



MANCHESTER
CITY COUNCIL

Pavement licence Guidelines

Updated September 2024

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General requirements for Pavement licences

1. Changes from previous Guidelines

The following changes have been introduced in this update:

1. To reflect the changes introduced through the Levelling Up and Regeneration Act 2023 and revised government guidance
2. Changes to licence fees subject to new caps of £500 (new licences) and £350 (licence renewals);
3. Time periods to be applied for granted licences, as pavement licences may now be granted for a length of up to a maximum of two years;
4. 14-day periods for consultation and determination of applications (previously 7-day);
 - a. Additional submissions when making an application (details to be shown on plan; photo of licence area);
5. To include new enforcement powers introduced;
6. Revised decision-making criteria.

2. Introduction

On 22 July 2020, the Business and Planning Act 2020 came into effect, introducing a new temporary 'pavement licence' process until September 2021. This process was made permanent from 30 March 2024 through the Levelling Up and Regeneration Act 2023.

The pavement licence process provides a streamlined consent route to allow businesses such as cafes, bars and restaurants to obtain a licence to place temporary furniture, such as tables and chairs, on the public highway adjacent to their premises. We aim to balance enabling businesses to provide outdoor seating whilst ensuring that members of the public can still safely and conveniently use of

the highway. It is essential that we maintain sufficient space for safe and convenient pedestrian movement, to enable wheelchairs and prams to pass comfortably and provide a reliable, safe route for blind and partially-sighted pedestrians.

This guide explains the pavement licence process and gives details on how the applications will be dealt with and licensed areas are expected to be managed.

In general,

- Only furniture that is removable and used in connection with the outdoor selling or consumption of food or drink are permitted by a pavement licence.
- Pavement licence areas will be expected to be delineated using appropriate barriers.
- A minimum width of unobstructed footway of 2 metres is preferred in line with Government Guidance, although 1.8m will generally be acceptable. However, additional width may be required in streets where there is a high level of pedestrian activity or permanent obstructions such as street furniture.
- The positioning of tables and chairs should never discourage persons from using the footway. The available route past must be straight, obvious and unobstructed; it should not pass through the area used by the tables and chairs.
- Furniture should be placed so as not to obstruct drivers' sightlines or obstruct highway signs. The use of all furniture should consider the needs of all users, including disabled people.
- All activities and furniture associated with the licensed area must be contained within the approved boundary including all tables, chairs, menu boards etc. All such items must be removed at the terminal hour.
- All customers must be seated. We will not licence areas or equipment designed for drinking whilst standing outside premises.
- Smoking is not permitted in the licensed area.

- Emergency routes from adjacent buildings and your own must not be obstructed by the licensed area.

Other licences and permissions (including planning permission)

An applicant does not need to hold a premises licence under the Licensing Act 2003 to apply and it is anticipated that pavement licences will be an appropriate option for many unlicensed businesses.

However, where the pavement licence area is to be used for the consumption of alcohol, the business premises must be authorised for the sale of alcohol for consumption off the premises. This may be authorised by the licence or by way of a [section 172 Statement](#) under the Business and Planning Act 2020, which deregulates off sales of alcohol at premises previously limited to on sales. This is currently in place until 31 March 2025

Where alcohol is to be dispensed from within the pavement licence area, it will need to be separately authorised under the Licensing Act 2003 (premises licence or temporary event notice).

Planning permission and street trading consent are not usually required for anything done in accordance with the pavement licence. It is your responsibility, however, to ensure all necessary consents are in place for any associated activity.

Premises with a Tables and Chairs licence under the Highways Act 1980

The pavement licence sits alongside the existing Tables and Chairs licensing system, which operates under Part 7A of the Highways Act 1980.

If the furniture can be licensed under the pavement licence, the Highways Act 1980 process (Tables and Chairs licence) cannot be used.

With effect from 31 March 2024, the council may not grant an applicant permission to do anything which is capable of being authorised by a pavement licence under the Business and Planning Act 2020.

Example of activities not permissible under the pavement licensing legislation include the placement of furniture that is not removeable, such as bolted to the ground or cannot be reasonably removed, or placement of furniture other than

- 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; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

3. Application Process

Applications must be made by “a person¹”, which can include a company, partnership, LLP or unincorporated association.

Eligible businesses

The business premises must be used:

- (a) as a public house, wine bar or other drinking establishment; and/or
- (b) for the sale of food or drink for consumption on or off the premises.

Pavement licences will not normally be granted to premises that primarily ‘off-licence’ businesses i.e. licensed for the sale of alcohol for consumption off the premises, save in exceptional circumstances where the applicant can demonstrate a satisfactory level of quality of operation and suitable experience.

Off-licence businesses will need as part of their application to demonstrate how they will promote the four licensing objectives of the Licensing Act 2003 before they are granted such authorisation. Therefore, any off-licence business who apply may wish to supply supporting information with their application to demonstrate why their application should be granted.

¹ Interpretation Act 1978, s.5 and Schedule 1z

However, the council's general position is that a pavement licence is not an appropriate mechanism to control the carrying on of licensable activities under the Licensing Act 2003. Premises licences for off-licence businesses will typically not include conditions relevant to the sale and service of alcohol on the premises, and the lack of any enforceable controls will be a relevant consideration.

Timescales

Once the information is submitted to the local authority, the authority has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 calendar days for public consultation (the 'consultation period'), and then 14 calendar days to consider and determine the application after the consultation (the 'determination period').

