



**Submission on the call for evidence from the Social
Development Committee on the Licensing of
Pavement Cafes Bill**

September 2013

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About Imtac

Imtac is a committee of disabled people and older people as well as others including key transport professionals. Our role is to advise Government and others in Northern Ireland on issues that affect the mobility of older people and disabled people.

Our aim is to ensure that older people and disabled people have the same opportunities as everyone else to travel when and where they want.

Background

Imtac welcomes the introduction of legislation to regulate pavement cafes. Over recent years there has been a marked increase in the number of retailers placing tables and chairs on the pavement. This has not just been confined to the owners of cafes and bars but has included small convenience stores and even hairdressers. Anecdotal evidence would suggest that much of growth in this type of activity has been to accommodate smoking rather than any sort of café culture.

The Committee is not opposed to pavement cafes per se. Well designed and appropriate pavement cafes can enhance our towns and cities, however poorly designed provision can have a major detrimental impact on pedestrians and in particular disabled people, older people and people with young children through the obstruction caused on the pavement and hazards created by poor design.

Imtac believes that future regulation of pavement cafes can strike the balance between allowing appropriate provision of pavement cafes and protecting the free movement of pedestrians. We have developed a report based on current good practice by local authorities in England which identifies the key conditions required in regulation to protect pedestrians. We have enclosed a copy of the report with this submission. In relation to the current Bill Imtac believes that is essential that the final legislation is explicit in prioritising the protection of

pedestrians over other interests and that access for disabled people and others is acknowledged as a key consideration.

The legislative context

It is important to recognise that Government Departments have specific equality duties around promoting the participation of disabled people in public life and promoting positive attitudes towards disabled people. Imtac believes that these duties should not only be reflected in the development of policy and guidance developed by Departments but, where appropriate legislation should also reflect and underpin these duties. With regard to pavement cafes the potential exists for light touch regulation, creating a more hostile pedestrian environment for disabled people. The legislation should therefore underpin the statutory equality duties by explicitly recognising access for disabled people as a key consideration in the provision of pavement cafes making it an essential and unavoidable consideration for local councils.

Comments on the Bill

Imtac is concerned that as currently worded the Bill will provide for a largely permissive licensing regime and does not provide adequate protection for pedestrians and more specifically disabled people, older people and people with young children. We would seek the strengthening of Clause 4 and Clause 6 of the Bill in particular to give explicit recognition of the requirement to protect pedestrians and the need to consider access for disabled people both to the broader environment but also the premises of the business making the application.

As currently worded Clause 4 paragraph 2 (b) does refer to “undue interference or inconvenience to persons or vehicles in the vicinity” as one of the grounds for refusal of a licence. Imtac views this wording as insufficient and would recommend that access for pedestrians be included in the wording of this paragraph. The Committee recommends that the wording could be amended to read:

“(b) that placing such furniture on, or on a particular part of, that area for use for the consumption of food and drink supplied in or from the premises specified in the application would be likely to result in undue interference, inconvenience or restrict access for pedestrians or vehicles in the vicinity.....”

Imtac welcomes the proposed inclusion of Roads Service as a statutory consultee for councils. The role of Roads Service should however supplement and reinforce the inclusion of explicit protection for pedestrians in the wording of legislation. Such a “belt and braces” approach will empower Roads Service to more effectively promote protections for pedestrians.

Many of the local authorities we have examined in England have explicit and detailed guidance around maintaining access for disabled people. This involves not just access to the surrounding pedestrian environment but also the business premises making the application including the pavement café itself. Whilst Imtac understand that both DSD and individual councils will develop guidelines for future regulation once the legislation is introduced the Committee recommends that the legislation enshrines the requirement to maintain access and accessibility in its clauses.

Imtac believes that this is best achieved by the inclusion of an additional condition under paragraph 3 of clause 6. This condition should read:

“Maintaining access for disabled people to the premises and surrounding environment.”

Imtac has a number of further comments on the clauses of the Bill.

- Clause 1 (1) should specify that the provision of food and drink is the main part of the business of the applicants. Imtac is aware that business such as hairdressers have been known to put tables and chairs outside premises and do provide drinks to customers. This type of activity should not be allowed under the proposed regulation.
- Clause 1 (3) should also include advertising and menu boards

- We note that clause 10 requires the applicant to display the application in a prominent place during the decision making process to allow for representation. This process significantly disadvantages people with a visual impairment, a group of people who are most disadvantaged by inappropriate provision of pavement cafes. The wording of the Bill must place a requirement on both the applicant and the council to make information about applications for pavement cafes available in formats other than written notices outside premises.
- Clause 5 (5) b contains the option for licence to “remain valid indefinitely”. Imtac is of the view that all licences should be subject to periodic review.

Imtac would like to make one final general point in relation to the regulation of pavement cafes. In our view there is a need for a concerted effort to ensure that there is consistency in approach to regulation across each of the councils. Potentially 11 different variations in Northern Ireland is not in the interests of business or the general public

Conclusion

Imtac welcomes the opportunity to make this submission to inform the Committees consideration of the Licensing of Pavement Cafes Bill. Regulation of in this area is long overdue, however Imtac is concerned that as currently worded the Bill does not afford sufficient protection to pedestrians in general and more specifically to older people and disabled people. Imtac hopes that the Committee find our suggestions for strengthening protections helpful. Our members would welcome the opportunity to provide the Committee with an oral briefing.