

# Pavement Licence Conditions

## MANDATORY CONDITIONS

1. Any pavement licence granted by the Council, or which is deemed to be granted, is subject to a mandatory no-obstruction condition and a mandatory smoke-free seating condition.

### No Obstruction Condition

2. A “no-obstruction condition” is a condition that anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6) of the Business and Planning Act 2020 which reads as follows:-

#### Section 3 (6) of the Business and Planning Act 2020

The effects referred are—

(a) preventing 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) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,

(c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

(d) preventing 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.

3. When considering applications, and the ability to comply with the above, the Council will have regard to [guidance issued by the Secretary of State](#) which includes assessing the needs of disabled people.

### **Smoke-Free Seating Condition**

4. A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.
5. In considering for any purposes whether a licence holder has made reasonable provision for seating where smoking is not permitted, a local authority must have regard to [guidance issued by the Secretary of State](#)

### **NATIONAL CONDITIONS**

6. Any pavement licence granted by the Council, or which is deemed to be granted, is subject to national conditions of licence as prescribed in Regulations issued by the Secretary of State. These are yet to be published but will automatically apply to licences granted, or deemed to be granted, prior to the Regulations coming into force.

### **LOCAL CONDITIONS**

7. In order to allow sufficient access for mobility impaired and visually impaired people, there should be a minimum 1.5 metres width of footway between the edge of the footway and any furniture in the licensed area. In busy streets there is likely to be a requirement for a greater width.
8. The licence holder is responsible for ensuring that the furniture (details of which accompanied the application) is safe to use, well maintained and fit for purpose.
9. The approved furniture must be placed on the highway in accordance with the layout in the agreed site plan.
10. All furniture must be removed from the highway outside of the hours permitted by the licence.
11. Furniture must not be stacked outside the premises when not in use. Furniture must either be laid out as per the agreed site plan, as though for use, or removed from the highway stored away appropriately.
12. No furniture is permitted to be placed outside the designated area as detailed on the agreed site plan.

13. The licence holder must ensure that the use of the furniture on the highway conforms to the latest government guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted.
14. The licence holder may be required to carry out works upon the direction of the Council (such as the provision of barriers) in the interest of public safety.
15. The licence holder shall ensure that the use of the licensed area does not cause a nuisance to any neighbouring occupiers due to noise, litter, and similar anti-social behaviour. This shall include carrying out regular checks of this area to ensure that any such issues are dealt with promptly.
16. The area of highway covered by the licence and surrounding it must be kept free of litter. Spillages of any kind shall be removed immediately surfaces kept clean.
17. The licence holder must ensure that the use of the agreed area is monitored to ensure compliance with all conditions of licence.
18. Should Cornwall Council's property be damaged or defaced as a result of the approval to place furniture on the highway then the licence holder will be responsible for the cost of repairs.
19. This licence does not give any permission to any person or body to place posters, signs or any other advertising material within highway limits, or on street lighting columns, traffic signs and other street furniture. Licensees are advised that any material should not be sited or displayed in a manner which obscures any highway sign or creates a safety risk, hazard or obstruction to the use of the highway. Any material erected in contravention of these requirements is liable to be removed by the Highway Authority.
20. The licence holder shall indemnify Cornwall Council against all claims, injuries or accidents whatsoever and provide evidence of insurance providing cover up to £5,000,000 for any one incident for the full period of the licence.
21. In the event of unlawful obstruction or danger being caused on the highway Cornwall Council may remove the obstruction or danger forthwith without reference to the licence holder.
22. Cornwall Council will not compensate for any loss in the event that the licence is revoked.