

UPDATE ON IMPLEMENTATION OF THE PAVEMENT CAFÉ LICENCE POLICY

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides an update on the implementation of the Pavement Café Licence Policy, and recommends a way forward for 2017-18.
- 1.2 Pavement Cafes in Argyll and Bute have increased in number over the last few years, in particular in towns that have benefited from public realm improvements. The Council wish to encourage businesses to participate in alfresco café culture, as long as the public space is safely maintained.
- 1.3 In August 2015 the Policy and Resources Committee approved the Pavement Café Licence Policy, which included the requirement for each business operating a pavement café to hold a Pavement Café Licence. In 2015 and again in 2016 the fee for this licence was waived in an attempt to encourage businesses to apply for the licence. To date only 3 cafes have obtained pavement café licences.
- 1.4 The licensing scheme was established to balance the desire to encourage café culture with the need to ensure safety and avoid nuisance. No reports or complaints have been received regarding outdoor seating areas since the policy has been established and a move away from a licensing regime to a more cost effective model of enforcement is considered to offer better value.
- 1.5 The Pavement Café Policy will be replaced with Pavement Café Guidelines, to be issued to each business operating a pavement café.
- 1.6 Enforcement will be on a reactive basis only to ensure that we comply with legislative requirements and maintain a safe and usable public space. This will provide a best value solution for both businesses and the Council.

1.7 RECOMMENDATIONS

Members are asked to:

- a) Approve the replacement of the existing Pavement Café Policy with Pavement Café Guidelines.
- b) Note that the need to obtain an alcohol license is still required where

applicable for outdoor seating areas.

- c) Agree to amend the guidelines as detailed in paragraph 4.13
- d) Approve enforcement of the Pavement Café Guidelines on a reactive basis where there is a risk to safety.

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2.0 INTRODUCTION

2.1 Pavement Cafes in Argyll and Bute have increased in number in recent years following the introduction of the pavement café policy. Council investment in public realm improvements in a number of towns has provided additional opportunities for businesses to establish outdoor seating. The Council wish to encourage businesses to participate in alfresco café culture, as long as the public space is safely maintained.

3.0 RECOMMENDATIONS

3.1 Members are asked to:

- a) Approve the replacement of the existing Pavement Café Policy with Pavement Café Guidelines.
- b) Note that the need to obtain an alcohol license is still required, where applicable, for outdoor seating areas.
- c) Agree to amend the guidelines as detailed in paragraph 4.13
- d) Approve enforcement of the Pavement Café Guidelines on a reactive basis where there is a risk to safety.

4.0 DETAIL

Pavement Café Policy implementation to date

4.1 Pavement cafes in Argyll and Bute have increased in number over the last few years, in particular in towns that have benefited from public realm improvements. The desire to encourage pavement café culture in our town centres is ongoing as they add to the vibrancy of the townscape, and are a driver for tourism and the economic growth of our towns. The Council wish to encourage businesses to participate in alfresco café culture, as long as the public space is safely maintained.

4.2 In August 2015 the Policy and Resources Committee approved the Pavement Café Licence Policy, which included the requirement for each business operating a pavement café to hold a Pavement Café Licence. In 2015 and

again in 2016 the fee for this licence was waived in an attempt to encourage businesses to apply for the licence.

- 4.3 Council has offered free advice regarding Pavement Cafes with the aim of making the process as straightforward as possible. The intention is to continue to offer this advice in the event that the committee agree a move away from a licensing regime.
- 4.4 The level of uptake of the licence by businesses has been less than anticipated. Roads technical officers have responded to requests for information, including on-site meetings, however, very few of these queries have resulted in a formal application for a licence. To date only 3 cafes have obtained pavement café licences although others operate unlicensed outdoor seating areas.
- 4.5 Full enforcement of the policy would require:
 - Identification of all businesses that operate pavement cafés (permanent or seasonal)
 - Awareness raising campaign to encourage all businesses to apply for a licence
 - Site visits and audit of each premise to ensure it adheres to the policy
 - Enforcement of businesses that do not apply for a licence
 - Enforcement of businesses that do not operate within the guidelines in the policy
- 4.6 Roads and Amenity Services are unable to resource proactive enforcement of the policy because of competing demands on the time of roads technical officers.
- 4.7 Since establishing the policy it has become clear that the costs of administering licences outweighs any income received and there is a fear that increasing licence fees would potentially be detrimental to small businesses and discourage them from creating more outdoor seating areas.
- 4.8 The licensing scheme was established to balance the desire to encourage café culture with the need to ensure safety and avoid nuisance. No reports or complaints have been received regarding outdoor seating areas since the policy has been established and a move away from a licensing regime to a more cost effective model of enforcement is considered to offer better value.
- 4.9 Café culture in Argyll and Bute is an increasing trend and an encouraging improvement to the vibrancy and economic growth of our towns. We have seen a number of new Pavement Cafes opening up which enhance the atmosphere of our town centres. To date Pavement Cafes have operated successfully and without significant issue, despite no proactive enforcement of the policy.

