

## NOTICE OF MEETING

# REGULATORY COMMITTEE

**Friday, 31st July, 2020, 10.00 am - MS Teams (watch it [here](#))**

**Members:** Councillors Sarah Williams (Chair), Gina Adamou (Vice-Chair), Dhiren Basu, John Bevan, Mike Hakata, Luke Cawley-Harrison, Justin Hinchcliffe, Peter Mitchell, Reg Rice, Viv Ross, Yvonne Say, Preston Tabois and Noah Tucker

Quorum: 4

### 1. **FILMING AT MEETINGS**

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Although we ask members of the public recording, filming or reporting on the meeting not to include the public seating areas, members of the public attending the meeting should be aware that we cannot guarantee that they will not be filmed or recorded by others attending the meeting. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

### 2. **APOLOGIES FOR ABSENCE**

### 3. **URGENT BUSINESS**

It being a special meeting of the Regulatory Committee, under Part 4(B), paragraph 17 of the Council's Constitution, no other business shall be considered at the meeting.

### 4. **DECLARATIONS OF INTEREST**

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and

(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

5. **BUSINESS AND PLANNING ACT 2020 - PAVEMENT LICENCE CONDITIONS AND FEES AS PART OF THE COVID 19 RECOVERY MEASURES (PAGES 1 - 26)**
6. **DATES OF FUTURE MEETINGS**

5 October 2020

Felicity Foley, Acting Committees Manager  
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Bernie Ryan  
Assistant Director – Corporate Governance and Monitoring Officer  
River Park House, 225 High Road, Wood Green, N22 8HQ

Thursday, 23 July 2020

**Report for:** Regulatory Committee

**Title:** Business and Planning Act 2020 – Pavement Licence conditions and fees as part of the Covid 19 recovery measures

## **Report**

**authorised by:** Eubert Malcolm Interim Assistant Director Stronger Communities & Waste

**Lead Officer:** Daliah Barrett – Licensing Team Leader

**Ward(s) affected:** All wards

**Report for Key/**

**Non Key Decision:** N/A

### **1. Describe the issue under consideration**

- 1.1 Covid-19 has affected businesses across the economy. Many businesses have had to close for several months, and others have had to significantly modify their operations. As the economy starts to re-open, the Government wants to do all it can to support recovery, help businesses adjust to new ways of working and create new jobs.
- 1.2 The Business and Planning Act 2020 (the Act) came into force on 22nd July 2020 and is mandatory. It introduces a number of urgent measures to help businesses succeed in these new conditions over the coming months. The measures are temporary up until 30<sup>th</sup> September 2021 unless extended by the Government.
- 1.3 The Act introduces a new "Pavement Licence" regime that is to be administered by local authorities. It is designed to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors. Pavement licences may be granted subject to such conditions as the Council considers it reasonable to impose and the Council may publish those conditions.
- 1.4 This report sets out pavement licensing conditions to be considered and applied to pavement licences that are granted and seeks approval for those conditions.

### **2 Recommendations**

- 2.1 The Committee is asked to:
  - i. Agree the pavement licence conditions as outlined in Appendix A which will be the Council's published standard conditions.
  - ii. Note that the Licensing Authority can set further conditions as required on a case by case basis.
  - iii. Agree the application fee of £100.

- iv. Note that the length of the grant of the licence cannot go beyond 30<sup>th</sup> September 2021 unless extended by the Secretary of State but there may be reasons to determine a shorter period on a case by case basis.

### **3. Alternative Options Considered**

- 3.1 Do nothing – This is not an option as the legislation carries deemed consent if the authority fails to deal with an application.
- 3.2 The Act requires a local authority to consider what conditions to apply to a pavement licence. The Council could have no published conditions but that would make enforcement difficult and leave the Council having to justify its reasons repeatedly when taking enforcement action.

### **4 Reasons for decision**

- 4.1 Covid-19 has affected businesses across the borough. Many businesses have had to cease trading for several months, and others have had to significantly modify their operations. As the economy starts to re-open, the Government wants to put measures in place to support recovery, help businesses adjust to new ways of working and create new jobs. This Act introduces a number of urgent measures to help businesses succeed in these new and challenging conditions over the coming months, and to remove short term obstacles that could get in their way
- 4.2 The Act includes measures for enforcement and revocation powers so councils can protect public safety and amenity by adopting conditions to safeguard the business as well as the public
- 4.3 The local authority can add conditions to the pavement licence and must publish standard conditions which it proposes to add to all pavement licences.
- 4.4 If the pavement licence is deemed granted it will still be subject to the Council's published conditions.
- 4.5 In order to ensure that the pavement licences are managed properly and that there is a proper use of the pavement without detrimental effects on other users, conditions are necessary.
- 4.6 The legislation effectively temporarily avoids the use of the London Local Authorities Act 1990 for licensing tables and chairs on the pavement. Members should be aware that:
  - The fee amount will not fund the operation of the scheme by any local authorities and requires considerable work to be undertaken at a rapid pace. Whilst it is a cheaper route for the trade the regime will not be self-funding for local authorities.
  - If an application is not determined by the Council, it receives automatic (deemed) consent subject to any published conditions and therefore robust published conditions are important.
  - Demand is not known.
  - The short timeframes for Highways / ASB Enforcement officers and the public to consider applications.
  - Capped fees impact on the Street Trading budget see finance comments.
  - Businesses who currently have a street trading licence may be able to surrender that licence and apply for a new pavement licence. This will increase the administrative resources required in the Licensing team

