

Temporary street café licence conditions

Business and Planning Act 2020



INTRODUCTION

These Conditions apply, save in so far as they are amended by or are inconsistent with any Special Condition and in addition to the National Conditions.

DEFINITIONS

“Licensed Area”: the area licensed by the Council for the street café.

“Licensed Plan”: the plan approved by the Council detailing the Licensed Area and layout of the street café.

“main premises”: the premises connected to the street café.

“street café”: the Licensed Area containing the street café furniture.

“street café furniture”: includes but is not limited to:

- (1) tables, chairs or other forms of seating; and
- (2) barriers (or similar structures), planters, parasols, umbrellas, heaters and other articles used in connection with the outdoor consumption of food or drink.

“street furniture”: objects and structures installed on streets and roads for various purposes including, but not limited to, street light columns, sign posts, waste bins, railings, trees, bus shelters, bollards, seats, benches, post boxes and similar items.

RESPONSIBILITY OF LICENCE HOLDER

The Licence holder shall be responsible for compliance with the conditions of the Licence at all times.

DISPLAY OF LICENCE

The Licence holder shall ensure that a copy of the Licence is displayed in a prominent public position in the premises.

PUBLIC LIABILITY

The Licence holder shall ensure that £5 million public liability insurance cover is in effect to cover the street café for the duration of the Licence.

GENERAL

The layout of the street café furniture shall at all times conform with the Licensed Plan.

The Licence holder shall at all times ensure that the street café furniture is not placed outside of the Licensed Area”.

Street café furniture must be sited where it does not impede rights of access, block vehicular sight lines, obstruct fire paths, obstruct emergency access routes or obstruct emergency exits.

Street café furniture must not be permanently fixed.

A minimum of 2 metres must remain free between the outer edge of the street café and the edge of any street furniture or defined carriageway such as cycle lanes.

The street café must not obstruct the visibility of or for a wheelchair user at any crossing point, including a vehicular access.

The street café must not obstruct tactile paving.

An accessible route must be available into the street café, and through the street café into the main premises.

Street café furniture must be of good quality and design and must positively enhance the street scene and public space.

The maximum number of specified items of street café furniture authorised by the Licence must not be exceeded.

Street café furniture consisting of tables and chairs must be separate and be of a design that allows use by customers who are disabled and/or wheelchair users.

Street café furniture consisting of parasols must:

- (1) be at least 2 metres from the ground at their lowest point.
- (2) be suitably secure at the base, robust and of high quality.

Street café furniture consisting of umbrellas must be non-reflective.

Where street café furniture consists of patio heaters, the Licence holder shall notify their insurers of the use of such equipment and ensure that the use is included in the terms of their public liability insurance cover.

The street café shall be contained by means of a barrier or similar structure which itself must remain within the Licensed Area.

Street café furniture consisting of barriers (or similar structures) and planters must:

- (1) have a solid horizontal bar / element at an appropriate height above ground level so as to be detectable by a stick (“tapping rail”).

(2) not be plastic in material unless authorised by the Council

(3) have a minimum of two distinct contrasting colours, authorised by the Council, in order to meet the needs of partially sighted people.

(4) be a minimum of 1.0 metres and a maximum of 1.5 metres in height unless otherwise authorised by the Council.

(5) be removed entirely from the highway outside the hours authorised by the Street Café Licence.

(6) be lightweight in construction and portable but robust enough to withstand winds or being pushed over

(7) be of a design, authorised by the Council, to compliment the surrounding area.

(8) be supported by suitable 'feet' that do not cause a trip hazard to pedestrians and do not protrude outside of the Licensed Area.

The Licence holder shall remove the street café furniture from the Licensed Area outside the permitted hours of the Street Café Licence, and: -

(1) immediately if required to do so on reasonable request at any time by a Police Officer, Police Community Support Officer or Leicester City Council Licensing Enforcement Officer.

(2) as necessary to permit works in, on or over the highway or the use of the highway by

(a) the Council, Police, Fire and Rescue service, Ambulance service or any statutory undertakers

(b) the following where specifically permitted by the Council as Highway Authority

(c) vehicles accessing premises for the purpose of loading/unloading of goods

(d) builders' vehicles, hearses and furniture removal vans

The Licensed Area must be used solely for the purpose of consuming refreshments such as food and/or drink.

The Licence holder shall provide a waiter / waitress service, where hot drinks are served in open containers.

The Licence holder shall ensure that the street café is kept clean and is kept free from litter at all times.

The Licence holder shall maintain a twice daily scheduled cleaning record of the street café and provide it to Council Licensing Officers on reasonable request.

Waste from the street café must not be disposed of in any permanent litter bins provided by the Council.

Ashtrays or similar receptacles must be provided in areas where smoking takes place.

The layout of the street café must ensure that smoke does not enter the main premises.

There shall be no external public address system within the Licensed Area.

The Licence holder shall maintain good order and decent behaviour in and around the street café at all times it is open.

The Licence holder shall ensure compliance with all statutory requirements.

The Licence holder shall ensure that users of the street café comply with all current and future Public Health legislation, including Coronavirus legislation and Government guidance and advice issued and given in that respect (particularly, but not limited to, social distancing measures).

No alcohol shall be sold or consumed within the Licensed Area except in compliance with the Licensing Act 2003 or the 'off sales' element of the Business and Planning Act 2020.

The existence of the Licence does not authorise the playing of live or recorded music within the Licensed Area. The provision of any such entertainment must be in accordance with the provisions of the Licensing Act 2003.

The Licence holder shall indemnify the Council against public liability claims arising from use of the street café.

Any damage to the highway and/or Council property arising from use of the street café shall be repaired by the Council with all costs recharged to the Licence holder.

Save where the same is attributable to negligence on the part of the Council or any of its officers, the Licence holder shall make no claim or charge against the Council in the event street café furniture is lost, stolen or damaged.

SUSPENSION / REVOCATION OF THE LICENCE

At any time when £5 million public liability insurance cover is not in force in respect of the street café as required under standard condition 3, the Licence shall be deemed to have been withdrawn by the Council for the period during which such a policy is not in force, and the Licence holder may be liable for obstruction of the highway and prosecution under section 137 of the Highways Act 1980.

This condition does not in any way prevent the Council from acting in these circumstances to revoke the Licence under standard condition 40.

The Licence may be suspended or revoked by the Council at any time for breach of the conditions of the Licence, or any other reasonable cause, on giving written notice to that effect to the Licence holder.

By way of example, not limitation, such reasonable cause might exist where:

- (1) some or all of the highway to which the Licence relates has become unsuitable for any purpose in relation to which the Licence was granted.

(2) as a result of the Licence:

- (a) there is a risk to public health or safety, or
- (b) anti-social behaviour or public nuisance is being caused or risks being caused, or
- (c) the highway is being obstructed (other than by anything done by the Licence holder pursuant to the Licence).

(3) anything material stated by the Licence holder in their application for the Licence was false or misleading.

This condition does not limit the Council's discretion to deal with any breach of the conditions of the Licence otherwise than by way of suspension or revocation. The full enforcement powers are detailed within the Business and Planning Act 2020.

NATIONAL CONDITIONS

National conditions relating to 'No-Obstruction' and 'Smoke-free seating' will be effective on all licenses. Specific Conditions relating to smoke free are:

- (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
- (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.