

Statement of Licensing Policy

Pavement Licences

Business and Planning Act 2020



Version 2
November 2024

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Version Control

Version	Date	Rationale/ Brief Summary of Changes
1.0	01/06/20	Policy approved by Chief Executive
2.0	19/11/24	Policy revised in light of regime being made permanent by Levelling Up and Regeneration Act 2023

1. Background

The Business and Planning Act 2020 received Royal Assent on 22nd July 2020. Amongst other things, the Act introduced a temporary fast-track process for businesses which sold food and drink, such as bars, restaurants and pubs, to obtain permission, in the form of a “pavement licence”, from Chorley Council to place removable furniture such as tables and chairs on the pavement outside their premises, so that customers could consume food or drink from them.

Prior to this, permission to place tables and chairs was granted under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a time consuming 28-day consultation period.

The temporary measures under the Business and Planning Act brought in a cap on fees and shortened the consultation period. The temporary measures were extended by the Government on a number of occasions to allow Local Authorities to continue granting pavement licences under this scheme.

Schedule 22 of the Levelling-Up and Regeneration Act 2023 made significant amendments to the Business and Planning Act 2020, including making the temporary scheme permanent, increasing the cap on fees, increasing the consultation period and providing the licensing authority with additional power to take enforcement action against businesses which placed furniture on the highway without permission.

2. Scope

2.1 Definition of pavement licence

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

A licence can only be granted for removable furniture; if an applicant wishes to place furniture on a highway which is not removable, they would need to apply for permission under the Highways Act 1980.

2.2 Eligible Businesses

A business which uses (or proposes to use) premises for the sale of food or drink (alcohol or non-alcohol) for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

Businesses which do not use their premises for the sale of food or drink, for example, salons, are ineligible. They would need to apply for permission under the Highways Act 1980.

2.3 Eligible Locations

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

The land associated with Market Walk and Market Place in the centre of Chorley do not fall within this definition and are managed by the Town Centre team under Tenant Licences. Licence cannot be granted under the policy for these areas. The areas highlighted in red in Appendix 1 show the areas not considered to be the highway.

A pavement licence does not grant the right to permanently close a road. To do so, a pedestrian planning order, under the Town and Country Planning Act 1990, would be required.

2.3 Type of furniture permitted

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

We would also expect the type of furniture to be 'in keeping' with the local area.

2.4 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made to us and the following will be required to be submitted with the application:

- a completed Application Form which must be submitted electronically.
- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of,

for example, pathway width/length, building width and any other fixed item in the proposed area.

- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- evidence of the right to occupy the premises (e.g. the lease);
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- (if applicable) reference to any existing pavement licence currently under consideration by the local authority;
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million
- a declaration as to the truth of the contents of the application and accompanying documents and an acknowledgement that the pavement licence is liable to revocation if the application contains false or misleading statements, and
- any other evidence needed to demonstrate how the our local conditions, and any national conditions, will be satisfied.

It is the applicant's responsibility to ensure they submit all required documents. Where minor amendments to an application are required, we may "hold" an application for a short period of time to allow these amendments to be made. Where an applicant fails to make these amendments, or where an application is missing vital information, the application will be rejected.

3.2 Fees

The fee for applying for a licence under the new process are set locally but the Act sets out a maximum fee for both a new application, £500 and for a renewal application, £350. A renewal application is defined as being made by a person who already holds a pavement licence and which relates to the same premises as that existing licence.

Our fees will be published on our website and are payable on an application being submitted. An application will not be assessed until payment of the fee has been made.

Where an application is rejected, the applicant will not be entitled to a refund of the application fee. Where an application is subsequently made, the applicant will be required to pay the full fee required for that application.

3.3 Consultation

Applications are consulted upon for 14 days, starting with the day after a valid application is made to us.

We will publish details of the application on its website at www.chorley.gov.uk.

We are required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application we will consult with:

- Our Town Centre Management
- Our Environmental Health Service (including Environmental Control and Food and Safety Teams)

- Our Planning Department
- Lancashire Fire & Rescue Service
- Lancashire Police

Members of the public and others listed above can contact us to make representations.

We must take into account representations received during the public consultation period and consider these when determining the application.

3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period.

Evidence of the site notice requirement must be supplied to us.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (14 days starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 2.

3.5 Site Assessment

The following matters will be used by us and consultees in considering the suitability of the proposed application:

- public health and safety – for example, any reasonable crowd management measures needed as a result of a licence being granted, fare safety considerations etc;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
 - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
 - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
 - the impact on any neighbouring premises

- 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](#), and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

3.6 Determination

Once the application is submitted, we have 28 days from the day after the application is made to consult on and determine the application. This consists of 14 days for public consultation, and then 14 days to consider and determine the application after the consultation.

If we determine the application before the end of the determination period we can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

If we does not determine the application within the 14-day period, the application will be deemed to have been granted.

3.7 Approval of Applications

We may approve applications meeting the criteria contained within these guidelines.

On approving the application, we will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of our standard conditions, which will be attached to all Pavement Licences are shown at Appendix 3. Additional conditions may be attached if we consider it appropriate in the circumstances of any particular case.

