

To: General Purposes Licensing Committee
Date: Monday 10 February 2025
Report of: Head of Planning and Regulatory Services
Title of Report: Miscellaneous Licensing Update Report

Summary and recommendations	
Purpose of report:	To update Committee on progress with Miscellaneous Licensing matters previously raised with or by the Committee
Corporate Priority	Enable an inclusive economy and Support Thriving Communities
Policy Framework	Street Trading Policy, Pavement Licensing regime.
Recommendation(s): That the General Purposes Licensing Committee resolves to:	
<ol style="list-style-type: none"> Note the current position and planned officer actions regarding the matters within this report. Decide whether to pursue the possibility of incentivising smoke-free pavement licenced areas further, having regard to officer comments in this report. 	

- This report is intended to inform the General Purposes Licensing Committee about progress with Miscellaneous Licensing matters previously raised at the May 2024 Committee Meeting.

Pavement Licensing

- At its May 2024 Meeting, the Committee heard about changes in legislation to make the temporary pavement licensing regime permanent. The permanent regime was brought in under statutory mandatory *Transitional Arrangements*, including revised application rules and new fees, the latter subsequently confirmed by Council.
- Since then, the Business Regulation Team (BRT) has implemented the Transitional Arrangements and has processed 91 new or repeated applications for the new 2-year Licenses, with one application being refused.

4. All existing licence holders were notified of the changes, but in the case of a small number it proved necessary to send out reminder letters and, for a few, to apply enforcement measures, including warning letters and in-person officer visits.
5. Officers are working with colleagues in the ICT Digital Development Opportunities Team (part of the Council's Fit for the Future programme) to introduce an online application facility for pavement licences. A similar online service was introduced for Street Trading in December 2024.

Pavement Licence Smokefree Provisions

6. At its meeting of 5th February 2024, Committee requested *“the Business Regulation Team to prepare a report setting out the feasibility and implementation requirements for an amendment to the pavement licence provision to include an incentivised fee for smoke-free and vape-free establishments, for consideration of the Committee at its next meeting in May 2024.*
7. The earlier than expected commencement of the 2023 Act required Business Regulation Team officers to prioritise implementation measures over other work. It was stated that working towards a report for the 22 September Committee meeting had begun. The latter meeting did not take place.
8. Officers have reviewed the pavement licensing legislation, statutory guidance and current provisions and comment as follows:
 - One of the two national conditions imposed by the pavement licensing legislation requires a pavement licence holder to make reasonable provision for seating where smoking is not permitted. The Council applies this condition, as set out in Appendix A to this report. The Statutory Guidance for pavement licenses goes on to say that: *“This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area.”*
 - Current practice is that any complaint received by officers concerning smoking and non-smoking provisions at a licensed business is followed up by a site visit and enforcement of this condition.
 - Current Fees & Charges are based on the cost of providing the pavement licensing service. Any financial incentivisation which resulted in a reduction in fees for some businesses would potentially adversely impact service provision.
 - Action on Smoking and Health (ASH) have published information indicating that a 100% smoking ban may be implemented by local authorities, citing examples of several local authorities who have successfully done so. This option could be considered further by officers as an alternative to incentivisation.
 - In November 2024 the UK Government introduced the Tobacco and Vapes Bill. The Bill includes a range of measures to reduce smoking and vaping prevalence in the UK. However, In England, hospitality settings, including outside areas of pubs and bars, will not be included

in the proposed extension to the indoor smoking ban. Government have stated that this is because the Bill aims to strike a balance between protecting the most vulnerable and ensuring businesses are not financially harmed.

9. Members are recommended to decide whether to pursue the possibility of incentivising smoke-free pavement licenced areas further, having regard to officer comments in this report.

Street Trading and Traffic Management Controls

10. In considering an application for renewal of a Street Trading Consent on Frideswide Square at its 25th March 2024 meeting, the General Purposes Licensing Casework Sub-Committee (“the Sub-Committee”) had raised to the General Purposes Licensing Committee, the need for a review of the Council's street trading consultation processes and policy, as outlined in the current Street Trading Policy.
11. At its 20 May 2024 meeting, the Committee heard that officers had improved the consultation process, in liaison with County Council colleagues, but that the review would also need to take account of the outcomes from a request made by the same Sub-Committee to respective Cabinet Members from both councils, to review the traffic restrictions imposed on Frideswide Square and align this with the shared vision of both councils in relation to their policies on public realms.
12. Officers can report that the need for a shared vision has been acknowledged at Member and officer level. Officers have taken forward the joint working principle via the City-County Active Transport Group (CCAT), the process more widely being applied to several other street trading sites in the city, which are located in or near to traffic management-controlled areas. A workstream to support outdoor furniture and street trading was developed under the Central Oxfordshire Movement and Place Framework (COMPF) and officers had set a programme to review and regularise each trading site no later than March 2025. This date has since been extended to March 2026,

Street Trading Consent numbers

13. As at 29 January 2025, 34 street trading consents were in place (compared to 36 in 2024)
14. During the 2024-25 year, to date, 2 new applications have been approved, 2 are pending decision, one has been suspended and 3 have ceased trading.
15. Overall, the demand for street trading pitches continues to exceed suitable available sites.

Finance Issues

16. The proposed Fees & Charges scheme for Miscellaneous Licensing services is set out in a separate report to this Committee Meeting.

Legal Issues

17. The enforcement of legal requirements made under national legislation is subject to the Council's Corporate Enforcement Policy. Licensing officers have regard to this Policy for example in using education, encouragement, and enforcement to uphold statutory requirements and encourage good practice.

Equality impact

18. There are no adverse impacts anticipated on anyone with protected characteristics.

19. The Council has a Public Sector Equality Duty under the Equality Act 2010 to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between people who share a relevant protected characteristic and those who don't share it;
- Foster good relations between people who share a relevant protected characteristic and those who do not (which involves having due regard, in particular, to the need to tackle prejudice and promote understanding).

Environmental implications

20. There are no environmental considerations arising directly from this report overall, though environmental impact and preventive measures form part of the Council's Street Trading Policy 2023.

Report author	David Stevens
	Principal Lead Officer Business Regulation Team Planning and Regulatory Services dstevens@oxford.gov.uk

Pavement Licence – National Conditions

The Secretary of State publishes this condition in exercise of his powers under [clause 5(6)] of the Business and Planning Act 2020:

Condition relating to clear routes of access:

- 1) It is a condition 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](#).

Guidance on the effect of this condition

- a) To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to 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](#), the licence is granted subject to those requirements.
- b) To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

Condition relating to smoke-free seating:

- 2) It 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. In considering 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.

Guidance on the effect of this condition

- a) Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012 which can be viewed [here](#).
- b) No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- c) Licence holders should provide a minimum 2M distance between non-smoking and smoking areas, wherever possible.

This page is intentionally left blank