

THE BUSINESS AND PLANNING ACT 2020

LICENSING COMMITTEE

9 SEPTEMBER 2020

CLASSIFICATION:

OPEN

If exempt, the reason will be listed in the main body of this report.

WARD(S) AFFECTED

ALL WARDS

GROUP DIRECTOR, NEIGHBOURHOODS AND HOUSING

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1. INTRODUCTION

- 1.1 This report has been prepared to provide the Licensing Committee with an update on the modifications to the Licensing Act 2003 as a result of the Business and Planning Act 2020 ("the 2020 Act") which received Royal Assent on 22 July 2020.

2. RECOMMENDATION(S)

- 2.1 That the Licensing Committee notes the report and the Appendices.

3. BACKGROUND

- 3.1 The 2020 Act was introduced by the Government with the aim of supporting specific sectors of the economy affected by the Coronavirus pandemic outbreak and subsequent measures to limit the spread of the virus. The 2020 Act:
- Temporarily allows on-licensed premises to make 'off-sales' without the need for a variation application to be approved.
 - Also establishes a new procedure by which cafes, pubs and restaurants may apply for a "pavement licence" to put chairs and tables outside their premises.

Automatic Off-sales

3.2 From 22 July 2020, all premises licences issued under the Licensing Act 2003 are authorised to sell alcohol for consumption off the premises (take away) unless within the three years prior to the date, a “disqualifying event” occurred. These are:

1. An application for off-sales was refused either as a new or variation application; or
2. An application was made to exclude off sales from a premises licence

Conditions and restrictions

3.3 There is a maximum cut-off time of 11pm for the off-sales entitlement. However, if a licence has a condition attached restricting the hours on a terrace or beer garden etc to an earlier time, the earlier hour would apply.

3.4 In cases where the automatic off-sales entitlement applies, every off-sale must be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises.

3.5 Where a premises licence is subject to other conditions, such as restrictions on open containers or deliveries which conflict with the automatic entitlement, those conditions are also suspended.

3.6 However, the amendments brought in by the 2020 Act includes “Any provisions of the premises licence ... suspended in so far as they are inconsistent with” the automatic off-sales entitlement.

3.7 As stated above, the provisions are temporary and are due to end on 30 September 2021. However, this date could be extended or brought forward by way of further regulation.

Review Process

3.8 The provisions also introduce a new process of "summary off-licence reviews" for where problems arise as a result of the automatic entitlement. Similar to the expedited review process, a responsible authority can make an application to have the provision reviewed by a Licensing Sub-Committee where the authority is of the view that one or more of the licensing objectives are being undermined.

3.9 Where an application is received, the authority must hold a hearing to. The possible steps at the hearing are:

(a) the modification of the conditions of the licence that relate to off-sales authorised by the new permission;

(b) the exclusion of off-sales authorised by the new permission from the scope of the licence; or

(c) the suspension of the new off-sales permission for no more than three months.

- 3.10 In the case of a premises licence with an existing off-sales permission, steps could only modify or exclude the new, temporary conditions or add new conditions to off-sales which relate to those new temporary conditions. The steps would only relate to the new temporary conditions, and not the existing off-sales permission.

Pavement Licensing

- 3.11 The pavement licensing provisions allow for operators to apply for a fast track permission to place tables and chairs on the public highway. Upon receipt of an online application, the authority has 10 working days to determine the application from the day the application is submitted (excluding public holidays) to consult on, and determine the application. This consists of 5 working days for public consultation, and then 5 working days to consider and determine the application after the consultation. If the application is not determined by the authority after the consultation period there is a deemed approval. If the pavement licence is granted with no time limit, then they will automatically come to an end on 30 September 2021. Holders of pavement licences will be able to surrender them in writing if they need to. Pavement licence applications are subject to a maximum application fee of £100.

- 3.12 Powers to issue pavement licences are delegated to the Council's Markets and Street Trading Service.

4. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 4.1 This report has been prepared to provide the Licensing Committee with an update on the Business and Planning Act 2020. There are no financial considerations at this time.

5. COMMENTS OF THE DIRECTOR OF LEGAL

- 5.1 This report is solely for noting as such there are no legal matters arising from the report that require comment on at this stage.

APPENDICES

Not applicable

EXEMPT

Not applicable.

BACKGROUND PAPERS

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