



**Comments from Imtac about the Belfast City Council
public consultation on The Pavement Cafes
Licensing Scheme**

(November 2023)

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About Imtac

The Inclusive Mobility and Transport Advisory Committee (Imtac) is a committee of disabled people and older people as well as others including carers and key transport professionals. Its role is to advise Government and others in Northern Ireland on issues that affect the mobility of Deaf people, disabled people and older people.

The aim of Imtac is to ensure that Deaf people, disabled people and older people have the same opportunities as everyone else to travel when and where they want.

Imtac receives support from the Department for Infrastructure (herein after referred to as the Department).

Introduction

Imtac welcomes the current consultation around developing a permanent Pavement Café Licensing Scheme for Belfast. The Committee recognises that during the height of the pandemic it was necessary to relax regulations on outdoor seating, both in the interests of the hospitality industry but also from a public health perspective. Now restrictions have eased it is important that regulation reverts to better reflect the original of aim of licensing.

We would also like to commend Belfast City Council for hosting a consultation event to discuss the proposals with Section 75 groupings. It was particularly welcome that the event was hybrid, allowing contributions in person and remotely and that measures were taken to make the meeting inclusive including the provision of sign language interpreters.

Background

Imtac has been a key stakeholder during the development and introduction of regulation in relation to pavement cafes. Our input has included responding to the initial consultation on proposals to regulate pavement cafes¹, contributing to legislative process including providing evidence to scrutiny committee² and seeking to influence the

¹ <https://www.imtac.org.uk/comments-imtac-proposals-licensing-pavement-cafes>

² <https://www.imtac.org.uk/submission-call-evidence-social-development-committee-licensing-pavement-cafes-bill>

development of guidance about regulation from both the then Department for Social Development and DfI Roads³.

In 2018 the Committee published a report⁴, evaluating the introduction of Pavement Café Licensing. The report reflects our significant frustration at the failure to agree guidance with statutory agencies, largely due to the incompatibility of legislation that seeks a light touch regime and the direct, negative, and obvious impact such an approach has on the day to day lives of Deaf people, disabled people and older people.

From the start of this process the Committee has maintained its support for an inclusive café culture that provides outdoor space that can be used by everyone including Deaf, disabled people and older people whilst maintaining a safe and accessible pedestrian environment. This remains the priority in our response to the current consultation. The focus of our response looks primarily at the information provided by the Council on guidance⁵,

Comments on Guidance Information

In 2013 the Committee produced a position paper⁶ on the regulation of pavement cafes that contained twelve recommendations (included in Appendix 1) based on (1) accepted design guidance for inclusive pedestrian environments, (2) best practice from other places where regulation was already in place and (3) the statutory equality duties placed on public bodies in Northern Ireland. The position of the Committee has not changed since and the recommendations of the 2013 paper have been used to inform its response to the current consultation.

Appendix 1 of the Council Guidance states:

“Each application will be considered on its own merits on a site by site basis, taking account of the characteristics of the site, the space available and the proposed layout of the café area. The

³ <https://www.imtac.org.uk/comments-imtac-dfi-roads-pavement-cafes-draft-guidance-highway-considerations>

⁴ <https://www.imtac.org.uk/evaluating-impact-introduction-pavement-cafe-licensing-mobility-disabled-people-and-older-people>

⁵ <https://www.belfastcity.gov.uk/Documents/Licences-and-permits/Guidance-for-applicants>

⁶ <https://www.imtac.org.uk/position-paper-regulation-pavement-cafes-northern-ireland>

pavement café will also need to be designed in such a way as not to compromise access where applicable.”

A key consideration for Imtac in maintaining an accessible and inclusive pedestrian environment is ensuring acceptable unobstructed pavement width around cafes to provide a safe and accessible route for all pedestrians. Globally accepted design guidance based on experience and best practice in the UK is clear on this issue.

Inclusive Mobility⁷ states:

“Footways and footpaths should be made as wide as is practicable, but under normal circumstances, a width of 2000mm is the minimum that should be provided, as this allows enough space for two wheelchair users to pass, even if they are using larger electric mobility scooters.”

Manual for Streets⁸ states:

“There is no maximum width for footways. In lightly used streets (such as those with a purely residential function), the minimum unobstructed width for pedestrians should generally be 2 m.”

Creating Places⁹ states the following with regard to footway width:

“At least 2m. This will generally accommodate visibility splays, most services underground and allow wheelchair users to pass others using the footway.”

All three documents recommend that in locations where pedestrians congregate such as shops additional footway width will be required. This additional recommended width varies from 3m to 4.5m.

Inclusive Mobility does allow for reducing footway widths where there is a physical constraint. Clearly the term “physical constraint” is the key issue in understanding where and when it is appropriate to reduce footway widths. Imtac has worked on numerous public realm improvement schemes where the existing restricted width of the streets

⁷ <https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians>

⁸ <https://www.gov.uk/government/publications/manual-for-streets>

⁹ <https://www.infrastructure-ni.gov.uk/publications/creating-places-achieving-quality-residential-environments>

involved simply will not allow the desired footway widths detailed in design guidance. One such example is the streets adjacent to the city walls in Derry. The walls are physical constraint that cannot be designed out. An artificially created pavement café licensing framework should never be considered to constitute a physical constraint.

