



Position paper on the regulation of pavement cafes in Northern Ireland

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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.

About this paper

Imtac shares the widespread desire to create an environment in our towns and cities that is attractive both to visitors and residents. Safe and accessible pedestrian routes are an essential component of an inclusive town or city. Whilst Imtac recognises that good quality pavement cafes can also contribute to an attractive town or city, too often their provision and layout can present a significant obstacle for many pedestrians including disabled people, older people and others such as parents with children in buggies. Rather than making cities and towns more attractive poor design and provision of pavement cafes can make towns and cities a hazardous and hostile environment for a significant number of pedestrians.

Currently in Northern Ireland pavement cafes have no legal basis. Despite this there are a growing number of retailers who provide seating outside their premises. Imtac believes that regulation of this activity is long overdue and welcomes the development of legislation to allow the regulation of pavement cafes. The purpose of this paper is to highlight how future regulation should protect the mobility and safety of disabled people, older people and others whilst delivering the desired outside space for eating and drinking.

In developing this paper we have looked at two key areas of evidence that should inform the development of legislation and subsequent regulation by local councils. The first relates to accepted best practice

around an accessible pedestrian environment and the second relates to lessons from the regulation of pavement cafes in England. In addition the paper considers statutory and legal obligations on Government and service providers. Based on the evidence gathered the Committee has made a number recommendations designed to inform the development of proposals for the regulation of pavement cafes in Northern Ireland.

Building and maintaining an accessible pedestrian environment

In developing proposals for regulation of pavement cafes it is essential that accessibility for pedestrians is protected. Practically every journey we make involves using the pedestrian environment. Imtac has previously undertaken work with disabled people and older people who highlighted how a range of barriers in the pedestrian environment, including clutter on the pavement, made many journeys difficult or impossible¹. The evidence we have gathered demonstrates that difficulties using the pedestrian environment has a major impact on the day to day lives of disabled people and older people.

Best practice guidance recognises the importance of developing an inclusive and accessible pedestrian environment. Manual for Streets provides comprehensive guidance on how to achieve well-designed and inclusive streets². Inclusive Mobility provides best practice guidance in ensuring the pedestrian environment is accessible³. Both documents highlight that inclusive streets should contain pavements with a minimum unobstructed pavement width of 2 metres. Both documents are now used as standard guidelines when providing new pedestrian and public realm infrastructure by amongst others Roads Service and DSD. It is essential that the regulation and licensing of pavement cafes are developed within the accepted framework of an accessible and inclusive pedestrian environment.

¹ [Highlighting barriers in the pedestrian environment - Report into issues, good practice and recommendations \(Imtac 2012\)](#)

² [Manual for Streets \(Department for Transport 2007\)](#)

³ [Inclusive Mobility - A guide to best practice on access to pedestrian and transport infrastructure \(Department for Transport 2005\)](#)

Regulation of pavement cafes in Great Britain

The Highways Act 1980 allows local authorities in Great Britain to regulate pavement cafes. In compiling this paper Imtac studied the approach taken by local authorities in England⁴. We did this by looking at information on websites of county, city and borough councils. Many local authorities had only generic information on licensing pavement cafes which includes general statements about protecting accessibility for pedestrians. However 61 councils surveyed included detailed guidance on the licensing of pavement cafes. Analysis shows there is a degree of consistency with regard to the access requirements of licensing arrangements. These include:

- A broad requirement to consider the impact of any proposed café on the mobility of pedestrians and of disabled people and older people in particular.
- A specific requirement to maintain a minimum width of unobstructed⁵ footway around the pavement café – 8% required a width greater than 2 metres, 49% a width of at least 2 metres, 28% a width of at least 1.8 metres and 13% a width less than 1.8 metres.
- 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 in width.
- 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.

