



Dear Councillor

**LICENSING AND PROTECTION COMMITTEE - WEDNESDAY, 28  
SEPTEMBER 2022**

I am now able to enclose for consideration at the above meeting the following reports that were unavailable when the agenda was printed.

**Agenda Item  
No.**

**4. SCHEME OF DELEGATION UPDATE - PRIVATE HIRE DRIVER  
LICENCES (Pages 3 - 4)**

Appendix A – To FOLLOW.

**5. BUSINESS AND PLANNING ACT 2020 - PAVEMENT LICENCES  
(Pages 5 - 10)**

To consider a report by the Interim Licensing Manager providing an update on the extension of the Business and Planning Act 2023 with regard to Pavement Licences.

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**APPENDIX A**

**POWERS DELEGATED BY OR ON THE RECOMMENDATION OF THE LICENSING AND PROTECTION COMMITTEE**

(Proposed September 2022)

<b>Source</b>	<b>The Power Delegated</b>	<b>Delegated to</b>	<b>Date of Delegation</b>	<b>Remarks</b>
Local Government (Miscellaneous Provisions) Act 1976	To determine transfers of hackney carriage plates	Community Services Manager	24.01.78	
Local Government (Miscellaneous Provisions) Act 1976	To determine applications for private hire and hackney carriage vehicle licences, private hire and hackney carriage driver's licences known as Dual licenses, and private hire operators' licences	Community Services Manager	23.01.79	
Local Government (Miscellaneous Provisions) Act 1976	To determine applications for private hire driver's licences	Community Services Manager	28.09.2022	
Local Government (Miscellaneous Provisions) Act 1976	To refuse or suspend hackney carriage, private hire driver in line with policy and legislative parameters	Community Services Manager	23.01.79	
Local Government (Miscellaneous Provisions) Act 1976	To suspend or revoke hackney carriage and private hire driver licences under LGMPA S.61 (2B) (Immediate risk to public)	Community Services Manager	19.06.19	
Local Government (Miscellaneous Provisions) Act 1976	To revoke private hire and hackney carriage driver's licences,	Community Services Manager	19.06.19	After consultation with the Chairman and Vice Chairman of the Committee.

Local Government (Miscellaneous Provisions) Act 1976	To refuse or suspend hackney carriage, private hire vehicle licenses in line with policy and legislative parameters	Community Services Manager	23.01.1979	
Local Government (Miscellaneous Provisions) Act 1976	To revoke private hire and hackney carriage vehicle licences	Community Services Manager	19.06.19	After consultation with the Chairman and Vice-Chairman of the Committee.
Local Government (Miscellaneous Provisions) Act 1976	To refuse or suspend private hire operator licences in line with policy or legislative parameters	Community Services Manager	19.06.19	
Local Government (Miscellaneous Provisions) Act 1976	To revoke private hire operator licences	Community Services Manager	19.06.19	After consultation with the Chairman and Vice-Chairman of the Committee.
Local Government (Miscellaneous Provisions) Act 1976	To review the penalty points system for private hire operators, proprietors, and drivers in light of changes to legislation	Licensing Manager	09.06.11	
Local Government (Miscellaneous Provisions) Act 1976	To determine the scale of fees for advertising on digital display screens (fitted to the front headrests of hackney carriage and private hire vehicles)	Licensing Manager	19.07.2022	After consultation with the Head of service and Executive Portfolio Holder.

**Public**

## HUNTINGDONSHIRE DISTRICT COUNCIL

**Title/Subject Matter:** Business and Planning Act 2020 – Pavement Licence

**Meeting/Date:** Licensing and Protection Committee - 28 September 2022

**Executive Portfolio:** Executive Councillor for Customer Services– Cllr Stephen Ferguson

**Report by:** Michelle Bishop – Interim Licensing Manager

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

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### **Executive Summary:**

The Business and Planning Act 2020 originally came into force on Thursday 23 July 2020 and was intended to make provision relating to the promotion of economic recovery and growth following the Covid-19 pandemic. It introduced a streamlined and cheaper route for businesses such as cafes, restaurants, and bars to secure a licence to place furniture on the highway. This supported them to operate safely while social distancing measures remained in place. This provided much needed income over the summer months and protected as many hospitality jobs as possible.

Any licence issued can be for a minimum period of 3 months. The original provision expired on 30 September 2021 and then again further extended until 30 September 2022.

On 27 July 2022, parliament has made an extension to the current Business and Planning Act 2020 regulation to allow the current provisions to be in place until 30 September 2023. The purpose of this report is to provide an update on the extension and advise on possible future plans for the regulation for furniture to be placed on the Highway.

### **Recommendation(s):**

- That the fee for applications remain at Zero pounds for all licenses issued with an expiry date of 30 September 2023.
- The original delegation/decision notice agreed on 24 July 2020 be further extended until 30 September 2023. This can be seen at APPENDIX A

## **1. PURPOSE OF THE REPORT**

- 1.1 To provide an update on the extension of the Business & Planning Act until 30 September 2023 and to seek approval for the fee to remain at the current amount.

Any licences granted through this legislation will cease to have effect on 30 September 2023 unless there is a further extension in place.

## **2. WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 The Council are the 'Licensing Authority' for the purposes of the Act.
- 2.2 At the current time Parliament are considering through the 'Levelling up process' a new piece of legislation to permanently introduce pavement licenses which will fall to the local authority to both administer and enforce.

As part of this review a discussion point regarding the maximum fee that can be set and an extension to the consultation period is likely to be included but no confirmed information has been released.