- There could be increased crowds on the street consuming alcohol, this could give rise to increased concerns about anti social behaviour, noise nuisance and obstruction.
- Resources in Enforcement and Licensing will need to be considered to deal with any compliance and administration.
- Only Public Highways is caught by this legislation not Parks or car parks.
- The consideration of security and safety measures that can be put in place in crowded locations to mitigate/avoid potential threat from hostile vehicle attack.

## 5 Background information

### Pavement Licences Summary

5.1 The measures in the Act are designed to support businesses selling food and drink such as cafes, pubs and restaurants by introducing a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from the local council. This will permit the placement of street furniture such as tables and chairs on the pavement outside their premises. This will enable them to maximise their capacity whilst adhering to social distancing guidelines. The current processes for businesses to obtain these licences can be costly and time-consuming.

5.2 A brief summary of the Act’s provisions are set out below:

- 1) The types of business which may apply to the local authority for a “pavement licence” are those whose premises are used, or proposed to be used, as:
  - (a) as a public house, wine bar or other drinking establishment; or
  - (b) other use for the sale of food or drink for consumption on or off the premises.
- 2) A pavement licence permits street furniture to be temporarily placed on the highway.  
“Furniture” includes stalls for selling or serving food or drink, tables and chairs and articles such as umbrellas, barriers and heaters.
- 3) An application must be made by electronic means and be accompanied by a fee which will be set by the local authority, subject to a cap of £100.
- 4) The applicant must display a notice of the application on the premises and in addition, the local authority must publish the application, this will be placed on the Haringey website and invite representations within 7 days (excluding public holidays) of the application.
- 5) The local authority must consult the highways authority where the local authority is not itself the highways authority for the land. It must also consult such other persons as it considers appropriate. We intend to also consult with ASB Enforcement and Environmental Health regarding nuisance and with the Police.
- 6) The local authority may grant or reject the application and has 7 days to do so from the end of the 7 day consultation period. In granting the application, the Council may make its own determination as to how much of the space requested, the licence will cover.
- 7) A local authority can decide, when it is granting a licence, how long the licence should last for, or it can leave it open ended, in which case it will expire at the end of 30 September 2021 (unless this backstop date is extended by the Secretary of State).  
However, the licence must have a minimum duration of 3 months.

- 8) The local authority can add conditions to the licence and can publish conditions which it proposes to add to pavement licences.
- 9) If the local authority does not make a determination within the 7 days, that follow the 7 day consultation period, the licence is deemed to have been granted in the form in which the application was made. The deemed grant will be for a period of 12 months, (subject to not going beyond 30th September 2021).
- 10) Where a licence is deemed to have been granted, it is also deemed to include any conditions published by the local authority, any national conditions and any conditions made by the Secretary of State by way of regulations. Where a condition published by the Secretary of State is inconsistent with a condition attached to a licence by the local authority either expressly, or where the licence is deemed to be granted, by reason of the local authority having published conditions, “a local condition”, that local condition takes precedence.
- 11) If a condition of the pavement licence has been breached, the local authority may revoke the licence or may require steps to be taken to remedy the breach. The Authority may –
  - (1)
    - revoke the licence, or
    - serve a notice on the licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is specified.
  - (2) If a licence-holder on whom a notice is served under subsection (1)(b) fails to comply with the notice, the local authority may— (a) revoke the notice, or (b) take the steps itself and recover the costs of doing so from the licence holder. If the breach also impacted on the licensing objectives under the Licensing Act 2003 the Premises licence would be subject to a new Off Sales Summary Review procedure.
- 12) In addition, further grounds for revocation of the pavement licence including where the furniture is giving rise to risks to public health and safety or risks causing a public nuisance.
- 13) The pavement licence can also be revoked where the person did not put up a notice to publicise the application as required, or anything in the application was false or misleading.
- 14) Where a pavement licence is granted, or deemed to have been granted, any planning permission for anything done under the licence is deemed to have been granted.
- 15) Where a pavement licence is in effect, a street trading licence is not needed for any activity authorised by the pavement licence.
- 16) Local authorities retain their power under section 149 of the Highways Act to remove furniture placed on the highway should it constitute a nuisance or danger under that section.
- 17) Where a person has applied for a licence under the Highways Act 1980 or the London Local Authorities Act 1990 or another local Act and has paid a fee and then, before a decision is made on that first application, the person applies for a pavement licence, the local authority cannot charge a fee in respect of the application for a pavement licence, and the first application is treated as being withdrawn.

- 18) The Act also introduces Alcohol licensing changes that will allow operators with existing alcohol on-sales licences to be automatically authorised to sell alcohol for consumption off the premises (with some exceptions) and to make deliveries.
- 19) In exercising its functions the local authority must have regard to government Guidance.