We will generally only permit Pavement Licences between 09:00 and 21:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. We retain the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

3.8 Licence Duration

If we determine an application before the end of the determination period (which is 14 days, beginning with the first day after the public consultation period) we can specify the duration of the licence, subject to a minimum duration of 3 months.

The expectation from the Government is that we should normally grant licences for the maximum period permitted and so we shall normally grant licences for 2 years, unless there is good reason to do otherwise.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for 2 years.

3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against decision to refuse an application.

4. Conditions

Our standard conditions are set out at Appendix 3. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where we set a local condition, and where national conditions are set, then the locally set condition takes precedence over any national condition where there is reasonable justification to do so.

5. Enforcement

If any condition attached to the licence is breached, we will issue a notice requiring the breach to be remedied. A period of 7 days from the date the notice is issued will be given before any further action is considered. If a licence holder fails to remedy the breach, we may, with the consent of the licence holder, amend the licence or revoke the licence or we may take steps to remedy the breach and then take action to recover the costs of doing so.

We may revoke a licence, or amend it with the consent of the licence holder, in the following circumstances:

1. If we consider that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licensed area (or road adjacent) is no longer to be pedestrianised.
2. Or there is evidence that:
 - There are risks to public health or safety – for example where it comes to light that there are significant risks which have not been sufficiently considered, or addressed in a proportionate fashion (this will be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
 - This use of highway is causing an unacceptable obstruction, for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway; or
 - The use is causing, or risks causing anti-social behaviour or public nuisance – for example the use is increasing the amount of noise generated late at night and litter is not being cleaned up.

We may revoke a licence in the following circumstances:

1. For a breach of condition, (whether a remediation notice has been issued or not); or
2. It comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for table and chairs on which drinks could be consumed; or
3. The applicant did not comply with the requirements to affix the notice to notify the public of the application or ensure that the notice remained in place until the end of the public consultation period.

When the Council uses its powers to revoke or amend a licence clear compelling reasons will be given to the licence holder for doing so.

Removal of Furniture

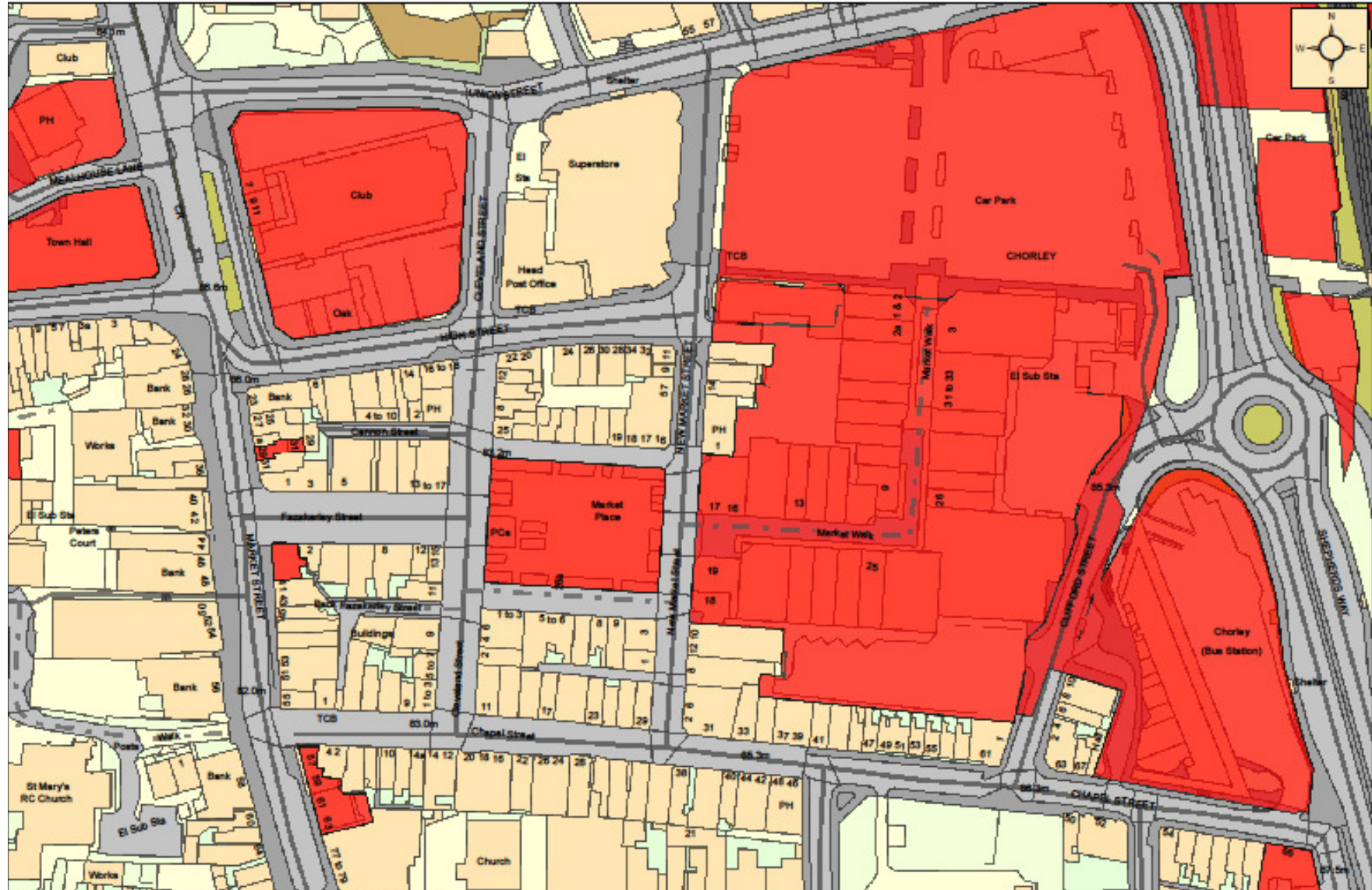
Where furniture has been placed on a highway for a purpose which would fall within the regime (ie, to sell food or drink from or for food or drink which has been supplied from the premises to be consumed on) without the required licence, the Council will give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they are granted a licence. If furniture continues to be placed on the highway, in violation of the notice, the Council will remove and store the furniture, recover the costs for the removal and storage of the furniture and refuse to return the furniture until the costs have been paid.