Making your application

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1. Specify the premises and, the part of the relevant highway to which the application relates;
2. Specify the purpose (or purposes) for which the furniture will be used which must be for use by the licence-holder to sell or serve food or drink, and/or for use by other people for the consumption of food or drink. In both cases the food or drink must be supplied from, or in connection with relevant use of the premises;
3. Specify the days of the week on which and the hours between which it is proposed to have furniture on the highway;
4. Describe the type of furniture to which the application relates, for example: tables, chairs, and/or stalls;
5. Specify the date on which the application is made;
6. Details of:

- a. How the needs of disabled people will be met under the requirements of the no-obstruction condition
- b. How the mandatory no-smoking area will be controlled
- c. How security implications; particularly the risk to groups of people from interaction with hostile vehicles, and the creation of large crowds in new public spaces, are being addressed.
- d. Confirmation of staff attendance at a Martyn's Law training session

When making your application, you will also need to provide the following documentation:

- 7. A plan, either to scale or with measurements, clearly showing:
 - a. The location of the premises
 - e. the licensed area in relation to the highway, so that the application site can be clearly identified
 - f. the layout of the furniture;
 - b. the distance from the boundary of the licensed area to the building boundary.
 - c. the width of the route left available on the highway for passage by pedestrians.
 - d. any street furniture e.g. lampposts / bike racks, that are between the boundary of the licensed area and the kerb.
- 8. A photograph of the proposed area
- 9. Photos or brochures showing the proposed type of furniture
- 10. A completed risk assessment for the safe use of glassware (where the use of glassware is applied for)

Following the submission of your application, you will also need to provide

- g. A photograph to evidence that your notice of application is correctly publicly displayed.

Applications will be rejected where made in respect of carriageway not subject to an existing or pending traffic order restricting or prohibiting its use by vehicular traffic.

Where a person applies for a pavement licence, they may not make another application for a pavement licence in respect of the same premises before the end of the determination period.

Masterplan Areas

In areas supported by an overarching area 'masterplan' i.e. King Street, Stevenson Square, the licence plan area shall be consistent with the masterplan.

Fees

Fees are set locally, and it is for the licensing authority to determine the appropriate charge. Fees are capped at a maximum of £350 for renewals and £500 in any other case i.e. new licences. The Fees are:

New Licence applications: £433

Renewal applications: £313

An application is considered as a renewal if it is made:

- By the licence holder
- In respect of the same premises, and
- For a licence to begin on the expiry of the existing licence and on the same terms

Publicising the application

On making your application, you will be required to display a notice at the business premises providing details of your application for 14 days. The notice must be easily visible and legible to the public from the day the application is submitted.

You must ensure that the notice remains in place for the duration of the public consultation period which is the period of 14 days beginning with the day after the day the application is submitted to the authority. When counting 'days' public holidays are not included. You are encouraged to keep evidence of this.

A notice template is available on the council website. By law (s.2(6)), it must:

1. state that the application has been made and the date on which it was made;
2. indicate that representations relating to the application may be made to that local authority during the public consultation period and when that period comes to an end; and
3. contain such other information or material as that local authority may require.

Relevant to point 3. above, we require you to include the council email address (premises.licensing@manchester.gov.uk) to which representations (objections) are to be submitted.

You are responsible for ensuring the notice is displayed for the full 14-day period. If you discover it has been removed, you should replace it as soon as possible. Where a notice is found not to have been displayed, the application may be rejected.

We will require you to submit a photograph to evidence that your notice was correctly displayed. Where this is not received, your application will be rejected.

We encourage applicants 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, as well as engage with any services operated in the vicinity for vulnerable customers, for example, care home or disability organisations nearby where individuals may be at particular risk.

In addition to you displaying your notice, we will publish details of the application on the council's website in the 'current licence applications' section by ward.

We will also consult with the Council's Highways and Licensing and Out of Hours teams, Greater Manchester Police, and notify our ward mailing groups of individuals (including ward councillors) of persons who have requested to be notified of applications in the respective ward that the application is made in.

Applying to operate in front of other premises

If you propose on placing furniture on the footway in front of any adjacent property other than your own, we will require you to provide the written consent from the owner or occupier (frontagers) of that premises when making your application unless the premises is unoccupied. If the premises becomes occupied, you will need their consent to continue using that space. Consent of frontagers will not be required for Masterplan Areas where the licensing authority has determined the overarching layout in an area.

'Relevant highway'

The land to be used must be 'relevant highway' and 'adjacent' to the business premises.

This means a highway to which Part 7a of the Highways Act 1980 applies and it includes:

- pavements ("footways" as they are defined in the Act);
- highways in relation to which a pedestrian planning order is in force; and
- highways whose use by vehicles is prohibited by a traffic order (which include temporary orders made for purposes connected to coronavirus (s. 9(3)).

'Adjacent'

We expect the licensed area to be licensed to be sufficiently close to the premises to enable effective supervision, management and connection to the relevant premises.

Areas that cannot be licensed

Areas that are not highway e.g. car parks, beer gardens, parks, cannot be licensed and so applications will not be accepted in respect of these areas. Similarly, Crown Land or land maintained by Network Rail cannot be licensed.

Furniture

The furniture which may be permitted by a pavement licence includes:

- a) counters or stalls for selling or serving food or drink;
- b) tables, counters or shelves on which food or drink can be placed;
- c) chairs, benches or other forms of seating; and
- d) umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable and related to the serving, sale and consumption of food or drink. In principle 'removable' means it is not a permanent fixed structure, and is able to be moved easily, and stored away at night.

You will be required to specify which items you intend to use when submitting your application. If you are granted a licence and subsequently wish to add furniture, this will require a new application given there is no ability to 'vary' an existing licence.

All furniture should be considered with regard to the needs of customers with disabilities. Tables should be available that allow wheelchair use and layouts should allow enough space for wheelchair users to manoeuvre easily and provide a clear path to the accessible toilets.