### 5.3 National conditions imposed on all pavement licenses.

Section 5 of the Business and Planning Act 2020 specifies two national conditions. The National conditions which apply to pavement licences which are granted or deemed to be granted. These conditions are :

- a no obstruction condition and
- a smoke free seating condition.

- 5.4 A no obstruction condition is a condition that 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) of the Act.

Section 3 (6) states: The effects referred to in subsection (5) are –

- (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.
- A smoke free seating condition is a condition that, 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 provisions for seating where smoking is not permitted.

### 5.5 Standard Conditions

Appendix A lists the proposed standard conditions prepared by the Council that will be attached to any licence granted to ensure that the pavement licence area and licence is appropriately managed by the licence holder. These include measures such as:

- Public health and safety - for example ensuring that uses conform with latest guidance on social distancing<sup>1</sup> and any reasonable crowd management measures needed
- Public amenity – to control nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- Accessibility for pedestrians
- Requirement for public liability insurance
- Proof of right to occupy
- Risk assessments
- Damage to pavement to be made good by the licence holder

The full list of standard conditions attached as Appendix A, if approved, will be published on the Council's website.

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<sup>1</sup> The government has published the [COVID-19 Secure: safer public places guidance](#), which provides owners and operators of public spaces with information and examples of measures that may be undertaken to adapt and manage public spaces in order to help social distancing

- 5.6 Promotion of the availability of these licences will be communicated via the Council's website, business newsletters and social media campaign linked to the Covid updates for the safe use of the high streets publicity.
- 5.7 After 30 September 2021 unless the period is extended by the Secretary of State, if a business wishes to continue with their pavement licence then they will need to revert to making a new tables and chairs application under the existing regime (London Local Authorities Act 1990) in the usual way.
- 5.8 The Secretary of State has not issued any specific conditions at the time of publishing this report.
- 5.9 **New off sales provisions – only for alcohol licensed premises with on sales provision.**

Temporary changes to premises licensed for on sales under the Licensing Act 2003 have also been brought into effect, these are:

- The automatic right to off sales on premises that already holds an on sales ability is limited to 11pm cut off time.
- Any new permissions for off sales do not apply at times when the premises licence does not allow sales of alcohol for consumption in outdoor areas of the premises.

#### 5.10 **Appeal Process**

There is no prescribed appeal provision under this legislation. .

## 6. **Highways Comments**

- 6.1 We need to be clear about the requirements for more vulnerable users. Whilst a minimum footway width is of course a factor, particularly for blind or partially sighted users, it is more than that. Many of this group use the back of the footway as a guide. With potentially a significant number of new obstructions for them, like table and chairs. We should be requiring the installation of an appropriate delineation to create this facility for them, rather than say chairs backing into the clear walking space creating a general hazard. Although it may vary depending what's being installed, in the example of tables and chairs this should be a barrier with appropriate tapping rail.
- 6.2 Whilst it's not likely to be practical to try and list all 'narrow' roads, particularly as individual roads are locally widened. We should specify a specific minimum remaining pavement distance for pedestrians, which realistically in light of the mobility inclusion would be difficult to argue could be less than 1.8m of space from the edge of the operation. Which should include if say businesses are putting up displays or stalls, space for people to actually use the facilities without standing within the clear passing space.
- 6.3 TfL have back funded work that identified 19 locations across the borough for immediate traffic management measures to increase the available space pedestrians and business having to social distance. Areas of the borough have been identified due to narrow pavement widths or noticeable pinch points that have limited pedestrian flow.
- 6.4 Haringey submitted a large number of semi-permanent footway widening bids to TfL covering a significant proportion of all retail areas in the borough. Once installed these are likely to last for a number of years with limited subsequent maintenance until the council chooses to remove them.



6.5 One of the main reason for applying for the funding was to have a flexible highways space to allow for activities like table and chairs. So these works undertaken will facilitate this process.

## 6.6 Enforcement

Once granted, the Councils will have an enforcement role and will have the power to revoke licences in certain circumstances such as breach of condition or where:-

There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;

- the highway is being obstructed (other than by anything permitted by the licence);
- there is 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;
- 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
- the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.

6.7 The local authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised.

6.8 The legislation provides that if an alcohol licence is in place for the premises, it is deemed to extend to the area of the pavement licence.

## 7. Contribution to strategic outcomes

7.1 **The Borough Plan 2019-23** sets out a four-year vision to make Haringey one of London's greatest boroughs where families can thrive and succeed. The Haringey Council Community Wealth Building approach will create an economy that is rooted in the community.

7.2 **Priority-2 People** - Our vision is a Haringey where strong families, strong networks and strong communities nurture all residents to live well and achieve their potential. The ability to apply conditions will provide safeguards to members of the community with disabilities and sight impairment. It will also ensure safe use of the streets for pedestrians

7.3 **Policy 3 – Place** - Our vision is for a place with strong, resilient and connected communities where people can lead active and healthy lives in an environment that is safe, clean and green. As the borough continues to grow, becomes better connected and continues to be a destination for many Londoners, we will need to ensure Haringey remains a safe and pleasant environment for all. We want to work with partners and the local community to achieve this and to define and shape how the borough looks and feels, both now and in the future. The Act is designed to build a sense of Al fresco dining and on street activity across the borough to make town centres vibrant.