⁴ A full list of local authorities is contained in Appendix A

⁵ Unobstructed means a clear footway with no obstacles such as street furniture or lighting columns

- 25% of local authorities will take into account the wider access impact of a proposed pavement café on the surrounding environment – this includes proximity to pedestrian crossings, bus stops and taxi ranks.
- 16% of local authorities do not permit A-boards and other clutter outside the screening of the pavement café.
- 36% of local authorities require service providers to demonstrate that both the pavement café and associated premises remain accessible to disabled people.

Meeting Statutory and legal obligations

When considering legislation and future regulation of pavement cafes it is a requirement to consider statutory and legal obligations in relation to disabled people (and older people). All designated public bodies in Northern Ireland are required by Section 75 of the Northern Ireland Act 1998 to consider equality impacts of any policy in relation to disabled people, older people and others including people with dependents. All designated public bodies also have additional statutory duties under the Disability Discrimination Order (2006) to promote the participation of disabled people in public life and to promote positive attitudes to disabled people. Finally legislation and regulation should also consider impacts in relation to the Disability Discrimination Act 1995. In relation to pavement cafes care needs to be taken to ensure that access to premises/services are maintained.

Recommendations for the future regulation of pavement cafes

Based on evidence gathered around statutory obligations and best practice Imtac would make the following recommendations:

1. The Department for Social Development should ensure that the maintenance of a safe and accessible pedestrian environment be explicit within the clauses of pavement café legislation.
2. The legislation should require local authorities to issue detailed guidance in relation to licencing pavement cafes.
3. It is essential that there is a consistent approach to regulation between local authorities particularly with regard to access for pedestrians. Imtac has concerns that variations in standards between local authorities could lead to a disparity in access standards for disabled people and older people between different locations in Northern Ireland.
4. Local authorities should consult with Imtac and other organisations of and for disabled people when developing guidance.
5. 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.
6. 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 2 metres.
7. Guidance should specify greater unobstructed widths in pedestrian areas and areas of high pedestrian usage.
8. Pavement cafes should not be permitted where it could restrict pedestrian access at crossings, junctions or other facilities such as bus stops and taxi ranks.
9. All pavement cafes should be enclosed to a specified standard and include a tap rail.

- 10 All materials including A-boards should be required to be within a screened area.
11. 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.
12. Local authorities should set out clearly how regulations will be enforced, including prompt and meaningful sanctions for breaches of regulation. Local authorities should provide clear evidence of how enforcement will be resourced.

Conclusion

Whilst Imtac welcomes the regulation of pavement cafes in Northern Ireland there is great concern amongst members that “light-touch” regulation will have a major detrimental impact on the mobility of disabled people and older people as well as others. It is essential that legislation and regulation protects and enhances access for pedestrian to our towns and cities. In this paper the Committee has demonstrated the steps that should be taken to ensure that the appropriate balance is struck between the ensuring pedestrians can use pavements in safety whilst allowing businesses and customers the ability to eat and drink outdoors.

Appendix A – Local authorities surveyed

Barnet
Barnsley
Bedford
Bournemouth
Bradford
Brighton & Hove
Calderdale
Camden
Cheshire East
Croydon
Derbyshire County Council
Devon County Council
Durham
Ealing
Greenwich
Hackney
Havering
Herefordshire County Council
Hillingdon
Islington
Kensington & Chelsea
Kent County Council
Kirklees
Lambeth
Leicester
Lewisham
Lincolnshire County Council
Liverpool
Luton
Middlesbrough
Newcastle upon Tyne
North Somerset
North Yorkshire
Northumberland County Council
Nottingham County Council

Nottingham City Council
Oxford
Oxfordshire County Council
Preston
Redcar & Cleveland
Sefton
Shropshire County Council
Solihull
Southend-on-Sea
St Helens
Stockport
Stoke-on-Trent
Surrey County Council
Sutton
Tameside
Torbay
Tower Hamlets
Wakefield
Warrington
West Berkshire
Westminster
Wigan
Windsor & Maidenhead
Wirral
York