

Wolverhampton City Council

Committee / Panel

LICENSING COMMITTEEDate: **12 DECEMBER 2012**

Originating Service Group(s)

EDUCATION & ENTERPRISE

Contact Officer(s)/

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Title/Subject Matter

**POLICY FOR THE MANAGEMENT OF A-BOARDS,
TABLES AND CHAIRS AND GOODS ON THE
HIGHWAY**

Recommendation

Councillors are asked to:

- (i) Consider the consultation responses in relation to the draft policy for the management of A-Boards, tables and chairs and goods on the highway, as attached at Appendix A to this report.
- (ii) Approve and adopt the policy for the management of A-Boards, tables and chairs and goods on the highway, as attached at Appendix B.

POLICY FOR THE MANAGEMENT OF A-BOARDS, TABLES AND CHAIRS AND GOODS ON THE HIGHWAY

1.0 Purpose of Report

1.1 The purpose of this report is for Councillors to:-

- (i) Consider the responses to the consultation on the draft policy for the management of A-Boards, tables and chairs and goods on the highway, as attached at Appendix A to this report.
- (ii) Approve the policy for the management of A-Boards, tables and chairs and goods on the highway - Appendix B.

2.0 Background

2.1 On 7 December 2011 Cabinet received a report titled: *'Taking forward the management of the city centre public realm'*. The report detailed a range of measures aimed to secure improvements in relation to a number of public realm issues in the city centre.

2.2 Within the report were sections on both A-Boards and tables and chairs, outlining the background, current position and proposed approach.

2.3 Cabinet endorsed the recommendations of the report, including proposed fee revisions for A-Boards and tables and chairs which were subsequently presented to the Licensing Committee for approval.

2.4 On 11 January 2012 Licensing Committee agreed the fee of £25 for applications to place A-Boards, tables and chairs and goods on the highway.

2.5 Whilst the Cabinet report detailed above focussed solely on city centre issues, the regulation of A-Boards, tables and chairs and goods on the highway is a city wide matter which now comes under the control of the Licensing Committee.

2.6 Existing Policy was set in 2006 by Planning Committee but owing to concerns over the impact on business's ability to and promote their services was never implemented.

2.7 On 27 June 2012 the Licensing Committee received a report on the draft policy for the management of A-Boards, tables and chairs and goods on the highway. The report recommended a consultation period of twelve weeks, ending 28 September 2012, be commenced in order to allow as many interested parties as possible the opportunity to comment on the proposals.

3.0 Policy

3.1 A draft policy has been developed outlining the approach the Council will adopt when considering applications to place A-Boards, tables and chairs and goods on the highway. The policy is attached at Appendix B to this report.

- 3.2 As part of the development of the policy Licensing Services carried out a Systems Thinking intervention to try and ensure a streamlined application and compliance process for these functions. In order to preserve businesses need to advance and market their services, the proposals have been developed on a general presumption to grant applications. This has involved detailed dialogue with businesses, the general public and a variety of other stakeholders.
- 3.3 The key aspects of the policy include:
- A general presumption to grant applications where the provisions of the policy can be met.
 - The aim to help establish a sensible management regime for these items rather than introduce a scheme based primarily on prohibition.
 - A minimum of 1.5m clearance from obstructions or the carriageway will be required for any items to be placed on the highway.
 - There is a proposal that businesses will normally only be permitted one A-Board per outlet.
 - A-Boards will generally only be permitted directly outside the premises to which the board belongs.
 - To help foster a 'café culture' and to maximise the use of available space, applications for tables and chairs enclosures will take precedence over other applications to place items on the highway.
 - Within the city centre the only goods that would be permitted to be displayed outside premises are florist displays.
 - Public Liability Insurance is required for all applications.
 - The fee level for A-Boards, tables and chairs and goods on the highway is kept to a minimum; the current fee agreed by Licensing Committee on 1 February 2012 is set at £25. An additional fee of £7.00 is applicable to applications that are not directly outside the applicants premises; this is due to additional advertising and consultation cost incurred by the Council.
- 3.4 There is no statutory requirement for the Council to publish a licensing policy for goods on the highway. However, a policy can assist with consistent decision making and can be adopted provided it does not prevent any individual application from being considered on its merits at the time the application is made.
- 3.5 The policy will not be applicable to commercial bins placed on the highway as these have been controlled successfully in partnership with businesses through a separate regulatory approach for several years. This approach has recently been through a review process and remains the preferred option to dealing with commercial bins. Should it become necessary in future to incorporate commercial bins into the broader management regime for items placed on the highway; this will be subject to a review of the policy and agreement by Licensing Committee.

4.0 Consultation Arrangements

- 4.1 The consultation followed the Government's best practice and was fair, transparent and proportionate allowing parties twelve weeks to submit responses. The Council consulted as widely as possible and published the consultation document on the Council's website. The summary of the consultation responses are attached at Appendix A to this report.
- 4.2 The Council consulted with a number of statutory bodies, including (but it was not limited to):
- West Midlands Police
 - West Midlands Fire Service
 - Safer Wolverhampton Partnership
 - WCC Development Control
 - WCC Street Scene Services
 - WCC Access Officer
 - WCC Transportation Services
- 4.3 The Council also sought to consult widely with the business community both in writing and by attendance at various forums; in order to engage with the following groups:
- Licensing Forum
 - Market Traders Forum
 - WVOne
 - Bilston Traders Forum
 - City Centre Pubwatch
 - Wednesfield Traders Forum
 - Black Country Hotels Association
 - Chamber of Commerce
 - Association of Small Retailers
- 4.4 In addition to the groups detailed above the Council pro-actively sought views from a variety of safety and disabled access charities.