7.4 **Policy 4 – Economy** - Our vision is for a growing economy that provides opportunities for all our residents and supports our businesses to thrive We want to build the strength, depth and wealth of our local economy and will create safe and attractive environments for both businesses and our residents to thrive. We will make sure that investment and

development has the interests of our communities at its heart and is undertaken for the benefit of our local residents and businesses. Haringey offers a lot of opportunity for new businesses and the relaxed measures brought in by the Act will provide financial support for businesses as they start to operate again out of the lockdown.

7.5 The above Priorities and objectives are underpinned by a number of cross – cutting principles namely:

- Prevention and early intervention – preventing poor outcomes for young people and intervening early when help and support is needed.
- A fair and equal borough – tackling the barriers facing the most disadvantaged and enabling them to reach their potential;
- Working together with our communities – building resilient communities where people are able to help themselves and support each other.
- Value for Money – achieving the best outcome from the investment made;
- Customer focus – placing our customers’ needs at the centre of what we do;
- Working in partnership – delivering with and through others.

## **8 Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

### **8.1 Finance**

This report seeks the Leader’s approval for the new pavement licenses to be adopted in Haringey in line with government response to encourage local businesses to start trading again whilst complying with social distancing requirements.

The maximum cost of these licenses is £100 per license and the application process will be accelerated to encourage businesses to apply in the most effective way.

The current street trading income generated is £105k however due to the opportunity of existing businesses surrendering their current license and taking out the new pavement licence this could lead to a potential loss of income in the region of £97k, this will be reported through the monthly revenue monitoring return by the service.

Furthermore, additional staff resources may be necessary due to the level of applicants and the short turnaround time in processing the new licence applications.

This new process introduces a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. This will support them to operate safely while social distancing measures remain in place. This will provide much needed income for these businesses over the summer months and protect as many hospitality jobs as possible.

### **8.2 Procurement**

N/A

### **8.3 Legal**

Assistant Director of Corporate Governance has been consulted in the preparation of this report and advises that apart from those set out below the legal implications are set out in the body of the report.

Once a licence pavement 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.

## 9.3 The Council will need to consider the following when determining applications for Pavement Licences:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- 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 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](#), and
  - other users of the space, for example if there are high levels of pedestrian or cycle movements.

The proposed conditions have taken these factors into account.

## 9.4 The new process for issuing Pavement Licences is temporary and is not intended to permanently replace existing powers under the Highways Act 1980 or the London Local Authorities Act 1990 but sit alongside them.

## 9.5 Section 8 of the Act amends Schedule 1, Paragraph B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (“the Regulations”) to make pavement licences a non-executive function. Pursuant to Part Three, Section B, Section 2, Subsection 7(2)(a) of the constitution, the terms of reference of the Regulatory Committee includes exercising functions in Schedule 1, Paragraph B of the Regulations. It therefore falls to the Regulatory Committee to approve the published conditions subject to which the Council’s Pavement licences will be granted and to set the application fee.

## 10. Equality

### 10.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty. An equalities screening has been undertaken and identified people with disabilities and

sight impairment are likely to be affected by this legislation. However, the conditions the Council is seeking to adopt will alleviate some of the concerns.

The EQiA has identified that people with a disability and sight impairment may be affected by this process, but the mitigation has been put in place by the Government with the no obstruction mandatory condition and Haringey's own conditions and safeguards to consider the safe pedestrian access to pavement for people from the affected group. The EQiA is at Appendix B.

## **9. Use of Appendices**

**Appendix A Pavement Licensing draft conditions**  
**Appendix B EQiA**

## **10. Local Government (Access to Information) Act 1985**

The Business and Planning Act 2020

The MHCLG Guidance is published - July 2020

## Appendix A

### Haringey Council's Standard Conditions for Pavement Licences

1. The use of the pavement must not commence before 8.00 a.m. or conclude later than 10.00 p.m.
2. The licensee must at all times leave free from any furniture and customers an area of pavement adjacent to the carriageway at least 1.8 metres wide unobstructed pavement for pedestrians to be able to pass along the pavement unimpeded.
3. No permission will be granted that would allow customers to be seated in or on the carriageway unless vehicle traffic has been prohibited by a specific traffic order.
4. All customers must be seated, with no vertical drinking permitted in the pavement licensed area.
5. No barbecues/grilling, fire pits or naked flames permitted in the pavement licensed area.
6. No A boards permitted in the pavement licensed area.
7. No shisha smoking activity is permitted in the pavement licensed area.
8. The licensee shall have for the duration of the licence public liability insurance to the amount of £5,000,000 and shall indemnify the Council against any and all claims for damage or injury arising out of the use of the pavement.
9. The licensee shall provide Haringey Council with a copy of their certificate of public liability insurance with the application form.
10. The licensee shall make no claim against the Council in the event of the chairs or tables or other furniture or objects being lost, stolen or damaged from whatever cause.
11. The Licensee shall use the defined pavement areas for the purpose of consuming refreshments in connection with his restaurant business only and not for any other purpose whatsoever.
12. No charge to customers shall be made by the licensee for the use of the tables and in the pavement licensed area.
13. The licensee shall make adequate provisions for the collection and disposal of litter from the pavement so as not to cause a public nuisance. Staff must periodically collect glasses/receptacles left by customers
14. All emergency exits and routes must be kept clear.

