



LEGAL

Clifton Davies Consultancy Ltd

Clifton Davies Consultancy Limited specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. The views expressed by David Clifton and Suzanne Davies are given without any assumption of liability on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct. **E:** dc@cliftdavies.com / sd@cliftdavies.com **W:** cliftdavies.com

Al fresco time is coming soon!

Suzanne Davies advises how you and your customers might benefit from the joys of spring

Spring is coming! Trust me, it is. It does every year and I, for one, can't wait. Neither should you wait if you want your customers to be able to sit at chairs and tables on the public pathway outside your licensed premises, but don't yet have a licence permitting this. It can take time to get such a licence and the process is made trickier because different rules and requirements exist in different parts of the country.

Dependent on the procedural rules of your local authority, you might need to apply for a pavement licence, a pavement café licence, a tables and chairs licence, a highways licence or permit, an al fresco dining licence, a street trading licence and/or planning permission. Placing tables and chairs on a public footpath without the necessary permission can result in a hefty fine.

Your starting point is to establish whether the area outside your premises on which you want to place tables and chairs is in fact owned by you or by the premises licence holder. If so, things are likely to be rather more straightforward, although you should nevertheless still establish whether use of the area in question for customers' tables and chairs might constitute a breach of your lease (if applicable), any applicable restrictive covenant affecting the land in question or the existing planning consent.

Very importantly, also check whether any condition imposed on your premises licence would prohibit or restrict either the sale or consumption of alcohol outside your premises. If this is the case, dependent on the wording of the condition in question, you may need to apply to vary your licence.

However, if the external area on which you wish to place tables and chairs is owned by the local authority, it will constitute a public highway over which a public pedestrian right of way exists and, regardless of the terms of your premises licence, you will need express permission to use it as an external customer drinking and/or dining area for your own business purposes.

If it transpires that an application for planning permission is required, you should allow at least eight weeks to elapse from the date of submission of the application for completion of the process. Bear in mind too that while European style al fresco café culture might sound appealing, it can constitute something very different when located on a British high street, at least in the eyes of local businesses and residents resenting the noise, obstruction, litter and other nuisances they imagine will inevitably result.

Even if only applying for the requisite licence or permit, you'll need plans showing such matters as the position of street furniture (such as lamp posts, bollards, parking meters and signs) and trees, the intended location of tables and chairs and other items such as umbrellas, heaters and barriers.

You will need to (a) ensure that no emergency exits or access points for emergency vehicles are blocked, (b) take account of the width of the footpath as it is not unusual for there to be a minimum clearance of at least 1.8 metres between the kerb and the tables and chairs, and (c) fully consider service methods, security and other risk implications.

Good luck. You know where I am if you need me (and mine's an Aperol Spritz) 

QUESTIONS & ANSWERS

Q: The council says I need to display a section 57 notice in my bar. What's that?

A: It's a notice required by section 57 of the Licensing Act 2003 that must state the position held by the person working at the premises who has been nominated by the premises licence holder to have responsibility for custody of the premises licence (or a certified copy) in your bar. Usually that person will be the DPS or the bar manager. The notice must be prominently displayed in the bar.

Q: Can I provide bingo in my pubs without getting a gambling licence?

A: Yes you can, but subject to the following rules. You cannot make any profit from the bingo, so don't charge a participation or admission fee or take any cut from the stakes or prizes. The maximum bingo stake permitted is £5 per person per game and all stakes paid must be returned as prizes. The chances of winning a prize must be equally favourable to all players. You must have controls in place to prevent any under-18s from playing and you must not link up the bingo games in one of your pubs with bingo games taking place in any of your other pubs. The DPS of each of your pubs must ensure compliance with the Gambling Commission's 'Code of practice for equal chance gaming in clubs and premises with an alcohol licence' (available on its website) and must notify the Commission if the total stakes or prizes for bingo games played in any seven day period exceed £2,000 (either in money taken or prizes awarded). If this happens a second time within a year, bingo licences will be required.

Q: Have application forms for personal and premises licences changed?

A: Yes, but the changes extend to premises licence transfer application forms and interim authority notices as well. The new forms came into effect on 28 January 2019 and enable individual applicants to demonstrate their right to work in the UK when applying for a licence. You'll find them on the gov.uk website.