5.0 Consultation Responses

- 5.1 The consultation process generated twelve written responses and thirty seven verbal comments; this is in addition to the views of over 200 businesses and visitors that were spoken to prior to the consultation as part of the Systems Thinking intervention when developing the initial draft.
- 5.2 The responses cover a wide range of issues and where appropriate revisions have been proposed to the draft policy. The draft policy is attached at Appendix B to this report and revisions following the consultation are highlighted in bold and italics.
- 5.3 A complete set of all of the responses received has been made available in the Members library.

6.0 Proposed Application Process

- 6.1 As mentioned above there is a general presumption to grant where an application is compliant with the policy. It is proposed that the process is as streamlined as possible and applications that conform to the policy requirements are granted by front line officers following the statutory 28 day public consultation.
- 6.2 Initially, for all applications, a simple one page form and the appropriate fee is all that businesses will be required to submit to Licensing Services, they will also be required to display a notice in the window of their premises for 28 days.
- 6.3 Applications that are not compliant with the policy or attract objections from the public will not be automatically refused, instead these applications will require an individual assessment and will be determined by the Section Leader, Licensing, in consultation with appropriate stakeholders.
- 6.4 For these applications, Licensing Services will request further information regarding the aspects that are outside the agreed policy and the reasons for this. For example, this would allow at some locations A-Boards that are taller and thinner than the agreed dimensions in the policy because they would reduce the space taken at locations where the passageway is narrow and/or there is high footfall.
- 6.5 For all applications there will be an opportunity for all parties to request a review of the decision, which will be considered by the Licensing Manager.

7.0 Implementation

- 7.1 Following agreement of the policy by the Licensing Committee it is proposed that the management scheme is initially introduced in the city centre.
- 7.2 Businesses will be engaged through written correspondence, face to face visits and public meetings. Officers from Licensing Services and the Environmental Health (Commercial) Central Team will provide individual support to all businesses that are required to apply for permission. This process will commence following the policy being agreed by Licensing Committee.
- 7.3 To enable as many businesses as possible to comply, implementation will take place over the remainder of 2012/13 and no enforcement action is proposed until after 1 April 2013. Even at this stage businesses will continue to be offered a high level of support to ensure they are compliant. This approach is in accordance with the recent measures to the Regulation and Compliance Policy approved by Cabinet on
- 7.4 Prior to implementation a complementary communications plan, including a media briefing, will be delivered.
- 7.5 It is proposed that following implementation in the city centre the next scheme will be rolled out to cover all other areas of the city. It is envisaged that this process will commence in the Spring of 2013, however these timescales will be subject to the success of the city centre implementation.

8.0 Legal Implications

- 8.1 The regulation of both A-Boards, tables and chairs and goods on the highway is derived from Section 115E of the Highways Act 1980 which provides that a Council may grant permission to a person to use objects or structures placed on, in or over a highway for certain purposes. Power to grant a permission is subject to consent being obtained from interested frontages, as defined by the Act.
- 8.2 Consent cannot be unreasonably withheld (s115J) and a Council shall not exercise powers conferred under s115E unless they have first published a notice giving details of any application and considered any representations made in response to this (s115G).
- 8.3 Conditions may be placed on any permission in accordance with Section 115F of the Highways Act 1980 and they should be such conditions as the Council think fit and appropriate and can include requiring the payment of a reasonable charge or fee.
- 8.4 Failure to comply with conditions imposed on the permission may result in action being taken by the Council to remedy the breach (s115K). [SH/23112012/N]

9.0 Financial Implications

- 9.1 It is envisaged that the fee of £25 for applications should cover administrative costs of processing non contentious applications. [ES/30102012/U]

10.0 Equalities Implications

- 10.1 The regulation of A-Boards, tables and chairs and goods on the highway will have potential equalities implications, particularly relating to access issues.
- 10.2 An EIA has been developed for this function and has been reviewed as part of the consultation process.

11.0 Environmental Implications

- 11.1 There are environmental implications arising from this report relating to the public realm and the control of activities on the highway.

12.0 Background Papers

- 12.1 *'Taking Forward the Management of the City Centre Public Realm'*

WCC Cabinet, 7 December 2011.

Appendix A - Summary of Responses to Consultation

Ser	Name	Response to Draft Policy	Comment
1	Sport 'n' Tackle	<ul style="list-style-type: none"> • Detrimental to small businesses 	Noted
2	Ben Pearce, General Manager Riley's	<ul style="list-style-type: none"> • Would legislation cover storm boards as well as A- boards? • Would they be exempt from needing a permit? 	Revisions made on page 5
3	Elizabeth Wood Neville Garratt Centre	<ul style="list-style-type: none"> • Nuisance and dangerous to disabled (wheelchair users) and visually impaired people • They can blow over in the wind-safety risk. • Welcome idea that they must be positioned a certain distance from the building, but footpaths vary in width- can lead to confusion. • Tables and chairs outside shops- good if regulated and if there was a tapping rail around the bottom of the "barrier". 	Noted appropriate revisions made to policy
4	Mr Jaswinder Singh Local Businessman	<ul style="list-style-type: none"> • Boards should be outside their own business 	Noted appropriate revisions made to policy
5	Oliver Wassall Service Manager Environmental Health [Commercial]	<ul style="list-style-type: none"> • As a part of the process for permitting tables and chairs in the city centre [Wolverhampton] I feel that enclosures are provided around any seating provision and that this should be in keeping with the amenity of the area and our street scene aspirations. To this end enclosures including planted floral displays would be acceptable. We are currently working with a number of city centre business using this as a model and, on the basis we have sourced very cost effective providers of barriers, planters and the floral display material. 	Noted appropriate revisions made to policy
6	Marise Astley, Compliance Officer, Environmental Health [Commercial]	<ul style="list-style-type: none"> • Could we promote flower planters as an alternative to A-boards and whether they can be placed against the build line as opposed to the proposal for them being in the middle of the pavement? If this is acceptable. • As part of the proposal each business is allowed one 'advertising planter' outside their premises. If they wanted to have a planter on either side of the entrance would this be allowed and would there be an additional charge as "street furniture" ? 	Have made reference to planters and other items placed by businesses on the highway outside A-Boards, however not considered appropriate to promote planters above other items.
7	Steve Woodward Street Scene Services	<ul style="list-style-type: none"> • Street furniture obstructing an enclosure is likely to become more common. 	Noted appropriate revisions made to policy

