



Guidance for Licenced Premises regarding the use of new or novel outdoor spaces during the Coronavirus 19 pandemic in Spring/Summer 2021

On the 5th March the Minister of Housing, Communities and Local Government advised that during step 2, no earlier than 12th April pubs cafes and restaurants will be able to reopen with table service outdoors. The following changes were announced.

- The current fast track pavement licences procedure will be extended until September 2022. This process was brought in July 2020 through the Business and Planning Act 2020.
- Planning permission for outdoor events such as summer fairs and markets will be relaxed
- The right to do takeaways and deliveries will be extended
- Pubs can have marquees and awnings without planning permission

The above amendments will be clear once they are tabled before Parliament.

Roadmap to Lifting COVID-19 Restrictions

The Government has set out a roadmap over the next five months, which will gradually lift the restrictions on the hospitality sector. The steps in the lifting of the lockdown restrictions are detailed within the Government [COVID-19 Response –Spring 2021](#). Step 2 will enable hospitality venues to provide outdoor food and drinks with no requirement for a substantial meal to be served alongside alcoholic drinks but to be served in accordance with the permitted hours on the licence and provided that:-

- (a) the food or drink is ordered by, and served to, a customer who is seated outdoors on the premises, and
- (b) the person takes all reasonable steps to ensure that the customer remains seated outdoors whilst consuming the food or drink on the premises.

A person responsible for carrying on a restricted business, or providing a restricted service, in the Step 2 area and which does not serve alcohol for consumption on the premises may sell food or drink for consumption on the premises only if the person takes all reasonable steps to ensure that the customer remains seated outdoors whilst consuming the food or drink on the premises.

The references to food or drink being for consumption on the premises include a reference to consumption on an area adjacent to the premises of the restricted business or restricted service:

- (a) where seating is made available for its customers (whether or not by the business or the provider of the service), or

- (b) which its customers habitually use for consumption of food or drink served by the business or service.

Supporting Hospitality Venues

To support our licensed premises take advantage of these relaxations we have produced the following guidance which highlights what you need to do when considering providing new or novel outdoor spaces for customer seating including balconies, carparks, pavements, adjoining gardens, public green spaces etc.

COVID-19 Compliance

- Follow the relevant [Government guidance](#) with respect to your business. Please note that the guidance is regularly updated. Areas you will need to consider are, social distancing, QR codes, cleaning regimes, staff PPE, spacing of tables etc.

Risk Assessments

- You must undertake a risk assessment to ensure that your business operation is COVID-19 secure. The HSE has produced guidance for business operators [on what to include in your COVID-19 risk assessments](#).
- Please ensure that you provide a copy of the COVID-19 secure risk assessment to all staff and ensure that they understand the mitigation measures you have put in place.
- Ensure that your venue continues to adhere to any newly assessed capacity limits and that physical distancing of individuals and groups is possible. The minimum safe social distancing for the venue must be 2 metres unless this is not possible. In that case 1 metre with appropriate mitigation is acceptable.
- Provide signage to customers at your venue relating to social distancing, payment, queuing, hand cleansing, toilets, capacity and that customers should not enter if they have any coronavirus (COVID-19) symptoms
- Protect staff wellbeing by ensuring that you put in place adequate safety and hygiene measures as well as ensuring workers are complying with health advice and are not unwell.
- Be prepared to work with the council's Public Health department, Environmental Health Officers (Food and Safety Team) and the NHS in the event of a case of coronavirus (COVID-19) in a staff member or patron, or an outbreak affecting your business.

Permission to use the land

Check to see if you are permitted to use the potential space for licensable activities. If the land is not yours seek written permission from the landowner.

Planning Consent

Although the Government has temporarily relaxed some planning restrictions you need to check for the specific space you propose to use as there may be restrictions in place with respect to hospitality use.

If you need to obtain planning permission, please visit the Council's website to submit your application.

[Merton Council](#)

[Richmond Council](#)

[Wandsworth Council](#)

Premises Licence Operating Schedule

- Check your permitted hours and conditions on your Licence
- Off-sales of alcohol - Please note that the Licensing Act 2003 was amended by the [Business and Planning Act 2020](#) to include a new section (section 172F) that automatically grants premises with a licence for on-sales only permission to provide off-sales for customers to take away up to 11pm, without the need to apply or notify the council. There are some exemptions to this extension, for example premises that have previously had an application for off-sales refused, or where permission for this revoked. Businesses with club premises certificates are also excluded from this. If you have any questions relating to the relaxation of off-sales for alcohol licensed premises, please contact the Licensing Team by e-mailing: licensing@merton.gov.uk
- Al Fresco Dining - You are reminded to ensure that your customers remain seated in al fresco dining areas and that off-sales do not encourage vertical or street drinking. Pavement Licences may be revoked if outdoor diners do not remain seated at all times
- Temporary Event Notices (TENs) – If you would like to sell/supply alcohol for an occasional event on another property that is not licensed, you can apply for a TEN. Further guidance on TENs and form is available on the Council websites or you can e-mail the Licensing Team: licensing@merton.gov.uk.
- Application to vary a Premises Licence – If want to change the licensing hours and conditions on your licence, you can submit a variation application to the Licensing Authority. Further guidance and relevant application forms are available on the Council websites.