Key aims of the Pavement Licence Policy

- 4.10 The intention of the policy was to allow identification of all businesses operating a pavement café, to ensure all such businesses obtained a café licence and to enforce adherence to the conditions of the licence.
- 4.11 The Roads (Scotland) Act 1984 and the New Roads and Street Works Act 1991 puts certain legislative obligations on the Council including ensuring that footways are safe for pedestrians and that footways can be opened up as required for footway or public utility repairs. The policy detailed these obligations and the powers that the Council have to cease operation if required.
- 4.12 The policy also included guidelines around food and hygiene regulations, hours of operation, alcohol licence, approval to play amplified music and public liability insurance.

New procedure for Pavement Cafes

- 4.13 Pavement Café Guidelines will be developed to replace the current Pavement Café Policy and Licence. The guidelines will be based on the current Pavement Café Policy. These will include the legislative requirements and other information about food and hygiene regulations, hours of operation, alcohol licence, approval to play amplified music and public liability insurance. This will set limits and rules for what is acceptable for a pavement café in order to maintain a safe and attractive public thoroughway, including items such as tables, chairs, menu boards and advertising.
- 4.14 Note that the need to obtain an alcohol license will still be required where applicable for outdoor seating areas, and the guidelines will emphasise this.
- 4.15 The guidelines will also advise that Planning Permission may be required for a pavement café.
- 4.16 The policy currently requires all pavement cafes to be bordered by barriers. Since introducing the policy it has become evident that this is not practical in all locations. It is therefore the intention to amend the guidelines to remove this requirement where appropriate. Where barriers are not practical but a pavement café is appropriate the serving of food and drink will be limited to the seating areas.
- 4.17 All existing businesses with pavement café, that officers are aware of, will be sent a copy of the Pavement Café Guidelines.
- 4.18 The guidelines will be made available on the Council's website for any business considering the creation of a new pavement café.
- 4.19 The enforcement of the guidelines will be on a reactive basis only. If a Pavement Café is operating in a way which obstructs safe passage of the footway, the café equipment can be forcibly removed if necessary. This is consistent with any obstruction to the carriageway and ensures we are

compliant with legislation. Similarly pavement cafes can be removed if footway or public utility repairs are required.

- 4.20 Enforcement of other aspects including alcohol licence, food and standards regulations will be similarly enforced by other departments in the Council as they are at present.

5. CONCLUSION

- 5.1 Café culture is an increasing trend and an encouraging improvement to the vibrancy and economic growth of our towns. It is important for the Council to meet the demands of the business and at the same time provide safe and efficient management of our pavements.
- 5.2 Current resource levels do not allow proactive enforcement of the current policy. Replacing the policy with guidelines allows the Council to enforce this on a reactive only basis. In this way we ensure that we comply with legislative requirements and maintain a safe and usable public space within existing budgets. This will provide a best value solution for both businesses and the Council.

6.0 IMPLICATIONS

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| 6.1 | Policy | Replacement of Policy for the Use of Pavements – Café Culture with Pavement Café Guidelines. |
| 6.2 | Financial | None |
| 6.3 | Legal | Avoids contravention of the Roads (Scotland) Act 1984.
Amendment to the policy to comply with the requirements of the New Roads and Street Works Act 1991. |
| 6.4 | HR | None |
| 6.5 | Equalities | Guidelines continue to ensure sufficient and safe space is maintained for all pedestrian users. |
| 6.6 | Risk | None |
| 6.7 | Customer Service | Awareness of Policy |

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