		<ul style="list-style-type: none"> In order for an application to be successful, street furniture will need to be relocated. Issues: can we authorise this and who pays for the relocation. Answers: asset manager would need to authorise the relocation and the applicant pays for the works. 	
8	Jo Till Licensing Officer	<ul style="list-style-type: none"> Could the policy state that it's an advertising board just for clarity? Within the definition of goods on the highway can this be clearer that the items must be sold as part of the business otherwise it could cross over into street trading. Fees / making an application - permission will be for 12 months. Will this change the current arrangement for tables and chairs that the permit runs from [1 April to 31 March and the renewal dates will vary]. Does the additional cost fee of £7 for placing notices need to be agreed by the Licensing Committee? If the application is not directly outside the premises can the consent be obtained during the consultation? Can an interested party withhold their consent? What if consent cannot be received prior to submitting the application? Location- how far out can the goods go? Do the goods have to leave a minimum clearance from street furniture? The applications will need amending to ask what the usage of the area is for. 	Noted appropriate revisions made to policy
9	Cheryl Welsh Bilston Town centre Manager	<ul style="list-style-type: none"> Can it be a £25 fixed annual rate set for 3 years? Can A- boards be a certain size/ quality/ standard so they look tidy? 	Fee already reduced to reflect streamlined application process
10	Kim Gilmour City Centre Manager [WVOne]	<ul style="list-style-type: none"> Agree that tables and chairs take precedence over A- boards and goods on the highway. Fees – these seem reasonable – renewal annually again reasonable. 	Noted appropriate revisions made to policy

Kim Gilmour
City Centre Manager
[WVOne]

- Making an application – would suggest that an application form is hand delivered or posted to each establishment in the city centre that currently has an A board.
- There is no effective way of communicating with multiples or independents so to expect people to download to get their first licence would be too much.
- I would anticipate a low response but would suggest that instead of enforcement after 1st April 2013 (or prior to this time) that information is given to the traders on how to apply.

- Clearance from obstruction – I don't think this is clear – do you mean 1.5 m on either side, do you mean it should be placed against the property and cannot be if the pavement is narrower than that.
- I think it looks quite neat in places to see the A board against the frontage otherwise we could end up with boards being placed at all different distances from the property so not much better than we have now.
- There needs to be guidance in pedestrian areas (Dudley Street and Queen Square in particular but all areas) that A boards should not be placed on the part of the highway that is designated as vehicle access – for emergency vehicles and bank deliveries. I think a picture of acceptable and unacceptable positioning might be useful in the final document.
- Consultation – how can you ensure that where the item is not outside the premises that other businesses get the opportunity to comment. For example we have a cafe placing an A board on the other side of Lichfield Street outside the Art Gallery. Would it be possible to stipulate the furthest from your premises that an A board could be placed? Perhaps make exceptions for those that are located up alleys.
- There is the general nuisance value of boards placed in clusters at key points (like the crossroads of Dudley Street and King Street and outside the Mander centre) these are areas of high footfall but no one is 'in charge' so no one may respond if there is just a notice fixed to a lamp post for

