

Notice of Non-Key Executive Decision

Subject Heading:	To introduce an enforcement fee for non-purchase of a pavement licence issued under the Business & Planning Act 2020
Decision Maker:	Councillor Barry Mugglestone Cabinet Member for Environment
Cabinet Member:	Councillor Barry Mugglestone Cabinet Member for Environment
SLT Lead:	Helen Oakerbee, Director of Planning
Report Author and contact details:	Oisin Daly Senior Public Protection Officer (Trading Standards & Licensing) Tel. 01708 433661 Email: Oisin.Daly@havering.gov.uk
Policy context:	Business and Planning Act 2020 Levelling Up and Regeneration Act 2023
Financial summary:	Currently, there are no fees set for enforcement charges payable by unlicensed street traders to the authority for the removal and storage of furniture. Legislative changes mean in order for enforcement to be carried out, unlicensed traders must be given

Non-key Executive Decision

	<p>notice of the cost of removal and storage.</p> <p>There is no anticipated income as enforcement and furniture removal will be a last resort. The authority ultimately aims to achieve compliance.</p>
Relevant OSC:	Place
Is this decision exempt from being called-in?	<i>The decision will be exempt from call in as it is a Non key Decision</i>

Non-key Executive Decision

The subject matter of this report deals with the following Council Objectives

People - Supporting our residents to stay safe and well	X
Place - A great place to live, work and enjoy	X
Resources - Enabling a resident-focused and resilient Council	X

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval to:

1. Set fees for enforcement costs related to the removal of furniture under the Business and Planning Act 2020:

Fixed fee -

Removal of unlicensed tables and chairs: £499

and the variable fee -

Storage of furniture: £66 per week per 75ft² of floor storage

AUTHORITY UNDER WHICH DECISION IS MADE

3.2.5

(x) To approve all in year changes to both fees and charges.

STATEMENT OF THE REASONS FOR THE DECISION

Business and Planning Act 2020:

Introduced during Covid, Section 1 of the legislation permitted hot food and drinks be consumed on the public highway, at tables and chairs and outside premises who had obtained a pavement licence.

The legislation was annually extended before being made permanent under Schedule 22 of the Levelling Up and Regeneration Act 2023 on the 31st March 2024.

As part of the amendments, the BPA 2020 included at section 7(A) enforcement powers and consequences:

7A Enforcement

(1) The following provisions of this section apply where—

(a) a person puts removable furniture on a relevant highway for a purpose specified in subsection (2), and

Non-key Executive Decision

- (b) the person is not authorised to do so.
- (2) The purposes referred to in subsection (1)(a) are—
 - (a) use of the furniture by the person to sell or serve food or drink supplied from, or in connection with relevant use of, premises which are adjacent to the highway and are used or proposed to be used by the person;
 - (b) use of the furniture by other persons for the purpose of consuming food or drink supplied from, or in connection with relevant use of, such premises.
- (3) The local authority may by notice require the person—
 - (a) to remove the furniture before a date specified in the notice, and
 - (b) to refrain from putting furniture on the highway unless authorised to do so.
- (4) If the person leaves or puts removable furniture on the relevant highway in contravention of the notice, the local authority may—
 - (a) remove the furniture and store it,
 - (b) require the person to pay the authority's reasonable costs in removing and storing the furniture, and
 - (c) refuse to return the furniture until those reasonable costs are paid.
- (5) If within the period of three months beginning with the day on which the notice is given the person does not pay the reasonable costs, or does not recover the furniture, the local authority may—
 - (a) dispose of the furniture by sale or in any other way it thinks fit, and
 - (b) retain any proceeds of sale for any purpose it thinks fit.
- (6) In this section "authorised" means authorised by—
 - (a) a pavement licence,
 - (b) permission under Part 7A of the Highways Act 1980, or
 - (c) permission granted under any other enactment

In addition to the legislation, guidance has been issued by the Department for Levelling Up, Housing and Communities: [Pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/pavement-licences)

Non-key Executive Decision

7.2 When can furniture be removed?

In cases where furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, local authorities can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

If furniture continues to be placed on the highway, in violation of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid. If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

OTHER OPTIONS CONSIDERED AND REJECTED

1. The Council does not agree to charge for storage.

This option was rejected, the authority will incur costs through the storage and removal of unlicensed goods. In addition, the financial penalty acts as both a motivator to get licensed and as a deterrent to ensure compliance.

