

Pavement Licensing – approve & adopt updated policy and setting of fees

Final Decision-Maker	Licensing Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Sharon Bamborough, Head of the Licensing Partnership
Classification	Public
Wards affected	All

Executive Summary

To consider the updated Pavement Licensing policy and set fees (to come into effect when the commencement date of Schedule 22 of The Levelling Up and Regeneration Act 2023)

Purpose of Report

To seek Member approval to the proposed updates to the pavement licensing policy, to adopt the amended policy, and to set fees

This report makes the following recommendations to this Committee:

1. That the committee consider the proposed Pavement Licensing Policy (drafted to take into account recent changes to legislation) and adopt it - to take effect upon commencement of Schedule 22 of the Leveling Up and Regeneration Act 2023. The draft policy is attached as Appendix A
2. To approve the proposed fees for applications set out in Appendix B, to take effect upon commencement of Schedule 22 of the Leveling Up and Regeneration Act 2023

Timetable

Meeting	Date
Licensing Committee	11 January 2024

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1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Cross Cutting Objectives	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Risk Management	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Financial	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Staffing	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Legal	<p><i>There is no statutory requirement to have a pavement licensing policy; however, it is good practice to do so. A policy assists with consistent and transparent decision making; however, each case must be considered on its own merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances.</i></p> <p><i>In formulating this draft Policy, the Council has had regard to the provisions of the Human Rights Act 1998 and the Public Sector Equality Duty. No implications have been identified</i></p>	Helen Ward, Lawyer, Midkent Legal team

Privacy and Data Protection	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Equalities	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Public Health	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Crime and Disorder	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Procurement	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership
Biodiversity and Climate Change	<i>No implications have been identified</i>	Sharon Bamborough – Head of the Licensing Partnership

2. INTRODUCTION AND BACKGROUND

- 2.1 On 25 June 2020, The Government announced relaxations to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown. The Business and Planning Act 2020 made it easier for premises 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.
- 2.2 Initially, the legislation was temporary, with the pavement licensing aspect expiring 30 September 2021. This was then extended several times with the current expiry being 30 September 2024. As part of the application process, the applicant must submit an application form, fee, site plan of the proposed area for use, photos or brochure of proposed furniture and evidence of public liability insurance.

- 2.3 With Schedule 22 of the Levelling Up and Regeneration Act 2023, the government has permanently moved pavement licensing to the district/ borough level, away from the highways authority and amended the Business and Planning Act 2020 to introduce some changes to processes and introduce enforcement powers.
- 2.4 It is now necessary to update the existing policy to be in line with these amendments and have it adopted by the Licensing Committee.
- 2.5 In addition, new fees should be considered. Previously, the statutory cap for applications was £100. The legislation has amended this to introduce higher caps for new and renewal applications.

Review of Pavement Licensing Policy

- 2.6 The draft policy is attached as **Appendix A**. (Originally the policy was brought in informally in 2020 during the lockdowns and pandemic and it was not possible at the time to take it through a Committee).
- 2.7 The changes are fully in line with the new legislation and do not propose anything in addition other than an opportunity to tidy up some of the wording throughout.
- 2.8 The amendments include the following:
- Removal of sections no longer relevant or needed
 - Updating of references to legislation /consultation periods (in line with legislative amendments)
 - Addition on new section on enforcement (directly lifted from the legislation)
 - Tidying up of terminology
- 2.9 As the major amendments are in line with the new legislation and minor changes to tidy up terminology, it is not considered necessary that a consultation exercise is needed.

Review of Fees

- 2.10 The fee payable for a pavement licensing was previously capped at £100 in the legislation, and this was the fee set and charged when the legislation came at very short notice in July 2020.
- 2.11 The fees have new caps set in legislation - £500 for a new application and £350 for a renewal.
- 2.12 The duration of licences has changed from a minimum of three months and up to 30 September each year, to no minimum duration and a maximum of two years. This allows the possibility of introducing a fee for a temporary/event linked pavement licence should an event organiser be

interested in having a pavement licence as part of their facilities for the duration of the event.

- 2.13 The proposed fees have been calculated based upon timings and estimated costs for processing of applications, site assessments, compliance checking after licence is issued, etc. and are set out at in **Appendix B**.
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3. Available Options

Policy review

- 3.1 To agree to all of the proposed changes to the Pavement Licensing Policy proposed at Appendix A, (a track changes version is provided to easily identify where the changes are proposed) and adopt it or
- 3.2 Only accept the legislative changes to policy and adopt it

Fee setting

- 3.3 To agree to the proposed fees set out at Appendix B, or
- 3.4 Amend the proposed fees and implement, or
- 3.5 To leave fees as they currently are
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4. PREFERRED OPTIONS AND REASONS FOR RECOMMENDATIONS

Policy Review

- 4.1 The preferred option is that Members agree the proposed amendments to the current policy and adopt it. To have an updated policy ensures the Council continues to have a modern, effective document that ensures the trade, and the public has a document that fully explains the licensing process.

Fee setting

- 4.2 The preferred option is to set the fees as proposed as they have been calculated to recover costs.
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5. RISK

- 5.1 There are no risks identified in updating the policy to reflect the legislative changes.

5.2 If the fee structure remains unchanged we might not achieve the full potential of income for this service.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 Not applicable – no consultation is necessary on this policy or fees.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 Should the committee agree with the recommendations, the amended policy and new fees would come into effect on the commencement date of Schedule 22 of The Levelling Up and Regeneration Act 2023 (anticipated in 2024).

7.2 The website will be updated with the new policy and fees when they come in to effect.

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Pavement Licensing Policy with tracked changes revisions
 - Appendix B: Proposed fees
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9. BACKGROUND PAPERS

- Business and Planning Act 2020
- Levelling Up and Regeneration Act 2023