		<p>example. Could you write to the surrounding businesses or is that too onerous.</p> <ul style="list-style-type: none"> • Interested frontages – it does not really explain how that consent is obtained. • Locations – could also mentions alleys, side roads as well as first floor – but I guess that opens up a lot of debate about whether King and Queen Street are side roads to Dudley Street. • Agree with the general presumption that only one A- board is allowed although I think businesses should be allowed two where they have seasonal or changing offers. Would it be possible to limit the number to a maximum of 2? • It is still very very cheap and some businesses might be happy to apply for four A- boards. Not sure how you would word this but they would have to make a business case for a second board. <ul style="list-style-type: none"> • Goods on Highway – Zone 1 agree with the display sizes which would permit fruit and veg and flowers for example but not sofas! • A board conditions – 2. How will you check insurance. • 7. How do permit holders indemnify (is that by signing the application on both of these points?). • 9. Permission disc – I can see this falling off with the weather if not strong enough but could also be too hard to remove when the new disc is issued. • 14. Maybe explain lamp posts, benches, directional signs. • 15. Maybe explain or put picture – I assume this is the bumps where pavements are lowered – this is a very LA description. • Tables and chairs conditions – as above and 4. Maybe explain the level of supervision – I assume it does not mean someone has to be outside at all times – or is this the same as 7? 	<p>Quantitative analysis of responses reflected where appropriate in revisions made to the policy</p>
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11	Bilston Town Centre Residents/Businesses	<ul style="list-style-type: none"> • Should businesses be restricted to having just one A Board? Yes – 17, No 15, 7-didn't mind (should have as many as required to get trade into shops but dependents on available space and size of street) • How do you feel about bulky items, such as furniture or food products, such as raw meat, being displayed outside shop frontages? 12- against (causing an obstruction and unappealing appearance of the items with health issues of unpacked foods), 20- for (people did not have a problem as it advertised what the business was selling), 1-No comment. Do you feel 1.5 metres is sufficient clearance to enable all pedestrians, including wheelchair users, to move freely and safely along the highway? 28 people thought it was enough – 1 of which was using a wheelchair, 2 using a Motability scooter, 3 pushing a pushchair and 1 elderly lady using a stick as support. One or two of these gave the proviso that care was taken exactly where this was, as 1.5 metres from the next obstacle could mean in the middle of the walkway or how busy the area was. 8 people did not think it was enough – none of which were using a wheelchair, Motability scooter or pushing a pushchair, however these groups were of concern to the people who thought this. One person suggested 2 metre may be better. 1-No comment. Overall most thought 1.5 meters was ok. Those with doubts worried about double pushchairs. • Do you think the Council should control the number of items / objects placed on the highway? Yes-29 to prevent it from getting out of hand. No-6 All businesses should have enough room to advertise. 2-didn't mind. 1-No comment • Should it be a requirement that 'A' boards be placed up against or away from the build line (premises frontage)? 17- against shop as they would be a trip hazard if placed further away from the build line. 11-away from the build line. Whole purpose is to draw attention to the shop from the street. 2- Didn't mind, 2 -No Comment & 5 - Depends on street. • Do you have any other comments to add or any questions? A few people mentioned the quality of the pavements and one business owner said he felt so strongly against paying for his A boards he said he would take his business out of Wolverhampton. Some thought businesses should be left alone during these hard times and the council should focus on more important issues. 	
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12	Bob Willis Transportation	<ul style="list-style-type: none"> It is appropriate in streets where street furniture already exists that items are placed away from the build line and placed near to the curb in line with the existing street furniture. Where there is absence or minimal street furniture then it may be permissible to place items along the build line 	
13	Responses received through Paula Lewis Access Officer Wolverhampton City Council in relation to planters	<ul style="list-style-type: none"> Ann Mathews – They are made of wood; they have handles and must be taken in at night. The plants are in a plastic insert and can be removed to make the planters lighter for transporting them inside. There is a concrete weight in the bottom to counterbalance the plants at the top to make them sturdier. The whole thing without the plants weigh about 25-27 kilo's so are light enough that two people can easily move them inside at night. With the plants they are in excess of 30 kilo's so are not easily tipped (although I appreciate that if someone really wanted to they could be). There are a selection of colours including a cream, sky blue and a light green. If businesses want to have other colours then that is ok but it will be at an additional cost. As for location they would only be placed where there is room and would not cause obstructions. The planters are not the only option just an alternative. Businesses that have been shown the planters have been interested, the idea is that a chalk board or plastic frame is attached to the fronts so that offers can written or posters displayed. The planters are also 1 metre tall and from what I have seen the advertising would be at roughly the same height. Barry – The planters are not permanent and can be moved. They are 1 metre tall without the plants and are 35 cm square so will obstruct onto the pavement less than an A board. If the boards are up again the build line they have three sides available for advertising. With regards to restricted access they will only be put out where appropriate. Where there is very restricted pavement we are currently considering a kind of long window box which can be bolted to shop fronts which we anticipate will only stick out 	Noted appropriate revisions made to policy

approximately 20 cms (the idea being that a wooden pole slots underneath and advertising boards can slot on. The poles and boards and plants can again be taken in at night). As for people with allergies to flowers there is already a large amount of floral displays in the city centre. It is not anticipated that every premises will go with the planters it is just another option. The businesses themselves pay and look after the planters themselves (and they are much cheaper than A-boards) There is a maintenance contract available where the plants are replaced by Pendeford Tree Nursery when necessary and winter planting is also available.

- **David M Bates** – The bottom of the planters have been lowered and are less than 20 mm from the floor. The planters are 1 metre tall. The top of the planter has a removable plastic insert which holds the plants this holder has rounded edges which covers the corners at the top. The planters will be taken in at night and we are hoping to have them against the build line if appropriate. With regards to the handles they need to be provided so that they can be taken in at night and they are difficult to hide. Once the plants are removed they can be easily moved by two people but with the plants in situ they are quite heavy and I doubt young children would be able to move them. As for adults... where there is a will there's a way!
- **Chris Painter** - There are other colours available and so a contract in colour to the building background can be recommended.
- **Elizabeth Wood** – Each location is checked individually and we do seek advice from Paula and Amjid in Highways re their concerns. The chalk board will not be bigger than the planter front so there will be no protrusion.

		<ul style="list-style-type: none">• Gemma Carrington – We are only putting this forward as an alternative at the moment and that is why we asked Paula to canvas the various organisations for their initial comments. If the general consensus is positive then we will trial the idea and place some planters on the highway to see what the actual issues are. We would be delighted for your assistance and comments should this trial take place.	
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Wolverhampton
City Council



**A-Boards, Tables and Chairs
and Goods on the Highway**

DRAFT POLICY

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2. Introduction

Retail areas within the city have much to offer by way of creating an ambience that makes them attractive to shoppers and visitors alike. The Council recognises this and wishes to encourage traders to promote their business activities in a way which both enhances the street scene re-invigorates the city and is sensitive to the needs of highway users.

