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# Pavement café licensing policy 2025

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## 1. Introduction

Pavement cafes are outdoor seating areas allowing existing hospitality businesses serving food or drink for immediate consumption, to extend the footprint of their business onto public areas such as pedestrianised zones or footway. Businesses who want to benefit from this must seek authorisation from the Council through either a street café licence or pavement licence. The differences between these two forms of authorisation and which one and when to apply for such authorisation will be explained throughout this document.

Street café licences are issued under the authority of the Highways Act 1980 and allow a Local Authority to permit use of temporary furniture or permanent structures to be placed on the public highway for specific purposes. The relevant provisions can be found in Part 7A of the Act.

Pavement licences can be issued through powers set out in The Business and Planning Act 2020. This Act was passed to promote economic recovery and growth in response to the economic impacts of the global Covid-19 pandemic. The act included urgent provisions designed to make it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

Since the Business and Planning Act 2020 received royal assent in July 2020 it has been the subject of numerous amendments to extend the temporary provisions enabling the consumption of food and drink outdoors.

The Levelling Up and Regeneration Act 2023 makes permanent the pavement licensing regime under the Business and Planning Act 2020, with a number of changes. The Levelling Up and Regeneration Act introduces a standard fee cap for both new and renewals of licences as well as increased consultation and determination periods, lengthens the maximum duration of licences and provides Local Authorities with new powers to remove unlicensed furniture.

This policy will come into force on the 9 June 2025.

## 2. Scope of policy

### Definitions

"Pavement Café" means an outdoor refreshment area located on public highway that requires an authorisation through the grant of a pavement licence or street café licence as detailed in the terms below

#### Pavement licence

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for the serving or consumption of food and/or drink or connected purposes.

#### Street cafe licence

Street Café Licences are required where the applicant wants to place furniture on the public highway that is permanent or non-removable. Such licences can only be granted in respect of highways listed in section 115A (1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicular access is restricted or prohibited. Highways maintained by Network Rail or over crown land are exempt (so a licence cannot be granted).

## 2.2 Eligible businesses

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

## 2.3 Type of furniture permitted

The furniture which may be used is:

- Counters or stalls for selling or serving food or drink
- Tables, counters or shelves on which food or drink can be placed
- Chairs, benches or other forms of seating
- Umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink

A pavement licence can only authorise the use of furniture that is removable, which in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away at an evening.

Applicants who require the use of permanent or non-removable furniture must apply for a street café licence under the provision of the Highways Act 1980.

Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.

Any furniture the subject of an application must be 'in keeping' with the local area.

## 2.4 Planning permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

## 2.5 Existing tables/chairs

The new pavement licence regime runs alongside the provisions in Part 7A of the Highways Act 1980, which remain in place.

Any existing permissions issued under Part 7A of the Highways Act 1980 remain valid until the expiration date on the licence, given to them by the licensing authority. Once this has expired, businesses will need to apply for a new licence in accordance with the guidance set out in this policy.

# 3. Application and determination

## 3.1 Application form and requirements

### Pavement licences

An application for a pavement licence must be made to the council, and the following will be required to be submitted with the application:

- A completed application form including date the application is made
- The required fee of £500 for a new Licence or £350 for a renewal
- A plan showing the location of the premises including the area of highway it is proposed will be licensed, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway.
- The proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway
- Evidence of the right to occupy the premises (e.g. the lease)
- Photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied
- Evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself)
- A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £1 million, and

- Any other evidence needed to demonstrate how the council's local conditions, and any national conditions will be satisfied

### Street cafe licences

An application for a street café licence must be made to the council, and the following will be required to be submitted with the application:

- A completed application form including date the application is made
- The required fee calculated at £20.30 for each square metre (or part thereof) up to the capped maximum of £1,015.00
- Evidence of the right to occupy the premises (e.g. the lease)
- The proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway
- A plan showing the location of the premises including the area of highway it is proposed will be licensed, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with a clear layout of proposed permanent barriers
- Plans must be drawn to scale of either 1:50 or 1:100
- Evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself)
- A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £1 million
- Manufacturers specification and installation literature in respect of permanent barriers
- Any other evidence needed to demonstrate how the council's local conditions, and any national conditions will be satisfied

## 3.2 Consultation

Applications are subject to a public consultation period of 14 days, beginning with the day after the day the application is submitted to the authority. The applicant is required to affix a notice to the premises as detailed in section 3.3 below. Applicants must ensure the notice remains in place for the full duration of the public consultation. When counting 'days' public holidays are not included.

The [council will publish details of the application](#) on its website.

During the consultation period, the council will consult with the following stakeholders:

- Lancashire Police - West Licensing Team
- Lancashire Police - Designing Out Crime Officer
- Blackpool Council Highways Authority
- Blackpool Council NEAT
- Blackpool Council Health and Safety (Public Protection)
- Blackpool Council Community Safety
- Blackpool Council Trading Standards
- Blackpool Council Environmental Protection

Members of the public and others listed above can contact the council to make representations.

The council must take into account representations received during the public consultation period and consider these when determining the application.

## 3.3 Advertising the application

An applicant applying for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period.

Evidence of the site notice requirement must be supplied to the council.

The site notice must:

- State that the application has been made and the date on which it was made
- State the statutory provisions under which the application is made
- State the address of the premises and name of the business
- Describe the proposed use of the furniture
- State the council's website where the application and any accompanying material can be viewed during the consultation period
- State the address to which representations should be sent during the consultation period; and
- The end date of the consultation (14 days starting the day after the application is submitted to the authority)

A template site notice is available on request.

### 3.4 Site assessment

The following matters will be used by the council and consultees in considering the suitability of the proposed application:

- Public health and safety - for example, any reasonable crowd management measures needed as a result of a licence being granted
- Public amenity - will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter
- Accessibility - taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of
- Any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles
- Whether there are other permanent street furniture or structures in place on the footway that already reduce access
- The impact on any neighbouring premises
- considerations under the no-obstruction condition including the cumulative impact of multiple pavement licences in close proximity, in particular considering the needs of disabled people
- Other users of the space, for example if there are high levels of pedestrian or cycle movements

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

### 3.5 Determination

#### Pavement licences

Once the application is submitted, the council has a maximum of 14 days from the day after the consultation period set out in section 3.2 of this policy ends (excluding public holidays) to determine the application.

If the local authority determines the application before the end of the determination period the local authority can:

- Grant the licence in respect of any or all of the purposes specified in the application
- Grant the licence for some or all of the part of the highway specified in the application, and impose conditions
- Refuse the application

If the local authority does not determine the application as indicated above, the application will be deemed to have been granted for a period of 2 years as specified in section 3.7 of this policy.

#### Street café licences

Applications for street café licences will be determined similarly to the requirements set out above in respect of pavement licences. The consultation requirements outlined above in this section and in section 3.2, apply equally to street café licences as they do to applications for pavement licences. However, whilst the Council will endeavour to determine applications for street café licences within the determination period referred to above, applications will not be automatically deemed granted if not determined within that period.

### 3.6 Approval of applications

The council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the council will issue a pavement licence or street café licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the council's standard conditions, which will be attached to all pavement café licences, are shown in the appendix. Additional conditions may be attached if the council considers it appropriate in the circumstances of any particular case.

The council will generally only permit pavement cafés to operate between the hours of 9.00am and 10.00pm.

Applications outside these hours will be assessed in terms of the criteria detailed above as well as taking account of any highway amenity restrictions. For example, highway restrictions on Birley Street mean furniture cannot be placed on the highway before 10.30am or after 6pm.

The council retains the right to specify permitted hours of trading that are less than those specified above where deemed appropriate.