Promoting the Licensing Objectives

We want businesses to operate safely but also to be mindful of the impact of reopening on residents and other businesses in the area. We would like to remind you of your responsibilities as an operator to ensure that you continue to promote the Licensing Objectives (The prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm) at all times your premises are open for business.

You should put measures in place to ensure that any customers drinking and/or smoking outside the premises are behaving in an orderly way and are supervised by staff and/or security. This will help prevent any public nuisance or obstruction of the public highway

Public Safety

There are a number of issues to consider with respect to the safety of your customers when using the new outdoor space:

- Access and egress, safety from traffic and potential spilling onto adjacent roads.
- Use of polycarbonate vessels – These are recommended in all outdoor spaces. Refillable plastic vessels are ideal.
- Can your staff see customers when seated outdoors from inside the premises? How would you deal with an incident such as an assault or robbery?
- The new location and access routes must be adequately lit at all times customers are present.
- Managing capacity and group bookings – Your capacity should be based on the number of people you can host whilst complying with measures set out in the guidance. If you have a Pavement Licence, a capacity for the outdoor dining space is listed on that licence. If you exceed that capacity, you risk having your Pavement Licence revoked.
- Door staff - You should risk assess how many door staff you think you will need to manage outdoor areas and any queues that may form and to prevent entry to people who have not booked or when the premises have reached full capacity. It may be the number you assess to be sufficient is less than your licence condition due to your capacity being greatly reduced

Public Space Protection Order

You premises may be located in a Controlled Drinking Zone under the Public Space Protection Order. Please note that this Order makes it an offence for anyone who, without reasonable excuse, fails to surrender any alcohol in their possession when asked to do so by a police officer, police community support officer, or authorised officer from the council. If you intend to provide alcohol for consumption off the premises in unsealed containers, you may need to apply for a Pavement Licence or tables and chairs licence to allow people to drink outside your premises. Alcohol in open containers must only be consumed while seated in line with the licensing conditions.

Please advise your customers that authorised officers of the Council and the Met Police will be taking enforcement action against individuals for street drinking in any area that has a Public Spaces Protection Order in force.

Noise Nuisance

You need to consider whether the new space will potentially lead to noise complaints from local residents. We recommend you implement an outdoor noise management policy for any new locations including a terminal hour of 11.00pm at the latest. Further information and guidance can be obtained from the Council's website

[Merton Council](#)

[Wandsworth Council](#)

[Richmond Council](#)

Facilities

We recommend for comfort and to prevent anti-social behaviour that toilet facilities are available for your customers during the period of time that only outdoor hospitality is permitted – stage 2. These could be your indoor toilets accessed in a covid safe manner or separate serviced portaloos within the outdoor space.

Street Trading and Pavement Licences

If you are offering any goods or services on or within than 7 metres of the public highway, you may need a Street Trading licence under the London Local Authorities Act 1990 (as amended).

If you wish to place tables and chairs on the pavement outside your premises, a Pavement Licence under the Business and Planning Act may be applicable. Please seek advice if you think either apply in your circumstances. Full information and application forms are available on our websites

[Merton Council](#)

[Richmond Council](#)

[Wandsworth Council](#)

Health Act 2006

It is against the law to smoke in virtually ‘enclosed’ and substantially enclosed’ public places and workplaces.

You need to comply with the Health Act 2006 and ensure that outdoor smoking area is not considered substantially enclosed. Further advice can be found in the guide from Smoke Free England.

If you wish to erect outdoor shelters for your customers, you must contact Planning Section to check if you need to obtain a planning permission. To be considered ‘outdoors’, shelters, marquees and other structures can have a roof but you need to ensure that at least 50% of the area of their walls are open at all times whilst in use. You can allow customers to use toilets located inside.

If you have a Pavement Licence, you need to comply with the national smoke-free condition or any locally set condition imposed on the licence. Please note that the national condition is: “Where the furniture on the relevant highways 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

This guidance had been compiled by the Regulatory Services Partnership serving Merton, Wandsworth and Richmond Councils and is based on government guidance and should not be taken as either the most up to date guidance or as legal advice. You should endeavour to follow the latest government guidance, which changes regularly. You may wish to take independent legal advice.