## **3. CONSULTATION**

- 3.1 Not required as Legislation extension

## **4. LEGAL IMPLICATIONS**

- 4.1 The legislation does not have a statutory right of appeal, any appeal would be by way of Judicial Review.

## **5. RESOURCE IMPLICATIONS**

- 5.1 There is a resource cost for this additional piece of work, however most of the documents/templates and website are in place so should be minimal.

The enforcement provision is still maintained by Highways.

## **6. BACKGROUND PAPERS**

Government Guidance updated 26 July 2022; [Pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/pavement-licences) .

## **CONTACT OFFICER**

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## HUNTINGDONSHIRE DISTRICT COUNCIL

### RECORD OF CHIEF OFFICER/HEAD OF SERVICE DECISION

This form should be used to record key and other decisions made by Chief Officers and Heads of Service. The contact officer will ensure that the signed and completed form is given to Democratic Services as soon as reasonably practicable after the decision has been taken.

A key decision shall not be taken unless notice of the item has been published at least 28 days before the decision is to be taken except where:

- a General Exception notice has been published under Rule 15 of the Access to Information Procedure Rules and the Chairman of Scrutiny and Overview Committee has been informed in writing; or
- where a Special Urgency notice has been published under Rule 16 of those Rules and the Chairman of Scrutiny and Overview Committee has agreed the decision is urgent.

<b>Decision Taker</b>	Managing Director
<b>Subject Matter</b>	Part 1 of the Business and Planning Act 2020 relating to Pavement Licenses and the power to determine applications, including the setting of fees.
<b>Ward(s) Affected</b>	All
<b>Date Taken</b>	24 July 2020
<b>Contact Officer</b>	Myles Bebbington, Licensing Manager Myles.bebbington@huntingdonshire.gov.uk
<b>Date Published</b>	24 July 2020
<b>Call-In Expiry/Exempt from call-in</b>	N/A – not a key decision
<b>Key Decision?</b>	No. (this is a non-executive function)
<b>In Forward Plan?</b>	No – not required as not a key decision and not an executive function. Direction from Government in response to Covid-19 Crisis to support businesses and the economy
<b>Urgent?</b>	Yes, but as it is not a key decision it is not subject to the urgency provisions. The decision is required to respond to direction from Government in response to COVID-19

<b>Purpose / Background</b>
To provide openness and transparency in the exercise of new non-executive functions under the Business and Planning Act 2020 relating to Pavement Licenses. The Council has produced a Pavement Licensing Policy for this purpose which is attached at Appendix A. There is no legal requirement to introduce a policy in respect of the new legislation, however a policy assists officers in making decisions consistently and gives clear advice to any person looking to make an application.

To provide a clear delegation of authority for officers to determine applications under Section 1 of the Act.

This is a non-executive function, and the recommendation is to delegate it to an officer to determine the licence if representations are received.

The Business and Planning Act 2020 came into force on Thursday 23 July 2020 and is intended to make provision relating to the promotion of economic recovery and growth following the Covid-19 pandemic. It 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 over the summer months and protect as many hospitality jobs as possible.

Any licence is issued for a minimum of 3 months and a maximum of 12 months. All licences will expire by law at the end of 30 September 2021. It is proposed to grant all licences such that they end on 30 September 2021.

The Council must determine any application within 10 working days following a 5 working day consultation with the County Council Highways Authority as a statutory consultee. Further consultees will be The Police, The Fire and Rescue Service, and Local Town and Parish Councils and the public. Failure to determine the licence within the above timescale will deem the licence granted.

There is no statutory appeals process and as such there is no right of appeal against the refusal or revocation of a licence although the Council can introduce such a process.

It is not proposed to charge a fee for this licence.

On approving the application, the Council will issue a Licence to which conditions are attached. The Council's Standard Conditions are set out at Appendix 2 to the Policy. Additional Conditions may also be attached if the Council considered it appropriate in the circumstances of any particular case.

It is a national condition of any licence that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and 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](#).

Please see Appendix A for The Policy which also includes the application form, site notice Template for display by an applicant and the proposed conditions.



**Declaration(s) of Interest**

*Record below any relevant interest declared by any executive Member consulted or by an officer present in relation to the decision.*

None

**Dispensation(s)**

*In respect of any conflict(s) of interest declared above, record below any dispensation(s) granted by the Council's Corporate Governance Committee.*

None

**Consultation**

*Record below all parties consulted in relation to the decision.*

Leader of the Council; Lead Cabinet member for Leisure and Regulatory Services; Chairman of Licensing Committee

**Other Options Considered and Reasons for Rejection**

None. The Council is responding to Central Government direction.

Final decision	Reason(s)
<p>To Authorise Licensing Officers to determine applications and fee under Part 1 of The Business and Planning Act 2020 which enables the District Council to issue Pavement Licences to pubs and other businesses selling food or drink for consumption on or off the premises. A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.</p> <p>In order to formalise arrangements for carrying out this function the Managing Director, in exercise of the delegations in Annex A of Part 3 of the Constitution, has overall corporate management and strategic responsibility for the Council and its delivery of services.</p> <p>Accordingly, as a general rule, the Managing Director has responsibility for, and may make decisions in relation to, the deployment of Council resources for the purpose of dealing with the public health emergency.</p>	<p>Due to the Covid 19 crisis and the need to support business and boost the economy for the Council to administer the Business and Planning Act 2020 in relation to Pavement Licences in line with Government guidance.</p>

Signed	Name (CAPITALS)	Signature	Date
Lead Cabinet Member (where required by the Constitution)			
Managing Director			