### 3.7 Duration

## Pavement licence

If a local authority determines an application before the end of the determination period (which is 14 calendar days, beginning with the first day after the end of the public consultation period, excluding public holidays), the authority can specify the duration of the licence. Approved applications will be granted for a period of 2 years from the date of issue. In limited circumstances the Council may grant the licence for a shorter period, for example where the area concerned forms part of an area that will be impacted by planned changes to the network.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for two years starting with the first day after the determination period ends. However, if, when implemented, a licence that has been deemed granted does not meet the conditions set out in the legislation or any local conditions, it can be revoked at any time on the grounds that it has breached the conditions

## Street café licences

Applications for street café licences will be subject to a consultation period of 14 days but are not subject to the same determination periods as pavement licences. Successful applications for street café licences will be granted for a period of 12 months from the date of issue.

## 3.8 Refusal of applications

If the site is deemed unsuitable for a pavement café licence, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against a decision to refuse an application.

A business may apply again after refusal but will have to make a new application and address the concerns raised in the original application.

## 3.9 Conditions

Any licence which is granted, or deemed to be granted, will be subject to:

- The council's standard conditions
- Any additional conditions which the council imposes as a result of the individual circumstances of the case; and
- The national conditions.

The council's standard conditions are set out in the Appendix. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

However, this is not the case for the statutory no-obstruction and smoke free conditions which apply to all licences. These conditions are shown in the appendix.

## 4. Enforcement and revocation

The council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. It remains the case that an obstruction of the highway is an offence under The Highways Act 1980 and will be dealt with by the highways authority or the police.

In addition, if a condition imposed on a licence (either by the local authority or nationally) is breached, the local authority will be able to issue a notice requiring the breach to be remedied. If the licence-holder fails to do so, the local authority may amend the licence, with the consent of the licence-holder, revoke the licence or itself take steps to remedy the breach and can take action to recover any costs of so doing. Licences will be subject to regular review and any breaches detected will be vigorously enforced.

The authority may revoke a licence, or amend it with the consent of the licence holder, in the following circumstances:

1. If it considers that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licenced area (or road adjacent) is no longer to be pedestrianised.
2. Or if there is evidence that:
  - there are risks to public health or safety - for example where it comes to light that there are significant security risks which have

not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level);

- this use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition - for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway; or
- the use is causing, or risks causing, anti-social behaviour or public nuisance - for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up

The local authority may revoke a licence in the following circumstances:

1. For a breach of condition, (whether a remediation notice has been issued or not) or
2. It comes to light that the applicant provided false or misleading statements in their application - for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
3. The applicant did not comply with the requirement to affix the notice to notify the public of the application or secure that the notice remains in place until the end of the public consultation period

Removable furniture placed on the highway otherwise than in accordance with a Pavement or street café licence, may be removed by the local authority. Where such a problem exists the local authority will issue notice on the person responsible for the furniture requiring them to remove the furniture within a specified timeframe or until a licence has been obtained.

Should the furniture continue to be placed on the highway in contravention of such a notice, the local authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

## 5. Appendices

### 5.1 Standard conditions

#### The licence

1. The licence will remain in force for 2 years (1 year for street café licences) from the date of issue unless surrendered, suspended or revoked.
2. The licence must be displayed on the premises in clear view.