Enclosure (barriers) for furniture

Licensed areas shall normally be expected to use a temporary form of enclosure i.e. barriers, with adequate openings to permit access. The function of this enclosure will be to demarcate and contain the area and give a clear warning, particularly to people with visual impairments.

The enclosure should not be so light that it is moved by the wind. It should be of contrasting colour, so as to be visible to the partially sighted, but should not be too visually dominant.

No furniture or other equipment must be affixed to the highway.

Storage

Furniture is required to be removable i.e. not a fixed structure, and able to be moved easily, and stored away at the end of the day. Furniture should be strong and sufficiently durable. Given that it must be stored away at night, we would recommend that it be able to be easily folded and/or stacked.

Where furniture cannot be immediately stored in the business premises at the end of trading (e.g. because the premises is still operating), furniture is expected to be safely and securely stacked and rendered unusable until it can be stored as soon as reasonably practicable.

In exceptional circumstances, and subject to written authorisation by the Licensing Authority, furniture may remain in situ for longer periods of time. To request authorisation, email premises.licensing@manchester.gov.uk.

The responsibility for removing tables and chairs and other obstructions from the highway rests with the owner/operator of the premises.

Music equipment and entertainment/performances

Items such as musical equipment / speakers do not fall under the definition of furniture and so are not permitted.

Glassware

Applications for pavement licences on the footway may specify whether they wish to use glassware as part of the application process. A risk assessment will be required in such circumstances. The default position will be that glassware is not permitted.

The use of glassware will not be permitted on any road-closure sites to avoid the risk of smashed glass on the carriageway for vehicles.

Gazebos, canopies and other coverings (including umbrellas)

Gazebos, canopies, or other coverings including umbrellas must:

- be sufficiently sturdy and windproof;
- be weighted, anchored, or secured to the ground, but cannot be anchored with any method that requires screwing, cutting, or drilling into the public highway. Use of tents and other temporary structures may be deemed unsafe and prohibited during severe weather events (strong wind, etc.).
- have adequate ventilation to allow air flow (where enclosed)
- **not** interfere with traffic sightlines or obscure road signage.
- **not** overhang the boundary of the licensed area
- be of an appropriate quality. A standard design of seating and tables will not be insisted upon, but a reasonable quality will be expected. Low quality designs or any of a scale or character unsuited to the surrounding area may be rejected or an alternative required when deciding whether to grant the application.

All structural materials should have a fire-resistant certification or flame certification showing that the material is fire-rated or non-combustible.

Heaters

The council is committed to improving air quality and supporting businesses to reduce their overall environmental impact. The council recommends that the use of heaters be avoided as much as possible.

However, where absolutely necessary, the council insists that businesses use electric heaters as these are more efficient and produce 85% less CO₂ than LPG heaters. These heaters can also include a passive infrared or time lag switch to operate the heaters when they are needed rather than have them on all the time. LPG heaters produce significant amounts of nitrogen dioxide (NO₂) and particulate

matters (PM10) which are particularly harmful to air quality. The use of LPG heaters in licensed areas is prohibited.

Where businesses wish to use electric heaters, they may generally do so provided that their use is in line with the below provisions:

- The type of space heater that is the most appropriate for the location and the local environment.
- Completing a risk assessment for their use and implement appropriate controls for their use.
- The heater will be located in an area that does not pose a safety concern to people passing or an obstruction of the highway.
- Limiting the number and location of the heaters to reduce overcrowding around them.
- The type of space heater that is the most appropriate for the location and the local environment,
- To safely remove the heaters from the street and store them securely when the business closes.

A guide to the council's expectations on the management and use of space heaters is set out in Appendix 1.

The council may impose conditions on Pavement Licences to ensure the safe use of space heaters within the outside licensed areas.

Power supplies to licensed areas - Prohibition of Power Cables

This policy shall apply to any licensed areas that features seating areas situated apart from the frontage of the premises, such as King Street.

The use of power cables, extension cords, or any other type of electrical wiring across pedestrian footways is strictly prohibited. This measure is taken to prevent potential trip hazards and ensure the unobstructed movement of pedestrians.

Power cables running across walkways pose a significant risk to pedestrians, particularly in a busy environment. Tripping over cables can lead to serious injuries, especially for the elderly, children, and individuals with disabilities.

Alternative arrangements must be made to ensure that any necessary power supply does not interfere with pedestrian pathways. Where power is needed for any authorised equipment, users must employ safe alternatives such as battery-powered equipment.

Regular inspections will be conducted to ensure compliance with this policy. Any breach will result in immediate corrective action and may be subject to enforcement action.

Public Liability Insurance

It is a condition of the Pavement licence that you have public liability insurance (minimum cover of £5 million) for the use of the licensed area.

Environmental guidelines

The provision of toilet facilities is required for all pavement licences seating in excess of 6 people. Where there is already internal seating associated with the building, additional toilet facilities may be required if overall occupancy figures are increased.

The licensed area must be kept clean and litter free and it should also be ensured that litter does not stray onto the neighbouring area.

External public address systems or amplified music will not be allowed within the licensed area.

Seating space contained in the licensed area must be included in total occupancy figures for the premises.

Supervision of the area (including use of SIA door supervisors)

Businesses licensed under the Licensing Act 2003 should review their premises licence conditions as there may be conditions affect how they can operate any outside space.

You should consider appropriate crime prevention measures and ensure staff are briefed to avoid risks of theft or bag-dipping.

As part of your risk assessment, you should review whether it is appropriate to provide SIA-licensed door supervisors to monitor the use of your licensed area and control entry to it, including queuing. If conditions of your premises licence require this, you will need to ensure it is done.