15. Any damage sustained to the highway resulting from furniture being placed on the highway in accordance with this permission shall be repaired at the expense of the licensee to the requirements and satisfaction of the Council.
16. All street furniture, equipment, receptacles and commodities must be removed from the pavement within 30 minutes of the finishing time stated on the pavement licence.
17. No additions or alterations to the furniture shall be made without prior written consent of the Council.
18. The licensee shall erect barriers around the table and chairs to cordon them off from the remaining pavement. Such barriers to be approved by the Council.
19. The maximum height of any barrier shall not exceed 1.5 metres.
20. Any authorised officer of the Council may require the licensee to comply with any order or directive to prevent a breach of these conditions and/or any special conditions.
21. The Council reserves the right to require the removal of furniture to allow for:
  - Maintenance
  - Emergencies
  - Public events, exhibitions and markets
  - Access
  - Any other reasonable cause
  - Prevention of anti social behaviour
  - Prevention of noise nuisance
22. Items displayed or used in the licensed area should be of sufficient solidity or properly secured to prevent them falling or being blown onto the highway.
23. The licensee shall prominently display the prescribed pavement licence approval notice from the frontage of the premises in order to be plainly visible to the public. This notice MUST be returned to the council in the event of a licence being suspended or revoked.
24. The licensee shall ensure that the use of the pavement licence is risk assessed as part of the Covid secure measures. A copy of this risk assessment to be submitted with the application form.
25. The sale of alcohol from the premises shall be in compliance with an authorisation granted by Haringey Council, as the Licensing Authority, in accordance with the Licensing Act 2003.
26. Licensees and their staff must give every reasonable assistance to Council Officers and their contractors in carrying out their duties
27. The Licensee must not sub-let the licensed area or any part of the licensed area.
28. No external speakers, background music, recorded or live music shall be played into the designated pavement area.

29. 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.
30. For premises within the Tottenham Hotspur match and event day footprint the licensee is not permitted to make use of the pavement licence on match or event days.

## **NOTES**

These conditions should be read in conjunction with any mandatory national conditions concerning pavement licences, if the premises is licenced under the Licensing Act 2003, any relevant conditions attached to the premises licence, the latest government requirements concerning coronavirus and social distancing and any other relevant requirements of the Business and Planning Act 2020.

The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licensee shall 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.

Haringey Council reserves the right to revoke this licence at any time if any of the above conditions are not complied with.

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## EQUALITY IMPACT ASSESSMENT

The **Equality Act 2010** places a '**General Duty**' on all public bodies to have '**due regard**' to the need to:

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advancing equality of opportunity between those with a 'relevant protected characteristic' and those without one;
- Fostering good relations between those with a 'relevant protected characteristic' and those without one.

In addition the Council complies with the Marriage (same sex couples) Act 2013.

### Stage 1 – Screening

Please complete the equalities screening form. If screening identifies that your proposal is likely to impact on protect characteristics, please proceed to stage 2 and complete a full Equality Impact Assessment (EqIA).

### Stage 2 – Full Equality Impact Assessment

An EqIA provides evidence for meeting the Council's commitment to equality and the responsibilities under the Public Sector Equality Duty.

**When an EqIA has been undertaken, it should be submitted as an attachment/appendix to the final decision making report. This is so the decision maker (e.g. Cabinet, Committee, senior leader) can use the EqIA to help inform their final decision. The EqIA once submitted will become a public document, published alongside the minutes and record of the decision.**

Please read the Council's Equality Impact Assessment Guidance before beginning the EqIA process.

#### 1. Responsibility for the Equality Impact Assessment

<b>Name of proposal</b>	Adoption of conditions and setting of fees under new Business and Planning Act 2020.
<b>Service area</b>	Regulatory Services/ Leader sign off
<b>Officer completing assessment</b>	Daliah Barrett
<b>Equalities/ HR Advisor</b>	Louise Hopton Beatty
<b>Cabinet meeting date (if applicable)</b>	N/A
<b>Director/Assistant Director</b>	Eubert Malcolm

## 2. Summary of the proposal

*Please outline in no more than 3 paragraphs*

- *The proposal which is being assessed*
- *The key stakeholders who may be affected by the policy or proposal*
- *The decision-making route being taken*

Covid-19 has affected businesses across the economy. Many businesses have had to cease trading for several months, and others have had to significantly modify their operations. This Act introduces a number of urgent measures to help businesses succeed in these new and challenging conditions over the coming months, and to remove short term obstacles that could get in their way

This Act will introduce significant changes designed to help licensed premises to survive and then bounce-back from the pandemic lockdown. The provisions include:

- A new “Pavement Licence” regime, to be administered by local authorities, designed to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers on the highway and temporary changes to planning procedures and alcohol licensing.
- Alcohol licensing changes that will allow operators with existing alcohol on-sales licences to also serve alcohol for consumption off the premises and to make deliveries without the need to modify their existing premises licences.

