

## TABLE OF AMENDMENTS MADE TO SWALE BC PAVEMENT LICENCE POLICY 2023-2026

Policy Section No. and Title	Amended Wording	Reasons for Amendment
1. Introduction	<p>The Levelling Up and Regeneration Act 2023 which received Royal Assent on 31<sup>st</sup> March 2024 and these amendments have now been incorporated into this policy.</p> <p>The amendments are to:</p> <ul style="list-style-type: none"> <li>• Amend the fee that councils can charge applicants, increasing it from £100 to £350 for premises which already hold a Pavement Licence, and £500 for new applicants</li> <li>• Extend the public consultation period and council determination period from 7 day to 14 days</li> <li>• Extend the maximum duration of Pavement Licences from 1 year to 2 years. The length of a licence is however at the discretion of the local authority</li> <li>• Provide that Pavement Licences can also be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met</li> <li>• Prohibit a local authority (i.e. KCC) from granting a tables and chairs licence under the old regime (Highways Act 1980) if a Pavement Licence is capable of being granted under this Bill</li> <li>• Insert a new Enforcement schedule providing powers to the local authority to remove furniture if a premises is not abiding by its pavement licence conditions and hours</li> </ul>	To explain the changes made by the Levelling Up and Regeneration Act 2023 (LU&R Act 2023)

<p>2. Application and Determination of Pavement Licences</p>	<p>3.1 <u>Submission of the application</u></p> <p>An application for a NEW Pavement Licence must be made to the Council and the following will be required to be submitted with the application:</p> <ul style="list-style-type: none"> <li>a) a completed application form and the required fee</li> <li>b) a plan showing the location of the premises shown by a red line, so the application site can be clearly identified</li> <li>c) a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area. The entrance to the premises must also be shown</li> <li>d) the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,</li> <li>e) evidence of the right to occupy the premises (e.g. the lease);</li> <li>f) photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;</li> <li>g) (if applicable) reference of existing pavement licence currently under consideration by the local authority;</li> <li>h) evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);</li> </ul>	<p>To clarify the differing requirements between an application for a new pavement licence and an application for a renewal to an existing licence</p>
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	<p>i) a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, and</p> <p>j) any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.</p> <p>An application for a RENEWAL of a pavement licence must be made electronically to the Council and be accompanied by the following:</p> <ul style="list-style-type: none"> <li>• a completed application form</li> <li>• the required fee</li> <li>• a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, (caveat: there may be rare circumstances where a different minimum value may be agreed in advance before submission of application)</li> <li>• any other information or evidence requested</li> <li>• Note: photographs of furniture are not required on renewal unless the proposed items differ from those currently licensed</li> </ul> <p>NOTE: a renewal cannot be submitted after expiry of the current licence. A new application would be required.</p>	
3.2 Fees	<p>The fee for applying for a licence can be set locally. Please refer to the Council's website to look up current fees</p> <p><a href="https://swale.gov.uk/business-licensing-and-">https://swale.gov.uk/business-licensing-and-</a></p>	To show the current fee levels

	<a href="#">procurement/licences-permits-and-consents/putting-furniture-in-a-public-place</a>	
3.3 Consultation	Applications are consulted upon for 14 days	Consultation has been extended from 7 days to 14 days
3.8 Licence duration	The Council will normally grant applications for a 2 year period	We propose to extend the duration of existing licences from between 3 months and 1 year to 2 years as permitted by the LU&R Act 2023
3.10 Variation of licences	<p>There is no provision in the legislation to apply for variation of a pavement licence. Should the licence holder wish to vary the licence, they would need to submit a new application.</p> <p>As an alternative to revoking the licence the Licensing Authority may, with the consent of the licence holder, <u>amend</u> the licence if it considers that— (a) 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, (b) as a result of the licence— (i) there is a risk to public health or safety, (ii) anti-social behaviour or public nuisance is being caused or risks being caused, or (iii) the highway is being obstructed (other than by anything done by the licence holder pursuant to the licence),</p>	Added for clarification
5. Enforcement	<p>The Levelling Up and Regeneration Act 2023 states that:-</p> <p>If a condition imposed on a licence either by the Council or via a National Condition is breached the Council is able to issue a notice requiring the breach to be remedied.</p> <p>The authority may revoke a licence in the following circumstances:</p>	<p>Entire section added in line with the provisions of the LU&amp;R Act 2023.</p> <p>Wording is 'lifted' from the Act for sake of clarity</p>

	<ol style="list-style-type: none"><li>1. For breach of condition, (whether or not a remediation notice has been issued)</li><li>2. or Where:<ul style="list-style-type: none"><li>• the highway is being obstructed (other than by anything permitted by the licence);</li><li>• there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;</li><li>• it transpires the applicant has provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or</li><li>• the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.</li></ul></li><li>3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.</li></ol> <p><b><u>Unlicensed activity</u></b></p> <p>Where a person/business puts removable furniture on a relevant highway and is not authorised to do so, the licensing</p>	
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	<p>authority may, by issuing a notice, require the person/business to:</p> <ul style="list-style-type: none"><li>• Remove the furniture before the date specified on the notice and</li><li>• Refrain from putting furniture on the highway unless authorised to do so.</li></ul> <p>Contravention of such a notice may lead to the authority removing the furniture and storing it, and require the person/business to pay the authority's reasonable costs in removing and storing the furniture and to refuse to return the furniture until those costs are paid.</p> <p>If, within the period of three months beginning with the day on which the notice is given, the person/business does not pay those reasonable costs, or does not recover the furniture, the local authority may-</p> <ul style="list-style-type: none"><li>• Dispose of the furniture by sale or in any other way it thinks fit, and</li><li>• Retain any proceeds of sale for any purpose it thinks fit</li></ul> <p>In this section, 'authorised' means authorised by-</p> <ul style="list-style-type: none"><li>• A pavement licence</li><li>• Permission under Part 7A of the Highways Act 1980, or</li><li>• Permission granted under any other enactment</li></ul> <p>If the Council considers that a licence holder has breached any condition of the licence it may:</p> <ul style="list-style-type: none"><li>• Revoke the licence, or</li></ul>	
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	<ul style="list-style-type: none"><li>• Serve a notice on the licence holder requiring the taking of such steps to remedy the breach as specified in the notice</li></ul> <p>If the licence holder fails to comply with the terms of a notice it may revoke the licence.</p> <p>The Council may also revoke a licence in the following circumstances:</p> <ul style="list-style-type: none"><li>a) Where the highway is being obstructed (other than by anything permitted by the Pavement Licence)</li><li>b) If there is anti-social behaviour or noise nuisance associated with the operation of the Pavement Licence – for example if the use of the Pavement Licence increases the amount of noise generated late at night or litter is not being cleaned up</li></ul> <p>The Council may also revoke a Pavement Licence where all or any part of the area of the highway to which the licence relates has become unsuitable for the purpose that the licence was granted. The Council will give reasons where these powers are used.</p> <p>All enforcement activity will be undertaken in line with the principles set out in the Regulator’s Code and the Council’s Enforcement Policy.</p>	
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