



**The Licensing of Pavement Cafés Bill
Call for Evidence
Social Development Committee**

**Disability Action Response
September 2013**

INTRODUCTION

Disability Action is a pioneering Northern Ireland charity working with and for people with disabilities. We work with our members to provide information, training, transport awareness programmes and representation for people regardless of their disability; whether that is physical, mental, sensory, and hidden or learning disability.

As a campaigning body, we work to bring about positive change to the social, economic and cultural life of people with disabilities and consequently our entire community.

Disability Action welcomes this opportunity to respond to the Committee for Social Development call for evidence on the licensing of pavement cafes in Northern Ireland.

For convenience the following comments will follow the order of the Bill where possible and reference the relevant section numbers.

GENERAL COMMENTS

Disability Action welcomes the introduction of legislation to licence and as such control the introduction of temporary and moveable street furniture, such as café chairs and tables on pavements.

Whilst Disability Action has concerns regarding the introduction of additional potential hazards on to our streetscapes, the reality is that current legislation which prohibits the obstruction of pavements is not applied with any consistency. Since the introduction of the “smoking ban” street furniture of many forms has increasingly appeared outside many different types of premises across villages, towns and cities and on occasion with little regard for the safety or convenience of the pedestrian.

Disability Action understands and supports the desire to create attractive and lively streetscapes toward a European-style “café culture” but we also are concerned that a lively streetscape may be or appear to be hazardous to people with disabilities. The perception of a lack of accessibility or potential danger is as real as an actual hazard and can be detrimental to disabled people who will avoid an

area rather than take a risk. This is particularly relevant to blind or partially sighted people but is also a reality for people with mobility disabilities and others with mental health or learning disabilities and for many older people.

It is crucial therefore that in legislating for the introduction of obstructions on our footpaths that issues relating to accessibility and to control the impact in terms of people with disabilities is a guiding criterion.

SPECIFIC COMMENTS

What constitutes a “pavement café”?

The definition 1(1) suggests the type of premises to which a pavement café license may apply as those which may “place on a public area ... temporary furniture for the consumption of food or drink supplied, in the course of a business carried on by the licence holder, in or from premises specified in the licence”.

Is there potential for abuse of the terminology “supplied in the course of business”? Since the introduction of the smoking ban tables and chairs have appeared outside many different types of business premises for example convenience stores, hairdressing salons, and amusement arcades/bingo halls. Will the legislation create a potential loop hole to allow the obstruction of the footpath beyond a café culture?

Control of the design and layout of pavement cafes

The proposed legislation requires the submission of a plan which “shows the location and dimensions of the public area” 3(4) but the control of size and layout and any other matters are to be within the control of the council.

Each council could therefore create its own specific requirements in terms of for example a requirement for screening, the minimum passage space etc leading to confusion amongst people with disabilities and inconsistency across the province of accessibility standards in the public realm.

The Department should take a lead in establishing the minimum requirements which pavement cafés must meet in terms of layout and design, the minimum pavement width or passage space required, the need for clear visibility and screening, etc which can be applied consistently across Northern Ireland.

The proposed Bill allows for a refusal, revocation, suspension or compulsory variation of a licence where the placement of furniture may “result in undue interference or inconvenience to persons or vehicles in the vicinity” 4(2), 14(1), 15(1) and 18(1). As above this is open to interpretation and potential misunderstanding, the legislation should specify people with disabilities who have very particular access needs but which could be unwittingly misunderstood if not set out in minimum requirements.

Again the Department should set a minimum standard for application across all council areas rather than leaving these critical fundamental access requirements open to interpretation and inconsistency.

5(3)b says that the area of the pavement café is required to be “an area at least 75% of which falls within an area which was so proposed”. Disability Action understands that it is difficult to regulate or enforce zero tolerance however; dependant upon the size of the pavement café, a 25% tolerance could mean a significant change in the placement of a pavement café. Someone who has a visual impairment will learn or become accustomed to the location of a pavement café in very specific terms, therefore it could become a significant hazard if the obstruction could potentially move or overspill on a daily basis. The Committee should consider a reduction in the percentage tolerance.

Disability Action are also concerned that the pavement cafés are themselves accessible to disabled people to enjoy and participate in café culture and in keeping with the Disability Discrimination Act, and that they do not obstruct access to the existing (indoor) services.

Disability Action refers the Committee and the Department to the Imtac position paper on the regulation of pavement cafés in Northern Ireland July 2013 which includes a summary of the accessibility

requirements of 61 British councils in respect of their licensing arrangements.

Validity and conditions of a licence

Disability Action does not believe that a licence should “remain valid indefinitely” 5(5)(b).

Disability Action welcomes that a council can place conditions on a licence pertaining to the kind and amount of furniture, the days and times of opening and in terms of storage etc. 6(3). But as above we believe that there should be consistency across Northern Ireland and that the Department should set the minimum requirements.

Consultation

Disability Action believes that in the assessment of an application a council should consult with disability groups and organisations 4(5) and should seek out opinion of local disabled people and disability groups in respect of renewal applications.

In respect of notification 11(2), the Notice of Application to be displayed so as to be “easily visible and legible to the public outside the premises” (for a period of 28 days) will not address the needs of blind or partially sighted people and may be missed by others. Disability Action suggests that notes of applications are also held at a central point such as the council website and brought (by the council) to the attention of interested or affected groups and parties.

Equality Impact Assessment

Disability Action does not agree that the proposed statutory licensing scheme does not have any significant implications for equality and believe that this proposed Bill and any future application for a pavement café licence should be subject to an assessment of equality impact from the perspective of disabled people, older people and people with dependants (parents and carers).

CONCLUSION

Disability Action welcomes this opportunity to respond to the Committee for Social Development call for evidence on the licensing of pavement cafes in Northern Ireland.

We will welcome the opportunity to work with the Committee, the Department and the Councils on the application of controls on the introduction of street furniture such as café tables, chairs, umbrellas etc to ensure minimum obstruction and maximum accessibility for disabled people.