Queues

Businesses should also consider the impact on other users of the highway when considering the appropriateness of any queuing arrangements. Staff should be familiar with any procedures and, where possible, clear signage should be displayed to ensure customers are made aware of any arrangements. Security implications from queues should also be considered (see 'Security Considerations' in Section 4 below).

Noise and litter

It is important the licensed premises are good neighbours, but customer noise can cause a disturbance – especially later into the evening. We appreciate and anticipate that there is likely to be additional noise generated across the city from businesses operating outside spaces and with queuing.

We have introduced a 'good neighbour policy' in our local conditions that we expect businesses to adhere to in the first instance where problems arise with neighbours.

Businesses will be required to take proactive steps to minimise the noise disruption from their operation and to make sure that no noise coming from the premises could cause a nuisance.

Please ensure that any customers drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance. Please also ensure your customers leave in an orderly manner.

Businesses may also wish to consider making their manager's telephone number easily available if neighbours have reason to complain to encourage a good line of communication.

We recommend that signage is put up around premises reminding patrons to be considerate to the local residents.

Council officers will be monitoring complaints and where these complaints are linked with businesses, the council will actively engage with them to advise on the need to reduce the noise nuisance. If businesses continue to generate a public nuisance, then the council may take more formal enforcement action depending on the severity of that nuisance. If neighbours do suffer with problems, they can report noise and anti-social behaviour via our 'Report a noise problem' webform at:

https://secure.manchester.gov.uk/forms/form/689/en/report_a_noise_problem.

Reports can be made 24/7 and will enable our officers to attend and witness the noise levels.. Reports can be made 24/7 and will enable our officers to attend and witness the noise levels.

Accessibility guidelines

The Equality Act relates to equality in service and reasonable measures are undertaken to ensure that all, no matter their ability, receive equal treatment. The furniture, circulation, barriers and method of management need to consider the full diversity of disabled people. This will include wheelchair users, those with ambulant disabilities or dexterity difficulties, people with cognitive or sensory impairments, sight and hearing, children, as well as those who may have limitations due to age or health related conditions.

'A' boards should not be located on footpaths and any alternative such as freestanding signs should be located outside of the routes, be secure and consider accessibility. Furthermore, drainage channels, covers and gratings should not impede access.

All dining and serving areas should provide level access, with firm and even surfaces and there should be seating with appropriate circulation and open spaces for wheelchair users.

A variety of table and seat heights should be provided. There should also be a choice of seats with and without arms.

All furniture should contrast with their surroundings and be detectable by cane.

Where food is served in the street, consider the height of the servery: two heights may be required for wheelchair users and those standing.

All surfaces should provide tonal contrast, and where accessible to the public, should not be hot to touch.

Where menu choices are fixed consider making them more accessible by printing them in large fonts using contrasting paper and ink, avoiding shiny surfaces.

Access should be provided from the street to the entrance to the building, recommended 2m width and access should be provided to toilets, this includes accessible toilets. Furthermore, the sequential journey of the diner should provide access to any external menus, reach a variety of seats, in more than one location, order, pay for the food, and leave.

Clearly identifiable, stable barriers should define the area for furniture. The barriers should as a minimum have rigid top and bottom rails; the top being sufficiently strong to allow some pressure and the lower rail to be located no higher than 150mm to the underside. The height should be a minimum of 900mm. Preferably the barriers should be solid to reduce visual overload, up to 900mm. Where glazed barriers are used, manifestation should be provided. The support base should be tonally contrasting with the floor surface and should not project into the required width of circulation routes and not project into pavements.

Any weather protection or heating appliance should not result in a barrier or risk and supports should not project into access routes. These should be clearly identified on the plan.

Whilst we recognise the wish to use branding, this should be completed in compliance with the following:

- Any logo should be provided within the barrier surface and be limited to a logo of no larger than 300mm in height.
- Background colours should be complementary to the surrounding street scene.

- Signage should be legible, such as Helvetica Medium and other san serif faces.
- Menus should be provided in character size minimum 15mm or large print alternatives provided

Further guidance can be found in:

Pedestrian surfaces	BS8300:1 8.4
Drainage and service outlets	BS8300:1 8.2.1.5
Signage	BS8300:1 8.3
Street furniture	BS8300:1 8.2.1
Entrances	BS8300:2 8.1
Control barriers	BS8300:2 16.8

Locational Guidelines

Streets with Footway and Carriageway

- A minimum, unobstructed pavement width of 2 metres measured from the face of the kerb, is the preferred minimum width for pedestrian movement. However, 1.8m will generally be acceptable.
- Where there is any street furniture (such as lamp posts, bollards, parking meters, benches, flower beds etc), the minimum width must be maintained between the licensed area and the street furniture.
- Where there is heavy pedestrian flow, additional footway space may be required.
- Tables and chairs may occupy no more than half the total width of the footway.

Fully-Pedestrianised Streets

A fully-pedestrianised street is one where vehicles have no right of entry, however, the emergency services may need access at any time. In these types of streets, it may be preferable for the tables and chairs to be placed away from the building frontage towards the centre of the street.

Where possible, 2 metres (with an absolute minimum of 1.8 metres) should be retained as a pedestrian access way between the front of the building and the line of the licensed area. This distance may be increased at our discretion, particularly in areas of high footfall.

The furniture may be able to occupy a space up to the centre line of the street, but we would not expect applications that encroach upon opposite properties to be made without the consent of those occupiers. This configuration will allow adjoining properties and properties opposite each other to site furniture on the highway and retain pedestrian access along the line of the shop fronts.

Pedestrianised Street with vehicle access at specific times

Vehicles and furniture will only be allowed at the same time in such streets if:

- adequate pedestrian space remains, is clearly defined, and adequately protected; or
- where traffic is sufficiently light for vehicles and pedestrians to share the same area.

