietors in those towns with narrow streets may not be able to benefit from a café culture. However the pavements are for everyone and blind and partially sighted people are entitled to go about their daily lives unhindered being able to make the same choices as everyone else as to where they go or shop in their town or city

Guide Dogs endorses the comments of Judith Cochrane MLA during a debate on pavement cafes at the second stage of the Bill when she said 'Although we recognise the economic benefits and the enhancement of the street scene that these schemes can provide, it is important that they are well designed and set out and do not impinge on safety or inconvenience pavement users. The legislation must ensure that disabled, blind or visually impaired people's needs are taken into account'.

Should you have any queries or wish to discuss this response in more detail, please contact:

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