The Act includes temporary measures to support businesses selling food and drink through economic recovery as lockdown restrictions are lifted but social distancing guidelines remain in place. Once cafes, pubs and restaurants are permitted to open, current social distancing guidelines will have considerable impact on the capacity to accommodate customers. The measures in the Act are designed to support businesses selling food and drink such as cafes, pubs and restaurants by introducing a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from the local council for the placement of furniture such as tables and chairs on the pavement outside their premises. This will enable them to maximise their capacity whilst adhering to social distancing guidelines. The current process for businesses to obtain these licences can be costly and time-consuming. The Act places a cap of £100 on the application fee. It includes enforcement and revocation powers so councils can protect public safety and amenity, and introduces a new 14-day determination period, i.e. 7 days for consultation and a further 7 days for determination. If the Council does not determine the licence in time it will be deemed granted. These requirements ensure that businesses can obtain licences in a timely and cost effective manner aiding to their financial recovery.

New Pavement Licences are to be administered by the Licensing Authority which has the right to grant or refuse (eg because unreasonably obstructing highway) or add reasonable conditions. The Council may publish its standard conditions and may also impose further conditions where required. The Pavement Licence can be granted for not less than 3 months but at the latest will expire on 30.9.2021, unless the regime is extended by the Secretary of State. If there are problems with the use of the pavement area, then the Licensing Authority can require remedial steps to be taken or revoke the licence. The grant of a New Pavement Licence constitutes deemed planning permission.

### 3. What data will you use to inform your assessment of the impact of the proposal on protected groups of service users and/or staff?

*Identify the main sources of evidence, both quantitative and qualitative, that supports your analysis. Please include any gaps and how you will address these*

*This could include, for example, data on the Council's workforce, equalities profile of service users, recent surveys, research, results of relevant consultations, Haringey Borough Profile, Haringey Joint Strategic Needs Assessment and any other sources of relevant information, local, regional or national. For restructures, please complete the restructure EqIA which is available on the HR pages.*

Protected group	Service users	Staff
Sex	<i>Residents Survey 2018 Borough Plan EQIA</i>	Procedure timelines set by Government will impact on staffing resources and ability to consider and respond to applications in time.
Gender Reassignment	<i>Residents Survey 2018 Borough Plan EQIA</i>	
Age	<i>Residents Survey 2018 Borough Plan EQIA</i>	
Disability	<i>Residents Survey 2018 Borough Plan EQIA</i>	
Race & Ethnicity	<i>Residents Survey 2018 Borough Plan EQIA</i>	
Sexual Orientation	<i>Residents Survey 2018 Borough Plan EQIA</i>	
Religion or Belief (or No Belief)	<i>Residents Survey 2018 Borough Plan EQIA</i>	
Pregnancy & Maternity	<i>Residents Survey 2018 Borough Plan EQIA</i>	

Marriage and Civil Partnership	<i>Residents Survey 2018 Borough Plan EQIA</i>	
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**Outline the key findings of your data analysis. Which groups are disproportionately affected by the proposal? How does this compare with the impact on wider service users and/or the borough's demographic profile? Have any inequalities been identified?**

*Explain how you will overcome this within the proposal.*

*Further information on how to do data analysis can be found in the guidance.*

There are broadly two groups impacted by this new legislation – those applying for a license and people in the community impacted by the decisions made.

No equalities data is required or considering being collected from applicants for Pavement licenses as this is a temporary measure until 30<sup>th</sup> September 2021. An online form will be put in place for business to use.

In terms of the impact on the community, the assessment is based on the extent to which the conditions being proposed are able to meet the criteria to safeguard:

- Prevent obstruction of the pavement/ accessibility
- Public health and safety being promoted and risk assessed
- public amenity – ensuring the placing of tables and chairs do not adversely impact the area.

### Sex

There is a relatively equal gender split in Haringey, just over half of the population is female (50.5%), in line with England and London.

There are no known differences for applicants.

### Gender Reassignment

There is very little robust data on Haringey or the UK's trans population. However it is estimated that there are between 200,000 and 500,000 people who identify as trans in the UK.

There are no known differences for applicants.

### Age

Haringey has a relatively young population with a quarter of the population under the age of 20, and 91% of the population aged under 65 (89% London and 83% England).

The largest age group of victims were between 25 and 34 years, forming 28% of all victims (13% female, 15% male). 35 to 44 year olds were the second largest group, followed by 16 to 24 year olds. Younger residents appear to be overrepresented among victims of crime.

The largest group of suspects in Haringey in 2017/18 were described as being aged between 16 and 24 years old, forming almost 1 in 3 of all suspects. The next largest suspect group was described as being aged between 25 and 34 years old (28%), followed by 35 to 44 year olds (17%).