Otherwise, furniture will only be permitted outside the hours of vehicular access. The hours of permission will normally commence at least 30 minutes after the end of the hours of vehicular access.

Special Areas

There may be areas in the city where, as part of an overall environmental scheme, alternative arrangements for furniture on the public highway might be considered. There may be instances where, for reasons of particularly high pedestrian and/or traffic flow, the positioning of furniture will need especially careful consideration. The City Council will treat all cases on their merits but may wish to impose additional measures of control in such locations.

Impact on Fire Safety

In relation to fire safety, licence holders should consider the following and address where necessary:

- h. The placement of furniture outside premises must not impact on escape routes for staff working inside or for customers who may be inside using the facilities and must also allow persons who are outside to be able to quickly and easily move away from the premises in case of fire.
- i. Any furniture must not obstruct escape routes from adjoining premises.
- j. The use of outside areas must not impact fire-fighting operations in the event that there is fire within the licensed business or in nearby premises. Check that fire hydrants which firefighters may need to access for water supply or fire riser inlets that are used in some buildings for firefighting, are not obstructed.

The fire risk assessment should be reviewed to consider any additional fire risks – for example the use of heaters or an increased risk of arson. Guidance on making a fire risk assessment can be found at [Fire safety in the workplace: Fire risk assessments - GOV.UK](#)

For further information or advice on complying with the Fire Safety Order contact Greater Manchester Fire and Rescue Service at firesafetymanchester@manchesterfire.gov.uk

4. Determining Applications

General principles

All applications will be determined in the public interest based on what is to be regarded as reasonably acceptable in the particular location. Each application will be determined on its own merits having regard to the legislation, government guidance and these guidelines. Where the licensing authority considers that relevant concerns cannot be adequately addressed through the imposition of appropriate conditions, the application will be rejected.

In determining the application before the end of the determination period, we 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, or
- refuse the application.

The Act does not provide a statutory appeal process against a decision to grant or refuse a pavement licence.

Objections

In determining an application, we must consider any representation made within the 14-day public consultation period. Representations made outside of this time may be considered if the application has not already been determined. We will give particular consideration to representations submitted by any frontage with a relevant interest (as defined under s115A(7) of the Highways Act 1980) insofar as considering the effect of placing any furniture in front of their premises.

Relevant Considerations

When determining applications and setting conditions, issues that we will consider will include:

- public health and safety including security – 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:

- 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
- 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 fixed structures in place on the footway that already reduce access; and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

Preventing obstruction

The no-obstruction condition is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act and is set out in Section 14 of these Guidelines. When determining whether furniture constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people.

In doing so, we will consider the degree to which our accessibility and locational guidelines of these Guidelines are met, and measures set out in Section 4.1 of the Guidance.

Security considerations

We recognise that several pavement licences in an area may result in larger, distributed, or dense crowds of people. Therefore, the overall security arrangements for an area, including existing public infrastructure, and measures provided by businesses will be considered when determining applications. Examples of appropriate measures could include increased CCTV surveillance, manned guarding, vehicle security barriers and ACT (Action Counters Terrorism) training for businesses. Additional [guidance is available for managing the most common security implications](#) and how to protect crowds and [queues of people](#).

We have implemented Local Conditions to support Manchester's implementation of Martyn's Law, aimed at improving standards of safety and security of public places. Consequently, all licence holders will be required to implement these measures.

At the discretion of the Licensing Authority, we will consult with Police Licensing Teams, Designing Out Crime Officers and Counter Terrorism Security Advisors for relevant advice.

Other considerations

As with any other public function, in determining an application, we must have regard to our wider duties, including:

- the prohibitions on unlawful discrimination etc. in s.29 of the Equality Act 2010;
- the Public Sector Equality Duty contained in s.149 of the Equality Act 2020;
- the prohibition on acting in a way which is incompatible with right under ECHR by virtue of s.6 of the Human Rights Act 1998;
- the need pursuant to s.17 of the Crime and Disorder Act 1998 to have due regard to the likely effect of the exercise of its functions on, and the need to do all that we reasonably can to prevent (a) crime and disorder in our authority's area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area and (c) re-offending in its area;
- our duty under s.89 of the Environmental Protection Act 1990 to keep relevant highways clear of litter and refuse.

The Council has had due regard to these duties when producing these guidelines and determining the fees and standard conditions for pavement licences.

When determining applications, the licensing authority will give due regard to the public and highway safety of other highway users in line with all the criteria it will take into account in determining whether or not an application should or should not be

granted. The statutory conditions also take account of the needs of persons with mobility and visual impairments.

Conditions

In all cases, whether representations have been made or not, the licensing authority may attach conditions when considered by the licensing authority to be appropriate and proportionate to do so.

Any such conditions will be tailored to the individual style and characteristics of the premises and events concerned and imposed to address relevant concerns identified by the licensing authority or in the representations.

Any licence deemed to be granted will be subject to the council's standard conditions for pavement licences and the no-obstruction condition in accordance with s5(4) of the Business and Planning Act 2020.

Refusal of applications

The policy of the licensing authority is to refuse applications where it is not satisfied that it would be appropriate to grant a licence as applied for or subject to modifications.

Timescales

An application may be granted (either wholly or in part) or rejected. A decision must be reached within a 14-day 'determination period' starting from the day after the public consultation period.

If a decision is not made before the end of the determination period, the application will then be deemed granted (i.e. treated as though it has been granted) and licensed for a 24-month period.

Hours

A licence will generally only be granted for the hours of 7am to 11pm Monday to Sunday maximum.

