

Report of	Meeting	Date
Director (Customer and Digital)	Council	August 2020

BUSINESS AND PLANNING BILL 2020- ADOPTION OF POLICY

PURPOSE OF REPORT

1. To inform members of the Business and Planning Bill 2020 and seek approval for a new Statement of Licensing Policy for Pavement Licences.

RECOMMENDATION(S)

2. That members adopt the Statement of Licensing Policy for Pavement Licences under the Business and Planning Bill.
3. That authority be delegated to the Director (Customer and Digital) to make such amendments to the policy as are necessary following changes to legislation and/ or guidance.
4. That the Scheme of Delegation at Appendix 5 of the policy be approved, and the relevant amendments made to the Constitution.

EXECUTIVE SUMMARY OF REPORT

5. Part 1 of the Business and Planning Bill proposes a change to the way a business may seek authorisation for placing removable furniture on a highway. This new legislation aims to streamline the process to remove an unnecessary burden on businesses in light of the coronavirus pandemic.
6. There is likely to be significant demand for outdoor areas being made available to businesses due to the need for social distancing. The policy seeks to set out an application process and approach to be adopted by the Council in the administration of this function.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

7. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	✓
Clean, safe and healthy homes and communities		An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

8. The current method of seeking authorisation to place removable furniture on the highway is contained within the Highways Act 1980. These provisions require a statutory 28- day consultation period and attract a large fee, set locally. Chorley Council currently administers the regime on behalf of the Highways Authority of Lancashire County Council.
9. At the time of writing the report, the Business and Planning Bill 2020 is progressing through the House of Lords. This Bill proposes several measures to ease the burden and support businesses in the wake of the coronavirus pandemic. Part 1 of the Act sets out a new, temporary regime to authorise furniture being placed on the highway. This regime imposes a maximum fee of £100 and a shorter period between application and the granting of a licence of 14 days.
10. Nothing contained within the Business and Planning Bill prevents a business seeking an authorisation under the Highways Act 1980.
11. The draft policy sets out the Council's approach towards the administration of the function and communicates clearly to applicants the process and application procedure.

IMPLICATIONS OF REPORT

12. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	x	Customer Services	
Human Resources		Equality and Diversity	x
Legal	x	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

13. The Council risks reputational damage by not having an agreed process in place for the implementation of the changes.
14. Where an application for a Pavement Licence is made to the Council, if, after a 14 day period the Council has not determined the application, the licence is deemed granted and subject only to the national conditions and any conditions which the Council has published. If the Council has not published conditions, any deemed licences would be subject only to the national condition.

COMMENTS OF THE STATUTORY FINANCE OFFICER

15. No comment.

COMMENTS OF THE MONITORING OFFICER

16. Government Guidance originally envisaged that the issuing of pavement licences under the Business and Planning Bill would be an executive function. However an amendment in the House of Lords on 21 July provided that the function would be a council function.
17. The Council must have regard to its duties under the Equality Act 2010, in particular those in section 149 to eliminate unlawful discrimination, advance equality of opportunity and foster good community relations. The policy does refer to accessibility considerations.

18. In relation to furniture, the Act requires the Council to have regard to the needs of disabled people and also to have regard to guidance issued by the Secretary of State in relation to recommended distance for access by disabled people.
19. The licence amounts to deemed planning permission for use authorised by the licence.
20. The Act imposes on all licences a no-obstruction condition and a smoke free-condition. The Council may set additional local conditions. A local condition takes precedence over a national condition set by the government if it is reasonably justified.
21. There is no statutory appeal against the refusal to grant a pavement licence. However the Council may if it so chooses operate an internal review process, as for example is the case with refusals of street trading consents where non-statutory appeals are heard by the General Licensing Sub-Committee. This would require a further delegation not currently in Schedule 5 of the draft policy containing delegations.

ASIM KHAN
DIRECTOR (CUSTOMER AND DIGITAL)

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