



## Executive Member for Environment and Transport

<b>Meeting of:</b>	<b>Date:</b>	<b>Ward(s):</b>
Executive	16 July 2020	All
<b>Delete as appropriate:</b>		Non-exempt

## SUBJECT: Pavement Licensing

### 1. Synopsis

- 1.1 The Business and Planning Bill 2020 is currently going through Parliament. The timetable for the passage of the Bill has the final reading in the House of Lords expected on the 20 July and Royal Assent by end of July.
- 1.2 This will create a new Pavement Licence. The draft bill suggests that the fee will be up to £100 but this will not be finalised until the 20<sup>th</sup> July.
- 1.3 Islington will need to introduce a new tables and chairs procedure in order to accommodate the new legislation including setting a fee.
- 1.4 The fee is an executive decision and therefore needs to be made at this meeting as there is not another Executive meeting until September.

### 2. Recommendations

- 2.1 To introduce the new Pavement Licenses once the Business and Planning Bill 2020 receives Royal Assent.
- 2.2 To delegate authority to the Corporate Director of Environment and Regeneration, following consultation with Executive Member for Environment & Transport, to set the license fee within the range allowed by the legislation.

- 2.3 To delegate to the Corporate Director of Environment & Regeneration, following consultation with the Executive Member for Environment & Transport to take any further decisions in connection with implementation of Pavement Licensing following Royal Assent to the Bill.

### **3. Background**

- 3.1 With the easing of lockdown, the introduction of Pavement Licensing presents an opportunity to businesses to trade on the pavement to help ensure social distancing and to promote economic recovery.
- 3.2 Currently at Islington Council we regulate Tables and Chairs under the Licensing Act and the statutory process under the Highway Act 1990, which is more involved than the proposed Pavement Licensing process.
- 3.3 Typically, in relation to Tables & Chairs applications, fees are much higher than £100 and as such this will result in a loss of income to the Council. Currently, Tables and Chairs Licences are based on the number of Tables and Chairs/area and have a management fee of £788 plus a fee of up to £104 per m<sup>2</sup>.
- 3.4 Overall the aim of the bill is to make Pavement Licences easier and cheaper to obtain for local businesses. The Guidance to the Bill introduces standard conditions including the requirement to avoid obstructions to the highway and meet Inclusive Mobility criteria, referencing Section 3.1 of, 'Making transport accessible for passengers and pedestrians - A guide to best practice on improving access to public transport and creating a barrier-free pedestrian environment.'
- 3.5 Licensees will be able to maintain their current Tables and Chairs Licences but will have the option to apply for the new Pavement Licence. It is currently proposed that the Pavement Licensing provisions will be in place until September 2021.
- 3.6 The new procedure under the Bill requires a Notice on the Council's webpage, a 7-day consultation and a 7-day decision making process. If the process is not followed a Licence is deemed to have been granted. Guidance is being prepared and will be posted on the Council's website and members of the public will be notified of the application at the premises and on the Council's website on a dedicated webpage.

### **4. Implications**

#### **4.1 Financial implications:**

The fees for licensing outdoor spaces have been set locally to cover the service costs. The budget for licenses for tables & chairs and 'A' Boards is £209,400 with actual income received in 2019/20 £246,951.

For the period April to June 2020 a total of £2,746 has been refunded during this lockdown period compared to £59,075 received for the same period in 2019.

Current charges range between £42 and £104 per m<sup>2</sup> with processing and renewal fees of £788 and £440 for table and chairs, and fees between £88 and £421 for 'A' Boards.

A flat rate fee of £100 for a Pavement License is likely to have a significant impact on this income stream for the 2020/21 and 2021/22 financial years if provision remain in place until September 2021. This pressure is likely to be in the region of £0.1m to £0.2m in each of these financial years. If there is no additional government financial support to compensate for this loss of revenue, this pressure will need to be considered as part of the annual budget setting process.

#### **4.2 Legal Implications:**

The Pavement Licence is a new form of licence created under Part 1 of the Business and Planning Bill 2020.

The Council is required to decide on an appropriate fee to charge of no more than £100. The Bill does not include any consequential amendments to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, and therefore Pavement Licensing, including the setting of the fee, is an executive function and not the responsibility of the Licensing Committee.

Pavement licences must be granted for a minimum of three months and will automatically lapse on 30 September 2021. The granting of a pavement licence removes the requirement for planning permission or a street trading licence.

#### **4.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

No anticipated implications.

#### **4.4 Resident Impact Assessment:**

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

A RIA was completed on 08/07/2020 and is included as Appendix 1

As part of the Bill process, the Government has already made a Human's Rights impact assessment and the Council will monitor the impact of Pavement Licensing on residents.

These provisions are likely to make it easier for all local residents to access local shops and make local shops more financially viable going forward.

It will make adhering to the 1m+ guidance easier for vulnerable/shielding groups in the community and the Council will be using the standard conditions of the guidance regarding Inclusive Mobility to maintain and ensure there is no obstruction to the pavement for wheel chair or push chair users or those groups who are visually impaired.

## 5. Reason for recommendations

- 5.1 The proposed Business and Planning Bill 2020 will require the Council to issue a licence for businesses to operate on the pavement outside their premises. From information and guidance issued to date, it is likely that the fee that the Council can charge will be set at a maximum of £100, although it is possible that in the final legislation the maximum fee could be set at a different level. As this a new fee for the Council, a decision by Executive is required.

**Appendices:** Appendix 1 – Resident Impact Assessment

**Background papers:** None

**Final report clearance:**

**Signed by:**



08 July 2020

Executive Member for Environment and  
Transport

**Date**

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