The Council has had consideration as to the potential impact of the use of outside space on the movement of pedestrians, the safety of the public and the noise and nuisance that could be generated; these hours have been in an attempt to minimise the disruption and impact on residents, other businesses and the wider public. Applicants must propose the days and hours they wish to be licensed for as part of their application and applications for hours beyond these times may be granted in exceptional circumstances.

Where licensed areas are subject to a traffic order, licences will only be granted in line with the times of the relevant order where it is more restrictive than the general hours identified above.

Each application will be determined on its own merits and applications outside these hours will be assessed in terms of the criteria detailed in this policy. The council may issue a licence to such lesser hours as may be appropriate having regard to any relevant representations and the potential impact of the licence if granted.

Licence Duration

Whilst we note that the expectation from the Government is that local authorities will grant licences for the maximum 2 years, we consider there are good reasons for granting a licence for shorter periods, as set out below, and shall adopt the following approach when determining the duration of any licence granted:

6-month duration

For applications with higher perceived risks and/or need for frequent reassessment due to changing conditions e.g. multi-operator sites such as King Street, Canal Street, Stevenson Square, Ancoats Blossom Street, Thomas Street, Edge Street, and/or where there is moderate to high-risk matters related to the issues taken into account in determining applications.

12-month duration

Will generally be the default for city centre areas given the ongoing rate of development of the locality. For lower-risk applications with minimal public safety concerns and a history of compliance. There may be some low-risk matters related to the issues taken into account in determining applications. Also, the maximum duration for any licence with less than 2000mm minimum width.

24-month duration

For exemplary applicants that demonstrate exceptional commitment to public safety and present very low risk. This might include high-quality safety and accessibility measures, and a track record of incident-free operations. There should be no identifiable concerns related to the issues taken into account in determining applications. In all cases, over 2000mm minimum width will be provided.

However, each application will be considered on its own merits and if the applicant can justify exceptional reasons for granting a licence for a longer period, the Council will consider the period which should be granted in the particular location taking into account this policy and the representations received. Licences will normally be granted for a period of no less than **6 months** depending on where the licensed area is located.

Temporary road closures and expansions of the pedestrian footpaths are under constant review by the council, and it should be noted that the council may seek revocations of licences if there is a need to make changes to any highway arrangements.

Licences deemed granted

- 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 24 months. 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, our policy will be to revoke the licence on the grounds that it has breached the conditions. This can be done at any time following the deemed grant of the licence.

5. Breaches of the licence and enforcement

Our aim is to support responsible businesses. Where problems do occur, our enforcement approach will be in line with the Council's corporate enforcement policy (https://www.manchester.gov.uk/downloads/download/6096/corporate_enforcement_policy), and we aim to support businesses getting back on their feet. We will use an escalating enforcement model, where we are accurately capturing the details of the premises causing complaints and the actions taken. Businesses will initially be given advice and guidance on how they should operate to comply, and they will be given the opportunity to implement the advice or make necessary changes.

The lead enforcement officers will be the Council's Licensing and Out of Hours team and officers will be proactively monitoring locations that are expected to be busy or receiving complaints.

If premises persistently fail to comply or are generating large numbers of complaints or concerns, we will look at enforcement action. This may involve the service of 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 so specified. If the licence-holder

fails to comply with a notice, we may revoke the notice or take the steps itself and recover the costs of doing so from the licence holder.

We may revoke a pavement licence, or amend it with the consent of the licence holder in the following circumstances—

- 1) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,
- 2) there is evidence that —
 - a) there is a risk to public health or safety, or
 - b) the use is causing, or risks causing, anti-social behaviour or public nuisance,
 - c) The use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition;

We may revoke a licence where -

- 1) for a breach of condition (whether a remediation notice has been issued or not);
- 2) anything material stated by the licence-holder in their application was false or misleading, or
- 3) the licence holder did not comply with the duty to fix the notice to the premises and secure that it remained in place during the public consultation period.

Under s7A of the Business and Planning Act 2020 (as amended), in cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, we can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, we 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, we can dispose of the furniture by sale or other means and retain the proceeds.

The highway authority also has a power under s.149 of the Highways Act 1980 to remove things deposited on highways so as to be a nuisance. This power is exercisable forthwith in cases where the deposit causes a danger.

It should be noted that problems arising in connection with the operation of the pavement licence area and the carrying on of licensable activities under a venue's premises licence could also result in enforcement action taken under the Licensing Act 2003. Businesses are reminded of their duty to ensure that the four licensing objectives are promoted:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm.

6. Changes to the licence

There is no provision to transfer a pavement licence or to vary its terms. In such situations, a new licence application should be submitted.

Applications for Amendments to the type or appearance of furniture may be applied separately.

A pavement licence may be surrendered at any time by the giving notice to the Licensing Unit.

7. Terms of the licence

1. The licence does not confer on the licence holder any right of ownership of the adopted highway within the designated licensed area.
2. The licensee will need to obtain all necessary consents that may be required relative to the use of the highway for the permitted purpose and comply with all byelaws and statutory requirements relating thereto.
3. Manchester City Council reserves the right to revoke the licence in the event that any of the terms or conditions of this licence are not complied with by the licensee. Under such circumstances, no monies will be refunded for the suspended or cancelled periods of the licence.

8. Licence Conditions

The 2020 Act sets out two conditions which apply to pavement licences which are granted or deemed to be granted these are: a no-obstruction condition and a smoke-free seating condition. These apply only to licences granted under the Business and Planning Act 2020.

No obstruction condition

“This licence shall have effect insofar as nothing done by the licence-holder pursuant to the licence would:

- 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.”

Smoke-free seating condition

The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted.

However, section 4.3 of the government guidance to the Act states “Where a local authority sets a local condition that covers the same matter as set out in national conditions, then the locally set condition would take precedence over the national condition where there is reasonable justification to do so.”