Fear of crime is disproportionately high among older people. The Haringey Residents Survey found that 55% of residents aged 75+ felt safe outside in their local area after dark, compared to an overall borough average of 69%.

There are no known differences for applicants.

### Disability

There is no universal definition of disability. Here we use the Census data on long term health problem or disability and self-reported health as a proxies. This shows that 14% of residents have a long term health problem that limits their day to day activity, lower than England but in line with London.

Some individuals are specifically targeted as victims of crime on the basis of prejudice relating to disability. In the year to December 2017 Haringey recorded 14 instances of disability hate crime.

Fear of crime is higher among residents with long-term illnesses and disabilities. Perceptions of safety after dark for these Haringey residents stand at 49% compared to the Haringey average of 69%.

The Act requires that Inclusive mobility regulations are adhered to ensure that people with disability and sight impairment are not disadvantaged

There are no known differences for applicants.

### Race and Ethnicity

Haringey is the 5th most ethnically diverse borough in the country. Over 65% of residents come from non-White British communities, compared to 20% in England and 55% in London.

The legislation will bring about a potential rise in anti social behaviour complaints as there will be increased amounts of people consuming alcohol on the streets. Council will

need to be clear that perception or dislike of this activity does not make it an illegal act to consume alcohol on the street. PSPOs also do not factor into these matters. The Police are able to confiscate or deal with someone behaving in an anti social manner whether a PSPO is in place in a given area or not.

### Sexual Orientation

3.2% of London residents aged 16 or over identified themselves as lesbian, gay or bisexual in 2013. In Haringey this equates to 6,491 residents.

There are no know differences for applicants.

### Religion or Belief (or No Belief)

Haringey is one of the most religiously diverse places in the UK. The most common religion was Christianity, accounting for 45% of residents, less than London (48.4) and less than England (59.4%). The next most common religions were Muslim (14.3%) – higher than London (12.3%) - and Jewish (3%). Haringey had a lower percentage of residents who were Hindu (1.8%) and Sikh (0.3%) than London (5.0% and 1.5%, respectively). A quarter of Haringey residents stated that they did not have a religion, higher than London (20.7%).

Fear of crime is higher among religious minority groups than the Haringey average. 53% of Muslim residents, and 64% of Jewish and Hindu residents feel safe outside in their local area after dark, compared to a borough average of 69%.

There are no know differences for applicants.

### Pregnancy & Maternity

The council does not have local data regarding victimisation based on this protected characteristic or the level of fear of crime among individuals who are pregnant or care for small children.

There are no know differences for applicants.

### Marriage and Civil Partnership

Haringey has a higher proportion of couples in a registered same sex civil partnership than England and London. 0.6% (or 1,191 residents), compared to 0.2% for England and 0.4% for London.

The council does not have local data regarding levels of victimisation or fear of crime among individuals who are married or in a civil partnership.

There are no known differences for applicants.

**4. a) How will consultation and/or engagement inform your assessment of the impact of the proposal on protected groups of residents, service users and/or staff?**

*Please outline which groups you may target and how you will have targeted them*

Further information on consultation is contained within accompanying EqIA guidance

Please outline what you are going to do during the consultation to try and get information from people with protected characteristics.

The legislation contains very short consultation times lines and there is no restriction on who can apply or who can submit objections to an application.

Applications under consultation will be emailed out to:

- Local Residents and Tenants associations
- Statutory consultees
- Local Businesses
- Local Councillors

**4. b) Outline the key findings of your consultation / engagement activities once completed, particularly in terms of how this relates to groups that share the protected characteristics**

*Explain how will the consultation's findings will shape and inform your proposal and the decision making process, and any modifications made?*

To be update following consultation.

**5. What is the likely impact of the proposal on groups of service users and/or staff that share the protected characteristics?**

*Please explain the likely differential impact on each of the 9 equality strands, whether positive or negative. Where it is anticipated there will be no impact from the proposal, please outline the evidence that supports this conclusion.*

Further information on assessing impact on different groups is contained within accompanying EqlA guidance

Below is an initial assessment of the impact against groups with protected characteristics. This will be updated following consultation.

There is an expectation that ASB and nuisance complaints will increase as a result of these changes.

**1. Sex** (Please outline a summary of the impact the proposal will have on this protected characteristic and cross the box below on your assessment of the overall impact of this proposal on this protected characteristic)

Positive		Negative		Neutral impact	x	Unknown Impact	X
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No disproportionate impact on sex is anticipated.

**2. Gender reassignment** (Please outline a summary of the impact the proposal will have on this protected characteristic and cross the box below on your assessment of the overall impact of this proposal on this protected characteristic)

Positive		Negative		Neutral impact		Unknown Impact	x
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No disproportionate impact on gender reassignment is anticipated.