The Council views all items placed by businesses on the highway as an obstruction to other highway users. However, it is proposed within this policy to allow businesses to apply to the Council under the Highways Act 1980 to obtain permission to place A-Boards, Tables and Chairs and Goods on the Highway. Any application should satisfy the criteria detailed within this policy and any requirements under general law. Following the implementation of this approach any item or items placed on the highway without the benefit of appropriate permission will be deemed an obstruction of the highway.

In addition to obstructing the highway such items can potentially also have an adverse effect on the city's streets and shops. It is for these reasons that the Council in consultation with key stakeholders and local businesses has produced this policy and guidelines to better manage and control the impact such items have on pedestrian safety and the public realm.

In order to help stimulate the regeneration of the city centre and foster a café culture, applications for Tables & Chairs will take precedence over applications for A-Boards or Goods on the Highway.

In formulating this draft policy the Council has consulted with statutory consultees and a wide range of businesses and individuals. The Council is grateful for the help, support and advice given by all those who contributed to this process and helped shape this draft policy.

This is a 'living document' that will be modified and developed over time to reflect changing circumstances. The Council will consider representations from statutory bodies and individuals that propose changes to the policy.

What we are seeking to achieve

“ENSURE THE HIGHWAY IS SAFE AND TIDY”.

It is hoped to achieve this through:

Introducing a management scheme to

- work with traders to promote their businesses in a way which improves the streets;
- allow pedestrians to move freely through a clear, obstacle-free network of streets;
- ensure the safe and free movement of pedestrians especially visually impaired and disabled people;

- improve the quality of streets in line with the current management of the public realm.

A permit will be required for any of the following activities:

- A- Boards [One application for each A-Board]
- Tables and Chairs
- Goods on the Highway

This is to ensure that they are properly set up, managed correctly and operated in a way that benefits the business, and enhances the shopping area and does not cause a problem for other users of the highway.

It is proposed to stagger the implementation of this policy across the city; details of this implementation can be found at Section 4 of this policy.

This policy is applicable to items placed by businesses on any public highway. Items placed on private land are not subject to controls under the Highways Act 1980, however businesses are advised to be mindful of the principles outlined in this policy as other legislation, such as the Health and Safety at Work Etc Act 1974.

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3. Definition of A-Boards, Tables and Chairs and Goods on the Highway

What are A-Boards, [**Advertising Boards**] Tables and Chairs and Goods on the Highway

A-Boards and other general items



A selection of Advertising Boards (A-Boards) is shown above. Further details of the acceptable sizes of A-Boards can be found at Section 6 of this policy.

Other items that would require a permit include:

- ***Storm boards***
- ***Planters – (unless part of a tables and chairs enclosure)***
- ***Advertising sails***
- ***Mannequins***
- ***Shopping trolleys***

[This is not an exhaustive list]

Tables and Chairs



Tables and Chairs or street cafés are areas of the highway used by businesses to provide facilities for customers to sit in a specified area, the Council would usually expect that such facilities are enclosed, do not detract from the amenity of the area and meet a standard that ensures there is no obstruction to highway users.

Further guidance regarding applications for Tables and Chairs on the highway can be found at Section 6 of this policy.

Goods on the Highway

Goods placed on the Highway by businesses can include the display of flowers, groceries, newspapers and other items outside retail premises on the highway. This list is not exhaustive and the Council may seek to restrict the items it is willing to permit to be placed on the highway if it believes that there is the potential for certain items to detract from the amenity of an area and create a nuisance.

Further guidance regarding applications on Goods on the Highway can be found at Section 6 of this policy.

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4. **Zoning of Areas Across the City and Implementation Dates**

To assist with the implementation of this policy the city has been divided into zones, these are as follows;

Businesses wishing to place A-Boards, Tables and Chairs and Goods on the Highway in each of the zones detailed below will be required to obtain permission by the following date(s).

Zone 1	City Centre [inner ring road]	1 April 2013
Zone 2	Bilston Town Centre	1 November 2013
Zone 3	Tettenhall Centre	1 November 2013
Zone 4	Wednesfield Town Centre	1 November 2013
Zone 5	Remaining areas	1 April 2014

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5. Fees and Making an Application

Fees and Duration of Permission

The application fee is £25 per year for a permission to place an A-Board, Tables and Chairs or Goods on the Highway.

Applicants wishing to apply for permission to place more than one A-Board on the highway will be required to submit an application for each A-Board together with a fee of £25 per application.

This fee was set by the Licensing Committee on 11 January 2012 and is subject to an annual review.

Permissions will apply for up to twelve months from the implementation dates detailed at Section 4 of this policy; a renewal application will be required to continue a permission into the following year. **Permits for the City Centre will run from 31 March to 1 April each year**

Making an Application

Those wishing to place A-Boards, Tables and Chairs and Goods on the Highway from the implementation dates detailed at Section 4 must obtain permission from the Council.

To apply for permission please download and complete the relevant form attached. It is recommended that applicants liaise closely with Licensing Services before an application is submitted in order to obtain advice on the application process.

Where it is identified that in order for an application to be granted this would require the removal/relocation of street furniture, this must first be agreed by Transportation Services. Any such works would then be carried out by Street Scene services [soon to be known as Public Realm services] would require the applicant to pay in advance of the works being done. In such circumstances licensing services will only grant permission subject to completion of any works agreed by Transportation Services.

Section 6 of this policy contains guidance to applicants and should be read prior to submitting an application.

Contact

Wolverhampton City Council
Licensing Services
Reception 14
Civic Centre
St Peters' Square
Wolverhampton
WV1 1DA

licensing@wolverhampton.gov.uk

or telephone 01902 551155

In certain circumstances an application may be granted subject to the relocation/removal of existing street furniture. In such circumstances permission will be required from the Highways Authority and any associated costs will need to be met by the applicant.