If within 3 months of the notice, the costs are not paid, the Council will dispose of the furniture by sale or other means and retain the proceeds.

6. Review Procedures

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement Licences generally or as a result of local considerations within the Chorley Borough.

Town Centre CBC ownership and adopted highways



Sample Site Notice

BUSINESS AND PLANNING ACT 2020

Application for a Pavement Licence

[NAME OF PREMISES]
[FULL ADDRESS OF PREMISES]

TAKE NOTICE, **[applicant name]**, has made an application on **[DATE]**, pursuant to Section 1(1) of the Business and Planning Act 2020, for a Pavement Licence to be granted in respect of the premises detailed above.

[Days and times during which it is proposed to place street furniture on the highway]

A copy of the application can be viewed at the Civic Offices, Union St, Chorley, PR7 1AL or online at www.chorley.gov.uk

Any person who wishes to make representations in relation to this application must do so in writing to Licensing, Civic Offices, Union St, Chorley, PR7 1AL, contact@chorley.gov.uk or by the online portal. Representations must be made within the public consultation period which ends **[DATE which is 15 days after the day on which the application is made]**.

Standard Pavement Licence Conditions

Published conditions for the purposes of Regulation 5(2)

1. Being the licence holder of a Pavement Licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that Chorley Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause. This may mean that the pavement licence will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
2. Chorley Council requires evidence that the licence holder has Public Liability Insurance for the operation of the Pavement Licence. This must indemnify Chorley Council and Lancashire County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.
3. Tables and chairs must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside a premises away from the highway.
4. Chorley Council and/or Lancashire County Council are empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored. The Council will not be responsible for its safekeeping.
5. The licence holder is not to make or cause to be made any claim against Chorley Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
6. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
7. The method of marking the boundary of the licensed area must be agreed between the licence holder and the Licensing Department. Whatever method is agreed a 2 metre clear walkway must be maintained for the use of pedestrians.
8. Emergency routes to the premises and adjacent buildings must not be obstructed by the pavement furniture, which should not, in normal circumstances, extend beyond the width of the premises frontage.
9. Tables and chairs should be of an approved type and should be kept in a good state of repair. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council. Patio heaters must not be used.

10. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.
11. The licensee should ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises, is minimised.
12. The operation of the area must not interfere with highway drainage arrangements.
13. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed in advance with the Highway Authority Lancashire County Council and evidence of such agreement produced to Chorley Council by the licence holder on demand..
14. All detritus (food and drink remnants, spillages, bottles, cans, wrappers, cigarette ends etc) be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the Facility, for a distance of up to 10 metres from the boundary of the Facility. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
15. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc, will be recovered in full from the licence holder by Chorley Council or the Highway Authority.
16. The Licensee of a premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcohol within licensed area.
17. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcohol within the area authorised by the pavement licence outside the hours in force for the premises itself.
18. The licence must be displayed on the premises with a plan of the agreed layout in clear view.
19. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.
20. Without prejudice to the obligation contained in Condition 3, the licence holder must cease to place any tables, chairs and other furniture immediately at the end of the licence period or on revocation of the licence.
21. Chorley Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.

Scheme of Delegation

Function	Officer	Comments
Grant of Licence and imposition of non-standard conditions	Authorised Officer under Licensing Act 2003	Where no representations made or where representations recommend imposition of conditions.
Grant of Licence and imposition of non-standard conditions	Authorised Officer under Licensing Act 2003 in consultation with Chair of the Licensing and Public Safety Committee	Where representations made which recommend the refusal of licence.
Refusal to grant licence	Authorised Officer under Licensing Act 2003 in consultation with Chair of the Licensing and Public Safety Committee	All cases
Issue of Improvement Notice	Authorised Officer under Licensing Act 2003	All cases
Revocation of Licence	Authorised Officer under Licensing Act 2003 in consultation with Chair of the Licensing and Public Safety Committee	All cases