Reducing smoking rates in the city is one of our most important Population Health objectives. At the present time, Manchester has the worst rates in England for lung cancer registrations, cardiovascular disease, male under 75 mortality rates from lung cancer and male under 75 mortality from heart disease. There are just under 6000 smoking related hospital admissions per year, costing approximately £5.4 million each to the NHS in Manchester. The impact of these awful statistics also goes far beyond the person who is ill; affecting families, the healthcare system and wider society.

Whilst smoking prevalence has fallen in recent years in Manchester, the decline does not go far enough. The most recent data shows that the rate of smoking in adults aged 18 and over has fallen from 22% in 2017 to 18% in 2019 (Public Health Tobacco Control Profiles 2019). However, this compares to an England national average of 13.9% for adults, indicating that smoking is still a significant health and social problem for the city. Furthermore, we know that smoking prevalence rates are much higher in some parts of the community, often mirroring deprivation, stress and mental health problems. Based on the Office of National Statistics (ONS) Annual

Population Survey (APS), it is estimated that there are somewhere between 62,000 and 83,600 adult smokers in Manchester

The Tobacco Control Plan for the city, Smoke-Free Manchester 2018-2021 (http://www.manchester.gov.uk/download/downloads/id/26407/smoke_free_manchester_2018-2021.pdf), and the Greater Manchester Make Smoking History strategy (<http://www.gmhsc.org.uk/wp-content/uploads/2018/04/Tobacco-Free-Greater-Manchester-Strategy.pdf>), therefore seek to create an environment where smoking is *not* the cultural norm, to prevent young people from getting addicted to tobacco and to help smokers to stop. Smoke free spaces support all of these objectives.

Therefore, we are including the following smoke-free condition on pavement licences in place of the National Condition:

“Smoking of tobacco is not permitted within the licensed area and at least one 'no smoking' sign shall be visibly displayed within it.”

9. Local Conditions

1. The Licence shall be effective between [specify days and times].
2. The Licensee indemnifies the Council of the City of Manchester against any expense, liability, loss, claim or proceedings for accident, injury, loss or damage, which may occur due to the siting of any furniture on the highway under this licence unless the damage or loss is solely attributable to the misconduct or negligence on the part of the Council, its servants or agents. The Licensee shall have an appropriate level of public liability insurance (minimum cover of £5 million) for the use of the licensed space.
3. The furniture must:
 - a. be kept in a safe and well-maintained condition;
 - b. not obstruct any designated fire escape route;
 - c. not extend beyond the designated area or cause a danger to pedestrian safety.

d. not be permanently affixed to the highway

4. Items such as A boards and menu boards must be kept within the licensed area.
5. The use of glassware is not permitted at any time unless expressly permitted in writing by Manchester City Council. If glassware is expressly permitted, the licensee must comply with any request by an authorised officer to use plastic glasses for a temporary period where required for public safety. Any breakages must be cleared as soon as reasonably possible, and no broken glass must be left on the highway.
6. All customers using the area must be seated except for the purposes of access and egress.
7. The licensed area must be kept tidy and free from litter at all times, and the highway effectively cleansed at the end of permitted trading.
8. Each day at the end of permitted trading under this licence, all furniture must be cleared away and removed from the highway as soon as is reasonably practicable.
9. Where furniture is unable to be removed from the highway upon the end of permitted trading because there is no available storage space whilst the premises continues trading; it must be secured, rendered unusable and stored in a manner to minimise the obstruction of the highway.
10. Where use of the carriageway is authorised subject to a road closure, all furniture must only be placed on, and must be removed from, the carriageway in time for the road closure to take effect/cease.
11. The furniture must be removed by the licensee from the highway at any time when the licensee is requested by an officer of Manchester City Council or Greater Manchester Police during events, road works, to facilitate street cleansing, or for any issue as seen fit which affects public safety, including any increased risk of disorder.

12. The Licensee shall risk assess appropriate levels of staff cover, including the use of door supervisors, to ensure the effective supervision of the licensed area and to ensure the conditions of the licence are enforced.

13. Where the licensed area is adjacent to any waterway, the licensee must:

- a. Display prominent signage in the licensed area raising awareness of dangers of water and alcohol.
- b. Record all incidents of customers accessing the water and any near misses and share with the Manchester Water Safety Partnership forthwith.
- c. Include water safety in any risk assessment or accompanying method statement for the use of the licensed area.
- d. The licence shall be prominently displayed at all times that any furniture is placed on the public highway under this licence.

14. The premises must operate a 'good neighbour policy', in which the licensee must:

- a. take an open approach to engagement with their neighbours;
- b. be mindful and respectful of neighbouring residents and operating businesses, particularly in respect of noise and in the use of any shared areas;
- c. put in place arrangements for residents to directly raise concerns with the premises;
- d. take practical steps to avoid causing a public nuisance and mitigate and resolve issues as far as is reasonably practicable.