6. Applicants Guidance

All applicants are advised to read these guidelines prior to submitting their application(s). Whilst applications that comply to these guidelines will generally be granted, failure to do so does not necessarily mean an application will be refused as each application will be determined on its own merits.

Further guidance can be obtained from Licensing Services (details available at Section 5).

In addition to these guidelines any permission granted will be subject to standard conditions detailed at Appendix A-C.

(i) General Guidance for all Applications

Clearance from Obstructions

In all cases where an application is made to place items on the highway there will be a general presumption applicants will be required to **ensure that a minimum of 1.5 metres is available on the footway for pedestrians from the items placed on the highway to the nearest obstruction and/or carriageway.**

Location

Items must not be placed on the highway in such a way as to cause a visual obstruction to pedestrians or drivers.

Items must not be placed on the highway in areas where tactile paving is provided.

Consultation

All applications are required to be subject to public consultation.

A form is attached which must be completed and displayed at your business (if the application is for items directly outside) in a location that is clearly visible to highway users.

If the application is for an item or items that are not directly outside your premises then Licensing Services will need to place a notice(s) in the area to which the application pertains, there will be an additional cost of £7.00 for each such application(s).

The notice must remain in place for a period of no less than 28 days. Failure to comply with this requirement will result in the application being rejected and application fees are non-refundable.

Interested Frontagers

Where an application for an item is not directly outside your own business frontage you are required to obtain the consent of the frontagers with an interest in the application.

Interested frontagers are occupiers of any premises outside which the items applied for would be placed. In the case of items placed directly outside the applicants own business this consent is not required.

(ii) **A-Boards**

Location

On a traditional road and pavement A-Boards should not normally be placed against the build line of the business, while maintaining a minimum of 1.5 metres clearance from any obstruction and/or the carriageway.

It is appropriate in streets where street furniture already exists that items are placed away from the build line and placed near to the curb in line with the street furniture. Where there is an absence of/or minimal street furniture then it may be permissible to place items along the build line, while maintaining a minimum of 1.5 metres clearance from any obstruction(s) and/or where not directly against the build line or existing street furniture.

A-Boards generally should only be placed outside the applicants own business, as such, advanced directional A-Boards are not considered appropriate in most locations. There may be exceptions to this, such as where a business is based on a first floor and has no visible frontage.

Where an application is not for a location that is directly outside the applicants premises a street plan at scale 100:1 or 50:1 will be required showing where it is proposed to place the A-Board and the nearest obstructions and/or carriageway.

There is a general presumption that business will only be permitted one A-Board.

The A-Board

A-Boards should be no more than 1.25m metres in height and 0.66 meters in width.

(iii) **Tables & Chairs**

The Council is keen to encourage a café culture in retail areas across the city and as such Tables and Chairs applications will take precedence against other items placed on the highway.

Enclosure

Tables and Chairs should normally be within an enclosure, ***these may be constructed with planters***. Applicants are asked to provide details of the enclosure with their application.

The point of access/egress to the enclosure must be at least 1.2 meters wide.

The material used in the enclosure should be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.

The enclosure should be of a solid nature and have a minimum height of 1.0 metre up to a maximum of 1.2 meters above ground level, ***and must include a tapping rail***. Rope barriers are not usually permitted. The material used should offer good colour contrast from the floor. Light paving should have a dark coloured enclosure and tarmac / dark paving should have a light coloured enclosure. Livery is permitted on the enclosure. However certain types of advertising may require additional planning consent and guidance should be sought from Development Control (01902 551155).

In exceptional circumstances, permission will be considered for those wishing to anchor enclosures, but will be subject to the tables and chairs being removed at the end of each day. These requests will be subject to consultation with landscapers, the use of an approved contractor and permission being obtained from the Highways Authority. Applicants will be expected to meet the cost of such work and also provide payment in advance for reinstatement. Requests of this nature should be made in writing to Licensing Services or by email to licensing@wolverhampton.gov.uk

Plan

All applications to place Tables and Chairs on the highway should be accompanied by a plan at scale 100:1 or 50:1 and will be required to show where it is proposed to place the Tables and Chairs, the enclosure and the nearest obstructions/carriageway.

(iv) **Goods on the Highway**

Goods on the Highway displayed by businesses can, where placed appropriately and in keeping with the local amenity and street scene, greatly add to the offer of retail area, they can provide businesses with

an opportunity to display their produce to passing customers and can help establish a unique identity for a particular shop or street.

Location

The display of Goods on the Highway must not block any points of access/egress to the premises or any fire exits.

Displays of Goods on the Highway will not normally be permitted that extend beyond the applicants premises and overlap adjoining businesses.

Zone 1 – City Centre

Within the city centre Goods on the Highway are generally not permitted as they are not in keeping with the amenity of the area or the street scene and as such are considered detrimental and a nuisance.

However where the requirements detailed below can be met florist displays may be permitted in non-pedestrianised areas as they can enhance the street scene.