**3. Age** (Please outline a summary of the impact the proposal will have on this protected characteristic and cross the box below on your assessment of the overall impact of this proposal on this protected characteristic)

Positive		Negative	x	Neutral impact		Unknown Impact	
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Barriers will prevent customers from obstructing highway – which sometimes makes elderly and/or younger people feel uncomfortable when trying to pass  
Barriers could be a trip hazard for those with physiological impairment if they are not designed with this in mind

In most cases the transfer of food and/or drink to the outside area is proposed to be through the use of table service. Older people who find it difficult to carry cups, trays, etc. will benefit from this ability.



**4. Disability** *(Please outline a summary of the impact the proposal will have on this protected characteristic and cross the box below on your assessment of the overall impact of this proposal on this protected characteristic)*

Positive		Negative	X	Neutral impact		Unknown Impact	
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People with visual impairments and mobility issues may be negatively impacted as there will be more obstacles and people may need to walk around expanding seating areas. In order to mitigate this impact, the proposal includes well designed barriers (light in colour) will guide the visually impaired safely around the areas. Barriers could be a trip hazard for the visually impaired if they are not designed with this in mind

Specifying a minimum width for public access will ensure that wheelchair users and pushchairs can negotiate the pavements safely

Specifying that tables and chairs should be sufficiently spaced to enable wheelchair/highchair/pram access will ensure that the pavement licence areas can be used by all.

Licence holders will be required to remove tables, chairs and other associated structures from the public highway after trading hours.

**5. Race and ethnicity** *(Please outline a summary of the impact the proposal will have on this protected characteristic and cross the box below on your assessment of the overall impact of this proposal on this protected characteristic)*

Positive		Negative		Neutral impact	X	Unknown Impact	
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No disproportionate impact on race and ethnicity is anticipated.

**6. Sexual orientation** *(Please outline a summary of the impact the proposal will have on this protected characteristic and cross the box below on your assessment of the overall impact of this proposal on this protected characteristic)*

Positive		Negative		Neutral impact	X	Unknown Impact	
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No disproportionate impact on sexual orientation is anticipated.

**7. Religion or belief (or no belief)** *(Please outline a summary of the impact the proposal will have on this protected characteristic and cross the box below on your assessment of the overall impact of this proposal on this protected characteristic)*

Positive		Negative		Neutral impact	X	Unknown Impact	
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No disproportionate impact in relation to religion or belief is anticipated.

**8. Pregnancy and maternity** *(Please outline a summary of the impact the proposal will have on this protected characteristic and cross the box below on your assessment of the overall impact of this proposal on this protected characteristic)*

Positive		Negative	x	Neutral impact		Unknown Impact	
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There is a potential that this proposal would have a negative impact on people using pushchairs. However, a minimum width for public access will ensure that wheelchair users and pushchairs can negotiate the pavements safely.

**9. Marriage and Civil Partnership** *(Consideration is only needed to ensure there is no discrimination between people in a marriage and people in a civil partnership)*

Positive		Negative		Neutral impact	X	Unknown Impact	
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No disproportionate impact in relation to marriage and civil partnership is anticipated.

**10. Groups that cross two or more equality strands e.g. young black women**

**Outline the overall impact of the policy for the Public Sector Equality Duty:**

- **Could the proposal result in any direct/indirect discrimination for any group that shares the relevant protected characteristics?**
- **Will the proposal help to advance equality of opportunity between groups who share a relevant protected characteristic and those who do not?**

**This includes:**

- a) Remove or minimise disadvantage suffered by persons protected under the Equality Act
  - b) Take steps to meet the needs of persons protected under the Equality Act that are different from the needs of other groups
  - c) Encourage persons protected under the Equality Act to participate in public life or in any other activity in which participation by such persons is disproportionately low
- Will the proposal help to foster good relations between groups who share a relevant protected characteristic and those who do not?

The principal conclusion of this EIA is that there is the potential for negative impact on disabled people but the proposed conditions and Sec of State mandatory condition on no obstruction of the highway will mitigate.

Anti social behaviour is also a potential concern and may increase across certain parts of the borough due to this new provision and the more widely availability of alcohol through the automatic right to off sales at pubs, cafes restaurants etc. However the conditions being put in place to only allow seated pavement licences and for these areas to cease being used no later than 10pm across the borough to help reduce any late night noise nuisance . The national condition for off sales to stop at 11pm will help to mitigate the effects also.

**6. a) What changes if any do you plan to make to your proposal as a result of the Equality Impact Assessment?**

Further information on responding to identified impacts is contained within accompanying EqIA guidance

Outcome	Y/N

**6 b) Summarise the specific actions you plan to take to remove or mitigate any actual or potential negative impact and to further the aims of the Equality Duty**

Impact and which relevant protected characteristics are impacted?	Action	Lead officer	Timescale


**Please outline any areas you have identified where negative impacts will happen as a result of the proposal but it is not possible to mitigate them. Please provide a complete and honest justification on why it is not possible to mitigate them.**

**6 c) Summarise the measures you intend to put in place to monitor the equalities impact of the proposal as it is implemented:**

**7. Authorisation**

EqlA approved by .....	Date
(Assistant Director/ Director)	.....

**8. Publication**

*Please ensure the completed EqlA is published in accordance with the Council's policy.*

Please contact the Policy & Strategy Team for any feedback on the EqlA process.