

Pavement Licence – Terms and Conditions

National Conditions

The Secretary of State publishes these conditions in exercise of his powers under Section 5(5) and Section 5(6) of the **Business and Planning Act 2020**.

Further, the Secretary of State may publish conditions for pavement licences (section 5(6)). Applications granted or deemed to be granted thereafter are deemed to be subject to those published conditions, save where inconsistent with any other condition attached (section 5(7)-(8))."

No Obstruction Condition

All pavement licences will either have an express or (in default) deemed "no-obstruction condition" (section 5(4)). This is a condition that anything done by the licence-holder pursuant to the holder, or any activity of other persons which is enabled by the licence, must not have one of the specified statutory effects debarring grant of the licence, namely the effect of:

- (a) preventing traffic, other than vehicular traffic, from—
 - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
 - (ii) passing along the relevant highway, or
 - (iii) having normal access to premises adjoining the relevant highway,
- (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
- (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

(d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of **Inclusive Mobility**.

Smoke Free Seating Condition

Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

Local Conditions

The following licensing conditions will apply to all Pavement Licence areas (PLA) unless otherwise specified.

1. A minimum 2m width of unobstructed footway must remain available to passing pedestrians (taking into account any street furniture, street lights etc.) In areas of high foot fall more than 2m of unobstructed highway may be required to allow for pedestrian traffic.
2. All customers using the PLA will be required to be seated.
3. Waste bins must be emptied at regular times to ensure they do not spill waste into the PLA and/or Highway.
4. Licence holders will be required to remove any umbrella or parasol if it obscures CCTV coverage and interferes with the detection and prevention of crime and disorder.
5. The licence holder shall ensure that the PLA is properly supervised by a member of staff at all times when it is open.

6. Alcoholic drinks, provided within the PLA, must be served in polycarbonate or shatterproof glasses where available.
7. Alcohol can only be consumed in the designated PLA if the premise has a licence to sell alcohol.
8. All food and drink to be served to the table. Customers are not allowed to purchase food away from the tables or to stand whilst consuming food.
9. No music is allowed outside in the PLA.
10. Use of the PLA must cease by 23.00hrs unless stated otherwise on the licence, earlier finishing times and additional conditions may be considered for any PLA in a mixed residential area.
11. Where gas heaters are used, the connections, including the regulator, hose & clips must be fit for purpose and checked on a regular basis.
12. Within the no smoking area suitable 'no smoking' signage must be made available. No ash trays are to be provided in this area.
13. Where the PLA is close to neighbouring businesses and residential properties you must have control measures in place to prevent nuisance and disturbance from smells, odour, noise and litter.

Management of the Highway

14. Tables and chairs shall not be affixed to the highway
15. The furniture should be of a high quality and uniform style within the PLA and should complement the surrounding area. White plastic and/or picnic tables will not normally be approved.
16. Umbrellas will be permitted where they do not obstruct pedestrian or vehicle visibility. Where umbrellas are used, these must be fabric type (i.e. not reflective). They may display a small logo up to 150 mm x 450 mm in the size of the establishment's name, but there may be local restrictions preventing the display of brand names or brewery

logos. Umbrellas are to be positioned so as to avoid overhanging outside the enclosure or impairing vehicle/pedestrian sight lines.

17. Non-furniture items e.g. menu boards, signs and portable gas heaters also need to be approved as part of the enclosed PLA and any unacceptable clutter or intrusion into sight lines will need to be removed if it is seen to be causing a problem.

18. No signs, displays, balloons, promotional items or bindings for the purpose of support are to be attached to street furniture.

19. The PLA, when in use, should be demarked by suitable temporary barriers that protect the safety of pedestrians and users whilst clearly identifying the PLA. This is to be a portable barrier which is of a suitable colour and construction so as to be distinguishable to other pavement users and particularly the blind and visually impaired pedestrians, i.e. detectable by a stick and of a contrasting colour.

20. Barrier posts must be solid so that they do not create or constitute a trip hazard and should not have any ornamental features projecting horizontally.

21. All furniture and barriers should be safely removed at the end of the specified hours detailed within the Pavement Licence and/or when the PLA is not intending to operate and be stored away from public areas in such a location where it is safe, secure and unable to be accessed by members of the public.

22. Where repair, maintenance or alteration of the pavement/highway is to be undertaken, the Council will endeavour to give the licence holder notice unless it is urgently required. The Council will not be liable for any loss of earnings whilst repair/maintenance is carried out. The licence holder must allow the Council reasonable access for such works.

23. There will be no compensation or liability for loss of business resulting from a temporary restriction on occupation of the highway or operation of the pavement licence area by a legitimate authority

(e.g. Police, Statutory undertakers, County Council or local District Council) or for any other reason.

24. The County Council (in its capacity as local highway authority) and others will need access at various times (including emergencies) for maintenance, installation, special events, improvements, etc. Wherever possible, advance notice will be given.

25. Where a charter is in place for the holding of any market or street fair, and the area is required by that fair or market, the holder of the licence must remove all furniture and items associated with the licence from that location for the duration of the market or fair.

26. The Council may also require daily access for cleaning the highway, usually in the morning before 9 am, but the applicant should check local arrangements with the District Council.

27. The licence holder will be responsible for any damage, including stains', to the highway.

Compliance and Enforcement

28. The Council reserves the right to suspend/revoke the licence in the event of a breach of any term or condition, or when it deems that the area is no longer suitable. The granting of a Pavement licence does not convey any ongoing legal entitlement to use the highway.

29. The Council shall be entitled to suspend the Pavement Licence on the occurrence of a special event, an emergency control measure, or any other circumstance, which the Council considers necessitating a temporary suspension.

Legal

30. The licence holder shall indemnify the Council against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred in consequence of the use or presence of the chairs and tables and other objects.

31. The licence does not authorise any unlawful interference with the convenience of persons using the highway or affects the rights of owners of the premises adjoining the highway or the rights of the Utility Companies. You must give access to emergency services.

32. The subletting of the permission granted by the Pavement Licence is prohibited.

33. Licence holders are required to obtain public liability insurance covering the business for up to £5,000,000 at all times the PLA is operational. It is the responsibility of the licence holder to forward up to date copies of insurance certificates as and when they expire. Failure to comply with this condition can constitute an offence under the Pavement Licence policy and enforcement action can be taken.

34. The grant of a Pavement Licence shall not be deemed to give any approval or consent which may be needed under any byelaw, enactment or regulation other than cafes under section 115c of Part VIIA of the Highways Act 1980. For the avoidance of doubt this includes the requirement to seek and obtain planning permissions and/or advertisement consent.