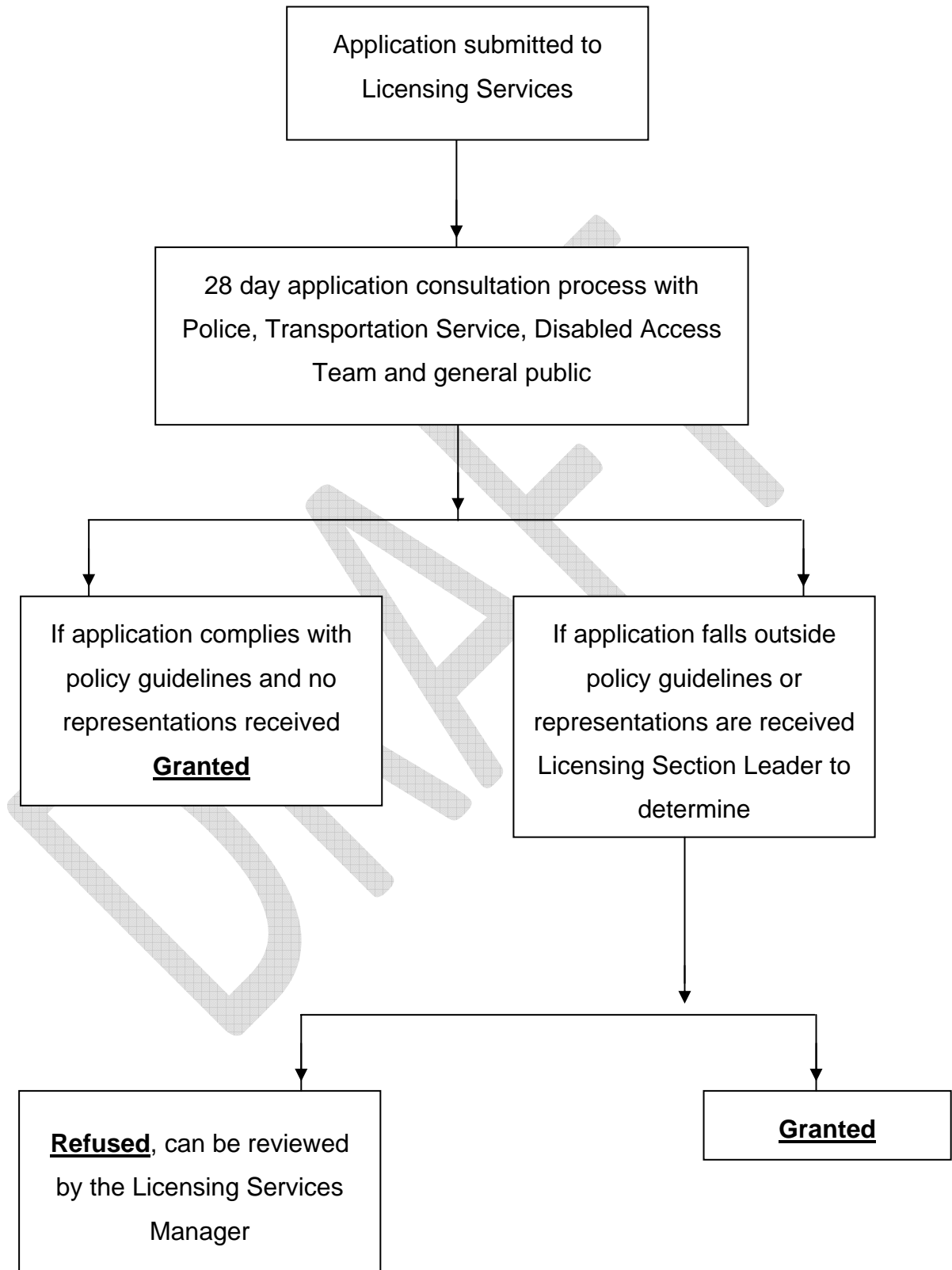
- The display must not extend beyond 1.0 metre of the build line of the premises.
- The display must not extend beyond 1.5 metres in height.

Other Zones

There are no restrictions on trade lines displayed in other zones; however applicants will be required to meet the following criteria:

- The display must not extend beyond 2.0 metres of the build line of the premises.
- The display must not extend beyond 1.5 metres in height.

7. Application Flow Chart



APPENDIX A

8. A-Board Conditions

1. The conditions attached to the A-Board permit may be varied and added to by the Council at any time.
2. The permit holder must always have a valid insurance policy for public liability for at least £5,000,000 covering the area subject to application.
3. No A-Boards should be placed on the highway before 0800 hours (***for businesses with earlier opening hours a written request can be made***).
4. The A-Board must be removed at the end of the daily trading.
5. The permit holder shall ensure that any equipment included in the permission is safe and presents no risk to members of the public and in particular:
 - that the A-Board is in good repair and stable at all times.
6. The permit holder must ensure adherence to any direction from the Council on livery, advertisements and logos.
7. The permit holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the permit except where any claim in respect of such injury damage or loss is attributable to the negligence of the Council.
8. Any damage to Council property caused as a result of the permit holders activity will be repaired by the Council with all costs recharged to the business in question.
9. The permit must be available at the premises and the accompanying permission disc clearly displayed on the A-Board.
10. The permit holder agrees that the permit may be suspended if the Council is required to make the permitted area available for any event, works, or issues of public safety or any other reason it requires the area for.
11. The permit holder shall remove the A-Board for an identified period at the request of an authorised officer of the Council or a police constable.
12. All items placed on the highway shall be free-standing. No drilling or excavation of the highway shall be permitted.
13. The A-Board shall not exceed 1.25 metres in height and 0.66 metres in width.
14. The A-Board should not be fixed by any means to other items of street furniture (ie. lampposts, benches, directional signs etc).
15. The A-Board should not be placed on tactile paving, ***[raised textured paving areas to assist the visually impaired]***.