Given the previously published position of Imtac and the evidence of design guidance detailed above we cannot accept the Council's proposals not to specify minimum footway widths in its guidance to applicants. The Committee maintains that reducing pavement widths below recommended design standards to accommodate the interests of business will not only inconvenience pedestrians in general but have a major negative impact on disabled people, older people and people with young children in particular as well as reflecting on the requirements of businesses **Imtac recommends that the Council amend guidance to set the minimum footway width at 2m with provision for additional footway width in areas of high pedestrian footfall or areas such as near bus stops and taxi ranks where people may be queueing.**

It is important infrastructure designed to support and assist pedestrians should be protected. Pavement cafes should not be allowed to obstruct tactile paving which is essential to making the pedestrian environment a safe place for blind and partially sighted people. **Imtac recommends the guidance be amended to specify that no part of a pavement café will be allowed to obstruct tactile paving or the approach to it.**

We welcome the following statement in the guidance – “any pavement café design or plan should be compliant with the requirements of the Disability Discrimination Act 1995 and Department for Infrastructure criteria.” **The Committee recommends, however, that the statement in the final guidance is clarified and strengthened and suggests the following wording – “It is the responsibility of the applicant to ensure that the pavement café is accessible to everyone including disabled people and does not obstruct access to premises. Failure to comply with these requirements may lead the license being revoked.”**

The Committee welcomes the statement around the provision of appropriate boundary and enclosure for pavement cafes. **Imtac recommends that this must be a requirement of licensing not an ideal as portrayed in the guidance.** We support the specification included in the guidance for portable barriers **The Committee**

recommends that this specification be applied to all pavement café screening including where planters are used.

Imtac does not agree that provision of barriers at either end of a pavement café only is acceptable or safe for people with a visual impairment, particularly as furniture is likely to spill out beyond any unrestrained boundaries in such circumstances. **The Committee recommend that reference to requiring only barriers at either end of the pavement café be removed from the final guidance or changed to require barriers on all sides.**

The Committee welcomes the requirement for all furniture items including menu boards to remain within the boundary of the pavement café. **We recommend that advertising boards associated with premises are also specified as furniture under these requirements and that guidance make clear that breaching these requirements may lead to the revocation of a license.**

We note that the section on unlicensed pavement cafes talks of a “graduated” approach to enforcement. The Committee seeks further clarification on what graduated means. If businesses are simply allowed to continue flouting legislation this is unacceptable. **Imtac recommends that the guidance be clear that unlicensed cafés will be required to remove table and chairs from the footway until such point that an application has been submitted and approved by the Council.**

Comments on other matters

Enforcement is essential to ensure that the regulation of pavement cafes ensures that footways remain accessible to all users. The Committee notes that currently there is no charge for pavement café licenses. We are concerned that given the wider issues with resources across public services not charging for licences will mean a lack of resource for enforcement. **Imtac recommends that charging for licensing be reintroduced but only at a level to ensure effective enforcement of licensing. In addition Imtac recommends that the council have an easy to use, accessible mechanisms for members of the public to report pavement cafes that are in breach of guidance.**

During the pandemic significant interventions have been made to provide additional space for hospitality premises including:

- Large seated areas in pedestrian zones, significantly reducing space for people walking and wheeling and in some cases removing access to seating and cycle parking
- Parklets using on-street parking bays
- Streets closed to traffic and carriageway space used for outdoor seating such as Union Street and Brunswick Street

Imtac believes the large seated areas in pedestrian zones do not demonstrate a benefit to the wider public and should be reduced in size with civic amenities such as seating, bins and cycle parking fully restored.

Imtac supports the greater use of parklets for outdoor seating on the following conditions: (1) accessible parking is not reduced, (2) the parklet is accessible to everyone and (3) the footway around the parklet is clear of cafes.

Imtac supports closing of streets to provide outdoor space for hospitality on the following conditions: (1) accessible parking is not reduced, (2) the outdoor space is accessible to everyone and (3) the footway around the outdoor space is clear of cafes.

Screening for equality impact

Imtac notes that the consultation includes screening for equality impact¹⁰ on the proposals. Given the Committee has raised specific concerns in this response about the major negative impact on Deaf people, disabled people, older people, and people with dependants, of the Council's proposals, particularly those which will potentially reduce footway widths below minimum design standards. These concerns must be addressed in a further screening exercise. Imtac requests that this screening exercise addresses each of the points raised in this response and either recommends an amendment to the Guidance or provides clear and robust evidence as to why the Council proposes to take no action.

Conclusion

Imtac thanks the Council for the opportunity to comment the proposals to introduce a permanent Pavement Café Licensing Scheme in Belfast. The Committee does not believe the Council's proposed approach as

¹⁰ <https://www.belfastcity.gov.uk/Documents/Licences-and-permits/Equality-Screening-Template>

currently drafted offers adequate protection for all pedestrians and for Deaf people, disabled people and older people in particular. The Committee hopes the Council will give careful consideration to our recommendations and we are more than willing to continue dialogue with officials to develop an agreed way forward. At the same time Imtac is also committed to using all means at its disposal to ensure that Belfast is a city where pavements prioritise people walking and wheeling and where Deaf people, disabled people and older people have a right to use footways on a safe and equal basis to others.