

PAVEMENT LICENCE CONDITIONS

Pavement Licences are subject to conditions; rules that have to be followed by the licence holder. It is important that all conditions are complied with. Where the Council considers that one or more have been breached, it has the power to take enforcement action, which includes revocation of the licence completely.

There are two compulsory, or "national" conditions that all licences will have (further details below), along with local conditions which will apply to all licences, including those that are deemed to have been granted. In addition to this, the Council can also attach any conditions that it thinks are reasonable in any particular case.

National conditions

1. No-obstruction condition

Nothing must be done by the licence-holder (or any other person which is enabled by the licence) to:

- a) prevent 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) prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
- c) prevent statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
- d) prevent 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.

Particular regard must be had 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. This 'Inclusive mobility' guidance can be found here:

<https://www.gov.uk/government/publications/inclusive-mobility/inclusive-mobility>

Section 3.1 of the 'Inclusive mobility' guidance sets out a range of recommended widths which would be required, depending on the needs of particular pavement users and states that: *'a clear width of **2000mm** allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints **1500mm** could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another'*.

2. 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

3. A licence is not transferable and the subletting of any licence is prohibited. The licence holder shall be responsible for any rates, taxes and other outgoings which may be charged.
4. The permitted hours of use (i.e. the days and times in which furniture can be placed and used in the licensed area) is as stated on the licence.
5. All furniture must be contained within and located as shown exactly on, the licensed area identified in the plan (or plans) attached to the licence as Annex 1.
6. Any furniture or equipment used must not overhang (or extend) outside the licensed area and must be stable enough (e.g. weighted down) to withstand wind or accidental contact.
7. No changes must be made to the licensed area and locations of any furniture, including barriers, without written permission from the Council.
8. Outside of the permitted hours of use, all furniture must be removed from the licensed area of the highway and be stored securely.
9. The licence holder shall remove tables and chairs (and any other furniture) from the highway immediately if required to do so to permit works in or the use of the highway by the Council, the police, the fire service, the ambulance service and any statutory undertaker or telecommunications code operator.
10. Staff must regularly monitor the licensed area and visit it, when necessary, to ensure it is kept clean and tidy. Any litter or waste arising from use of the licensed area must be cleared away, whether within the licensed area or its vicinity.
11. Waste from the licence holders operations must not be disposed of in the permanent litter bins provided by the Council. Any commercial premises must have a trade waste agreement in place and waste receptacles kept within the boundaries of the premises, apart from on the day of collection.
12. The licence holder must make no fixtures to or excavations of any kind in the surface of the highway, which shall be left entirely undisturbed.
13. The licence holder must ensure that a copy of the licence is clearly visible to the public and made available upon request to an authorised officer of the Council or the police.
14. The licence holder must ensure that the licensed area is set out and managed in a way that maintains appropriate levels of social distancing during Covid-19 restrictions (as defined by Government Guidance). This includes the arrangement of furniture and also any queuing systems that may limit the space available on the pavement.

15. The licence holder shall make no claim or charge against the Council in the event of any item being displayed or used being lost, stolen or damaged in any way from whatever cause.
16. The licence holder must at all times be covered by Public Liability Insurance which:
 - has minimum cover of £5 million and
 - indemnifies the Council from and against all actions, proceedings, claims, losses, expenses and liabilities whatsoever in respect of loss of life or personal injury or damage to property, howsoever caused, arising out of or in any way attributable to the use of tables and chairs (or any other furniture / objects) on the highway.

Evidence of this insurance must be available for inspection by the Council on request.

17. The granting of a licence by the Council does not give any approval other than the permission which the Council is authorised to give under the Business and Planning Act 2020. The requirements of the Licensing Act 2003 are separate and the pavement licence does not permit the sale of alcohol, regulated entertainment or late night refreshment in the relevant area. This means that musical entertainment will not be permitted in the approved area unless authorised under the Licensing Act 2003.
18. The licence holder must ensure that where available on the premises, sanitary accommodation is available for any customer using any chairs or seating provided by the business.
19. Any furniture used in the licensed area must be of sufficient high quality and appearance as not to be detrimental to the area. Any furniture or associated item must be in a good state of cleanliness and repair at all times and not pose a danger to highway users.
20. The area designated under the licence must be inspected by the licence holder prior to use (on a daily basis) to ensure the highway area is in good repair. Any cracks, damage or areas of risk must be reported to Highways at Devon County Council on the same day of discovery.
21. Failure to comply with the terms of the licence may result in the Council serving notice on the licence holder to rectify the fault(s). Costs incurred may be recharged to the licence holder.
22. The Council reserves the right to revoke a licence if the licence holder breaches any of the conditions (or for any other relevant reason).
23. A licence granted by this Council can be surrendered at any time by giving written notice to the Council.