#### The site

3. A well-designed physical barrier of approximately 1.0 metre must be erected around the site during the designated hours in order to guide persons with a sight disability around the site. Such barrier must not be permanently fixed and must be removed from the site immediately after the end of the designated hours.
4. Only tables, chairs and umbrellas associated with tables shall be placed within the licensed area. No other furniture other than receptacles shall be placed within this area.
5. Tables and chairs shall be durable and suitable for outside use. No damaged furniture should be used. The design of all chairs, tables, umbrellas, etc. shall be subject to the approval of the council's licensing department
6. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the highway authority.
7. When the licence is not in use all tables, chairs and other furniture must be stored securely away from the highway. Any items not so removed may be removed, stored or disposed by Blackpool Borough Council and any costs incurred will be re-charged to the licence holder. Blackpool Borough Council accepts no liability for loss or damaged to items removed
8. The licence holder must cease to use the pavement licence area and remove all furniture and barriers if so requested, if access is required by Blackpool Borough Council, the emergency services, statutory undertakers or the operator of electronic communication equipment in the case of an emergency, special event or for installation, maintenance, improvements, etc. or for any other reasonable cause. On such occasions no compensation will be paid for loss of business.
9. A clear walkway of 2 m must be maintained for the use of pedestrians.
10. Emergency routes to the premises and adjacent buildings must not be obstructed by the pavement furniture.
11. A board or other signs must not be erected or permitted to be erected within the confines or adjoining the site.

12. The licence holder must arrange for the placement of sufficient litter receptacles for the purpose of smoking related and fast food litter.

13. No electrical cables shall be run along the ground in such a way that they create a trip hazard or are susceptible to mechanical damage.

#### Operation of the licence

14. The licence holder must ensure that a minimum of 50% of the outside area is set aside as a non-smoking area.

15. The licence holder must ensure that all persons consuming food and drink are seated within the boundaries of the site and do not take refreshments out of the site

16. Alcohol must not be consumed on the site unless the licence holder has an authorisation issued by the licensing service under the Licensing Act 2003.

17. No amplified music or loudspeaker equipment must be used on or in the vicinity of the site

18. The licence holder must supervise the licensed area to ensure that it is operated in a safe and orderly manner and that customers do not cause a nuisance or cause annoyance to users of the highway or tenants of adjoining properties.

19. The licence holder must ensure that regular checks of the site are made at intervals of no more than 30 minutes to remove empty/abandoned drinks, crockery, cutlery and litter

20. The licence holder is required to maintain the licensed area within acceptable cleanliness standards during licensed hours. The area should be maintained to a standard to the following principles:

- Grade A: No litter or refuse
- Grade B: Predominately free of litter and refuse apart from some small items. Acceptable. To be returned to Grade A within 4 hours
- Grade C: Widespread distribution of litter and/or refuse with minor accumulations. Unacceptable standard; Must be returned to a Grade A within 1 hour
- Grade D: Heavily affected by litter and/or refuse with significant accumulations. Unacceptable standard. Must be returned to Grade A within 15 minutes

21. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the site, for a distance of up to 5 metres from the boundary of the site. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.

#### Alcohol licences only

22. Where intoxicating liquor is permitted to be served or consumed in the licensed area polycarbonate glasses must be used at all times.

#### Miscellaneous

23. The licence holder shall indemnify the council and shall produce to the council's licensing manager for inspection a policy of insurance indemnifying themselves and the council against any injury or damage to any person or property and against any claim liability expense or damage arising by reason or in consequence of the permission granted. The policy shall provide cover of not less than £1,000,000 in respect of any one accident or series of accidents arising from one incident unlimited during the period of the insurance.

24. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.

25. Upon expiry or revocation of the permission the licence holder shall remove any structures from the highway and reinstate the highway to its former state and condition and in default thereof, the council will be empowered to carry out such work of reinstatement and recover the expense in so doing from the licence holder.

## 5.2 Statutory no obstruction and smoke-free conditions

### No-obstruction condition

Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence must not have an effect specified in section 3(6):

1. Preventing traffic other than vehicular traffic
  - entering the highway at a place where the traffic could otherwise enter it;
  - Passing along the relevant highway
  - Having normal access to premises adjoining the relevant highway
2. Preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order
3. Preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway
4. Preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purpose of that network under, in, on or over the highway

When considering whether the furniture has/would have the effect referred to in 1 above the authority must have regard to the needs of disabled people and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.

### 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.

The national smoke-free seating condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Further, businesses must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

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