Martyn's Law conditions

15. At all times that the premises are open to the public for licensable activities, all staff on-duty at the premises, including all door supervisors, and all on-duty managers must have completed ACT: Awareness e-learning training. In addition, a minimum of 1 on-duty manager and any on-duty security supervisor/manager must also have attended a CT Awareness session delivered by CTPNW-trained personnel as soon as reasonably practicable and, if not completed, must have registered to attend a course and be able to provide evidence of this if requested by a police officer or authorised officer of the licensing authority.
16. There must be a documented security assessment, which must incorporate counter terrorism measures, for the premises. The assessment shall be routinely reviewed and must be reviewed following the elevation of the change of the national threat level. All reviews shall be documented.
17. Within 28 days of the grant of the licence, the premises licence holder shall evaluate any risks identified through the security assessment and take promptly such steps to eliminate them or to reduce the risk as far as is reasonably practicable. A documented record must be maintained of any remedial action implemented and made available upon request to any police officer or an authorised officer of Manchester City Council.
18. The premises must have a documented security plan, which sets out counter measures to be implemented in response to a terrorist attack that incorporates the principles of 'Guide', Shelter' and 'Communicate' (as set out below) as appropriate in conjunction with relevant NACTSO/CPNI guidance-
 - Guide – Direct people towards the most appropriate location (in vacuation, evacuation, hide)
 - Shelter – Understand how your place or space might be able to lock-down and shelter people within it for several hours

- Communicate – Have a means of communicating effectively and promptly with users of your place and have staff capable of giving clear instructions. Also have the capability of integrating with any response or rescue operation by providing things like building plans.

The purposes of those procedures and the necessity of following them must be understood by those carrying them out.

Appendix 1: Outdoor heating guidance for licensed premises

General

If you wish to provide heating in a temporary structure or outdoor area of your premises, then you must fully consider all health and safety implications.

The first thing you must do is carry out a suitable and sufficient risk assessment. The HSE (Health and Safety Executive) has extensive guidance and advice to help you with this and other considerations for providing a safe workplace, which is available here. You should also speak to your insurance company for any specifics they may require you to assess.

Heating appliances must conform to the relevant national standards and consideration needs to be given to ensure that the type of appliance chosen is suited to the venue.

Location

Where possible you must provide permanently fixed radiant heaters positioned so that they cannot be tampered with or pose a danger to those within the area.

Heating appliances should:	Heating appliances should <u>not</u>:
be sited and used in accordance with the manufacturer's instructions	be placed directly underneath or near awnings, canopies, or any combustible material, including trees and bushes

be shielded from strong draughts or gusts of wind and sources of water	be sited on escape routes, confined spaces, passageways, or thoroughfares
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Free-standing heating appliances should be sited on level ground for stability and be able to stand upright without support. It may also be necessary to fix the appliances into position, to prevent them from being knocked over.

In certain circumstances (such as marquees), heating appliances may be sited externally, and warm air piped into the structure via flame retardant hosing. However, it must be ensured that exhaust fumes are safely dispersed and prevented from entering the structure.

Fire exits should always be signed as such and kept free of obstruction.

Electrical heating appliances

Prior to each use, the heating appliance and electrical socket outlet should be visually inspected for signs of damage or overheating. If damage is found, a competent NICEIC Accredited electrician should be consulted.

Heating appliances must be inspected periodically by a competent person and suitable records should be kept. The periods between inspections should be determined on a risk assessed basis and in accordance with the manufacturer's instructions.

Wherever possible, an electric heating appliance incorporating a thermostat should be used.

Care should be taken to ensure that appliances are switched off and remain safe at the end of each period of work.

Heating appliances should be plugged directly into an electrical socket where possible; the use of extension leads and block adaptors should be avoided, and cables should not be subject to tension. Trailing leads are to be avoided or minimised, to reduce the likelihood of trips and falls. Where it is necessary for

electrical cables to run across the floor, they should be routed away from walkways and thoroughfares and appropriately covered / protected.

LPG/Gas heating appliances

The use of any LPG/Gas heaters is prohibited.

Other heating appliances

Liquid fuelled appliances not referenced above, such as paraffin heaters, must not be used.

Further considerations

All furnishings, drapes, and furniture need to meet the fire standards and be flame retardant or treated. Keep in mind that dark objects absorb more heat than light objects and the raised temperature of the object can pose a health and safety hazard.

Care must be taken during windy weather conditions, as there is a risk of the appliance being blown over. Furthermore, if the appliance has a flame, this will need to be monitored and the appliance switched off if there is any abnormal burning, or the flame extinguishes.

Portable heating appliances should be allowed to cool fully before returning to storage.

Where heaters are an integral fitting, e.g. beneath large parasols, they should be turned off and allowed to cool before the parasol is closed.

Care must be taken at Christmas and times of other festivals to ensure that a space of at least twice the height of a heating appliance is kept free between the appliance itself and any combustible decorations, especially Christmas trees.

Appendix: Guidance and further information

Government's Guidance for pavement licences

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

Security Guidance

ProtectUK provides business and the public with counter terrorism support and guidance to effectively protect and prepare, including information about Martyn's Law: <https://www.protectuk.police.uk/>

Publicly Accessible Locations Guidance, ProtectUK: CPNI: [High Street Hospitality: Protective Security Considerations](#)

For further info on the ACT programme, please visit the ACT website at act.campaign.gov.uk

Action Counters Terrorism (ACT) training (provides a good introduction on how to respond to suspicious activity): [Action Counters Terrorism \(ACT\) E-Learning](#)

SCAN training (helps businesses and organisations maximise safety and security using their existing resources): www.cpni.gov.uk/scan

Counterterrorism Awareness Training (provided by the Counterterrorism Security Advisers (CTSA) - if businesses are interested in attending or organising/hosting their own sessions, contact ctpnw.protect@gmp.pnn.police.uk to discuss and arrange.

Contact Us

Should you need further information or advice:

Manchester City Council's Premises Licensing team (for general queries and on making your licence application): premises.licensing@manchester.gov.uk

Manchester City Council's Environmental Health Team (for Health and safety matters): fsaregistration@manchester.gov.uk

Manchester City Council's Licensing and Out of Hours team (for compliance and enforcement matters): outofhourscompliance@manchester.gov.uk

Greater Manchester Fire and Rescue Service:
firesafetymanchester@manchesterfire.gov.uk

Greater Manchester Police Licensing team: centrallicensing@gmp.police.uk