16. The A-Board should not be placed in such a way as to obstruct the visibility of motorists or pedestrians crossing the carriageway.
17. The Council may withdraw this permission at any time for any other reason than those stated above.

It must be emphasised that the Council in issuing permission cannot, and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing any object on the highway.

The following is taken from the Highways Act 1980 in respect of failure to comply with the terms of the permission to place an A-Board on the highway:

(1) If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.

(2) If a person on whom a notice is served under subsection (1) above fails to comply with the notice, the council may take the steps themselves.

(3) Where a council have incurred expenses in the exercise of the power conferred on them by subsection (2) above, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under subsection (1) above was served. (s115K).

APPENDIX B

8. Tables and Chairs Conditions

1. The conditions attached to the Tables and Chairs permit may be varied and added to by the Council at any time.
2. The permit holder must always have a valid insurance policy for public liability for at least £5,000,000 covering the area subject to application.
3. The permit holder shall not allow the area to be used for any purpose other than that detailed in the granted permit. The layout of the area as detailed at the time of application must be maintained unless expressly permitted otherwise in writing by the Council.
4. The area where the permit applies must be supervised at all times if the permit allows the sale and consumption of alcohol. **It should be noted that the provision of a Tables & Chairs permit does not enable the sale of alcohol to be permitted. To do so will require a licence under the Licensing Act 2003.**
5. Tables and chairs should be sited so that they are clearly visible from inside the premises, **with the exception of areas permitted for the consumption and sale of alcohol where Condition 4 applies.**
6. The permitted area must be kept clean and clear of all debris during the permitted hours. The provision of suitable litter bins/ ashtrays should be made available.
7. The enclosure, tables, chairs and other permitted items must be removed at the end of the permitted hours.
8. The permit holder shall ensure that any equipment included in the permission is safe and presents no risk to members of the public and in particular:
 - that all tables and chairs are in good repair and stable;
 - any parasol and umbrella are fully secured to prevent them being dislodged; and
 - the area to be used is defined and protected in the manner prescribed by the Council with regards to material, colour and dimensions.
9. The permit holder must ensure adherence to any direction from the Council on livery, advertisements and logos.
10. The permit holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the permit except where any claim in respect of such injury damage or loss is attributable to the negligence of the Council.
11. Any damage to Council property caused as a result of the permit holders activity will be repaired by the Council with all costs recharged to the business in question.

12. No music or entertainment is to be provided in the area permitted for tables and chairs.
13. The permit must be displayed in a prominent position as near as reasonably possible to the permitted area ideally on the door or window of the premises.
14. The permit holder agrees that the permit may be suspended if the Council is required to make the permitted area available for any event, works, or issues of public safety or any other reason it requires the area for.
15. Any heaters and/or electric lighting must be installed by a competent person and conform to IP65 for outdoor use.
16. The hours of trading shall be as determined on the permit.
17. The permit holder shall remove all or part of the tables and chairs for an identified period at the request of an authorised officer of the Council or a police constable.
18. All items placed on the highway shall be free-standing. No drilling or excavation of the highway shall be permitted.
19. The Council may withdraw this permission at any time for any other reason than those stated above.

It must be emphasised that the Council in issuing permission cannot, and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing any object on the highway.

The following is taken from the Highways Act 1980 in respect of failure to comply with the terms of the permission to place tables and chairs on the highway:

(1) If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.

(2) If a person on whom a notice is served under subsection (1) above fails to comply with the notice, the council may take the steps themselves.

(3) Where a council have incurred expenses in the exercise of the power conferred on them by subsection (2) above, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under subsection (1) above was served. (s115K).

APPENDIX C

8. Goods on the Highway Conditions

1. The conditions attached to the Goods on the Highway permit may be varied and added to by the Council at any time.
2. The permit holder must always have a valid insurance policy for public liability for at least £5,000,000 covering the area subject to application.
3. The permitted area must be kept clean and clear of all debris during the permitted hours.
4. No items to be placed on the highway prior to 0800 hours.
5. The permitted items must be removed at the end of the daily trading.
6. The permit holder shall ensure that any equipment included in the permission is safe and presents no risk to members of the public and in particular:
 - that all items are in good repair and stable.
7. The permit holder must ensure adherence to any direction from the Council on livery, advertisements and logos.
8. The permit holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the permit except where any claim in respect of such injury damage or loss is attributable to the negligence of the Council.
9. Any damage to Council property caused as a result of the permit holders activity will be repaired by the Council with all costs recharged to the business in question.
10. The permit must be displayed in a prominent position as near as reasonably possible to the permitted area ideally on the door or window of the premises.
11. The permit holder agrees that the permit may be suspended if the Council is required to make the permitted area available for any event, works, or issues of public safety or any other reason it requires the area for.
12. The permit holder shall remove all or part of the items for an identified period at the request of an authorised officer of the Council or a police constable.
13. All items placed on the highway shall be free-standing. No drilling or excavation of the highway shall be permitted.
14. ***The permit only allows the display of items on the highway, not the sale of goods. It is intended that where transactions take place on the highway, a street trading consent may be required. Advice can be sought from Licensing Services.***

15. The Council may withdraw this permission at any time for any other reason than those stated above.

It must be emphasised that the Council in issuing permission cannot, and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing any object on the highway.

The following is taken from the Highways Act 1980 in respect of failure to comply with the terms of the permission to place goods on the highway:

(1) If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.

(2) If a person on whom a notice is served under subsection (1) above fails to comply with the notice, the council may take the steps themselves.

(3) Where a council have incurred expenses in the exercise of the power conferred on them by subsection (2) above, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under subsection (1) above was served. (s115K).