

## **Use of Outdoor Space for Seating and Trading**

We understand that many businesses are having to diversify their business and may be planning to use outdoor space to trade or to accommodate extra seating. We want to support businesses to be able trade in the 'new normal', whilst ensuring our priority is to keep the public safe. This guide outlines the steps you *must* take and provides you with some top tips to support you in getting permissions or licence applications approved by your local council.

**In June, the Government proposed temporary relaxations of some licensing and planning laws through the new Business and Planning Bill**, which has now passed as law. This builds on support introduced in March allowing many food and drink business, including pubs, to offer a takeaway service. Additionally, these changes will support hospitality staff return to work safely. Councils will need to continue to ensure that pavements and pedestrianised areas are not compromised, to ensure social distancing can still take place.

### **What are the temporary Licensing law relaxations for Pavement Licences?**

**Pavement licences** – the use of the furniture on the pavement by the licence-holder to sell or serve food or drink supplied from, or in connection with relevant use of, the premises.

The relaxations to the law will mean that applications (for temporary licences until September 2021) will be processed quicker (the consultation period for applications will change from 28 calendar days to 5 working days, and grant consent after 10 working days if the council does not issue a decision), will be capped at £100 and will be processed by Local Authority licensing teams at District or Borough councils.

Before you apply for a licence, it is important to consider the pavement space available to ensure social distancing can take place and measures you can put in place to promote this; applications that do not reflect this are likely to be objected to on Public Safety grounds. Businesses also need to consider the smoke-free seating condition; the condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted.

For more information please see: <https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

### **What about A-boards (sandwich boards) on the pavement?**

Many businesses will wish to advertise on the pavement outside to promote their businesses re-opening. However, this must be balanced against the need for effective social distancing to be practised and not to unduly restrict access or the free flow of pedestrians and other highway users.

In view of this the highways team at county council would urge caution and would like businesses to avoid placing advertising boards or any other items on the Highway, as these may restrict the ability of customers to achieve the Public Health driven social distancing, increasing the risks to us all.

### **What are the temporary licensing law relaxations for the use of private land and selling alcohol off-site?**

**New temporary alcohol off-sales permissions** – temporary changes to licensing laws will allow many more licensed premises, such as pubs and restaurants, to sell alcohol for consumption off their premises automatically until September 2021. The hours to which off-sales can take place, will be the same as those granted for on sales of alcohol, subject to a cut off time of 11pm or the closure time of an existing outdoor area as controlled

through the licence conditions, whichever is earlier. This is an automatic entitlement; businesses do not need permission from their local council's licensing team; however, they should contact them to notify them of this change. A premise may not use the automatic entitlement if a disqualifying event has occurred, in relation to a premises licence, in the last three years. If you're not sure what this means or for more information, please speak to your local council's licensing team. You must also ensure you understand **your legal responsibilities regarding underage sales**. Information on this can be found here: <https://www.businesscompanion.info/en/quick-guides/distance-sales/online-sales-of-age-restricted-products> and here: <https://challenge25.co.uk/> you can also call Trading Standards for further guidance.

Further information on the new temporary alcohol off-sales permissions (including FAQs, further responsibilities, such as: anti-social behaviour, queuing and noise) can be found here: <https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill/alcohol-licensing-guidance-on-new-temporary-off-sales-permissions>

**Use of outside private land:** Businesses will also be able to use their gardens, car parks and terraces as additional seating/trading space without getting permission from their council's licensing team to do so, as long as they have considered this in their risk assessment; licensed premises must also always ensure they comply with the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

### **What are the temporary planning law relaxations for placing moveable structures (stalls, porta-loos, marquees etc) on private and public land?**

From the 25 June 2020 until the end of the current calendar year, amendments to the regulations mean that both private land (belonging to the business) and public land can be used for up to 56 days (in any calendar year) **to place temporary structures without having to seek planning permission** – this includes a business's land or an outdoor space where for example an event is to be held (events may require other permissions and licences though via local council licensing teams). Moveable structures include stalls, tables and chairs, a marquee etc. This does not include placing moveable structures on public pavement in front of or near a business premises – please see Pavement Licences instead.

If the land is being used for an event and the event ends, but the associated moveable structures remain in situ, the 56-day countdown continues. For holding a market or motor car or motorcycle racing it is limited to 28 days a calendar year. There are exclusions related to e.g. listed buildings, so if a business isn't sure if they need permission then it's best that they speak to their local council Planning department to get clarification.

### **Key Considerations for trading outside:**

#### **Tables and Chairs**

- It is recommended that you restrict outside areas to seated only (no standing) to help **maintain social distancing**
- Tables and chairs should be planned and managed to maintain social distancing including being able to access seats for wheelchairs/push chairs whilst maintaining social distancing guidelines
- These need to be frequently cleaned with suitable detergents/sanitiser

- You may wish to use the 'GB Pavement Width indicator software' which is available free of charge until 31 July 2020. This will help you to measure pavements and help with planning for social distancing in different locations  
<https://marketplace.arcgis.com/listing.html?id=6a5afd51f4fd4c79aa96e702883a957e>

### **Public Nuisance**

- Please ensure you monitor your outside areas to ensure any noise from this area does not cause a noise nuisance to nearby residential properties. Walk around the area at various times to check if the noise is audible near these areas.
- It is recommended that outside seating is not encouraged after 9pm if you have nearby residential properties.
- Encourage your customers to respect your neighbours

### **Access to Toilets**

Occupancy of toilets need to be carefully managed to avoid crowding and to allow for social distancing.

- Ideally a member of staff should be appointment to manage these areas and queuing systems should be clearly defined to maintain distancing and to keep those entering/leaving coming too close.
- Using signs and posters to build awareness of good handwashing technique, the need to increase handwashing frequency, avoid touching your face and to cough or sneeze into a tissue which is binned safely, or into your arm if a tissue is not available.
- Posters are available to download from [www.who.int/gpsc/5may/resources/posters/en/](http://www.who.int/gpsc/5may/resources/posters/en/)
- Providing regular reminders and signage to maintain hygiene standards.
- Providing hand sanitiser in multiple locations in addition to washrooms.
- Setting clear use and cleaning guidance for toilets to ensure they are kept clean and social distancing is achieved as much as possible.
- Providing more waste facilities and more frequent rubbish collection.
- Providing hand drying facilities – either paper towels or electrical driers.

### **Security and fire safety**

- Check that your CCTV is working
- You will need to review your security arrangements and ensure you comply with the requirements of your licence – please review your licensing conditions.
- Ensure any door staff are trained/fully briefed on your new Covid-19 controls and how the premises will be operating to ensure they can explain this to your customers and can answer any of their questions.
- You must not obstruct access to any fire hydrant.
- You must not obstruct, obscure or hinder any emergency escape route or fire exit.

**For more detailed sector guidance please see:** <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery> along with our checklist and risk assessment example for the hospitality sector.