2. The Council decides offer a reduced fee for storage and removal.

This option was rejected, costs have been calculated on cost recovery for officers time and storage costs based on fair market value for similar units on a cost per sqm.

PRE-DECISION CONSULTATION

The implementation of the enforcement fees and charges was discussed with the Head of Service and Team Leader responsible for Licensing.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Non-key Executive Decision

Name: Oisin Daly

Designation: Senior Public Protection Officer (Trading Standards & Licensing)

Signature: *Oisin Daly*

Date: 07/02/2025

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has a duty to administer the pavement licensing scheme under the Business and Planning Act 2020.

s7A of the Business and Planning Act 2020

Under s7A(3) of the Act, if a person without a pavement licence to do so places tables and chairs on the pavement to sell or serve food or drink supplied from, or in connection with a premises and other persons use those tables and chairs to consume that food or drink the local authority may serve a notice on the person requiring them to

- (a) remove the furniture before a date specified in the notice, and
- (b) refrain from putting furniture on the highway unless authorised to do so.

Under s7A(4) of the Act if the person fails to comply with the Notice the local authority may—

- (a) remove the furniture and store it,
- (b) require the person to pay the authority's reasonable costs in removing and storing the furniture, and
- (c) refuse to return the furniture until those reasonable costs are paid.

Under s7A(5) of the Act, if the person fails to pay those reasonable costs or recover the furniture within 3 months of the service of the notice the local authority may—

- (a) dispose of the furniture by sale or in any other way it thinks fit, and
- (b) retain any proceeds of sale for any purpose it thinks fit.

In exercising its functions under s7A of the Act the council should have regard to the guidance issued by the government (see section 8 of the Act).

When considering and carrying out the above enforcement action local authorities must also have regard to the Public Sector Equality Duty under the Equality Act 2010 and the impact that street furniture which has been unlawfully placed on the pavement without a licence may have on those with protected characteristics, particularly the disabled, the elderly and those with mobility needs

Non-key Executive Decision

Any businesses which apply for a pavement licence will also need to have regard to their own duties under the Equality Act 2010, such as their duty under section 29 of the Act not to discriminate in providing their service and the duty to make reasonable adjustments.

FINANCIAL IMPLICATIONS AND RISKS

Item/description	Amount of Officers	Officer Hours	Cost Per Hour for each Officer	Total (£)
Pre-Administration	1	2	33	66
Attending Officers	3	3	33	297
Vehicle rental				70
Owner recovery of furniture and administration	1	2	33	66
Total				499

Storage Costs

min cost per week for up to 75 ² ft storage				66
--	--	--	--	----

The above calculations detail costs which the local authority may recover from businesses in cases where businesses are in violation of the local authority's issued notice, requiring the business to remove unlicensed furniture by a specified date or obtain a licence.

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

The published fees and charges will be updated to read:

Income Source	Charges 2024/25	Charges 2025/26	Operative Date of Latest Notified Charge	Basis of Increase
	(from April 2024)	(from April 2025)		
	£	£		
Pavement Licence (Business and Planning Act 2020)				
New Application (Two-year Licence)	500.00	500.00	22/07/2024	D
Renewal Application (Two-year Licence)	350.00	350.00	22/07/2024	D
Removal of unlicensed Tables and Chairs		499.00	01/04/2025	NEW
Storage of furniture per week up to 75 ² ft of floor space		66.00	01/04/2025	NEW

Officer hours have been calculated to obtain full cost recovery and are therefore subject to change per agreed payawards/changes to pension and National Insurance.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no HR implications and risks associated, the scheme is currently administered by the licensing department within Public Protection.

Non-key Executive Decision

--

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The guidance details:

Local authorities must have regard to the Public Sector Equality Duty, under the Equality Act 2010 when devising and implementing the new licensing regime, which includes the need to have due regard to eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act. Any businesses which apply for a pavement licence will also need to have regard to their own duties under the Equality Act 2010, such as their duty under section 29 of the Act not to discriminate in providing their service and the duty to make reasonable adjustments.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

Not applicable

BACKGROUND PAPERS

N/A

APPENDICIES

N/A

Non-key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed: *Barry Mugglestone*

Name: Cllr Barry Mugglestone

Cabinet Portfolio held:

CMT Member title:

Head of Service title:

Other manager title:

Date: 12/03/2025

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____