



COMMERCIAL PROPERTY

Street Furniture Licences for Outdoor Dining

by **Emer Wilkie**

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Local Authorities Respond to COVID-19.

The recent decision by the Government to move the country to Level 5 of its [Resilience and Recovery 2020-2021: Plan for Living with COVID-19](#) has dealt another blow to the struggling hospitality sector.

Under the current Level 5 restrictions restaurants, cafes and bars may provide takeaway and delivery services but dining services (both indoor and outdoor) are not permitted. While it is hoped that the Level 5 restrictions will only be in place until the start of December, it is clear that any easing of these restrictions will be a gradual one. On that basis, it is likely that restaurants, cafes and bars will be able to provide dining services, but the nature of this dining service may be limited to outdoors only (such as in the Level 3 restrictions and some versions of those in Level 4).

Assuming the Government's plan to ease Level 5 restrictions by the start of December is successful, for many operators, the option to offer outdoor dining on the footpath or street outside their premises may be a lifeline that will enable them to trade during the busy Christmas period.

Is an Outdoor Seating Area an Option?

Depending on the boundaries of the premises, the approval of the local authority through a Street Furniture Licence may be required to provide outdoor dining services at many premises.

Local authorities have moved quickly to assist businesses in this regard, by automatically renewing existing Street Furniture Licences, and introducing Temporary Street Furniture Licences for businesses that did not have an existing licence. Local authorities have also waived fees for Street Furniture Licence renewals and Temporary Street Furniture Licence for 2020.

The starting point for any restaurant or hospitality business is to check the maps and/or plans attached to their title or lease documents to ascertain if the outdoor area immediately adjoining premises is within their boundaries.

Where the outdoor area falls within the boundaries of the premises, the area may be privately owned, and therefore a Street Furniture Licence from the local authority may not be required to use the outdoor area. In such circumstances, where the restaurant operator is the outright owner of the premises, they may use the area as an extension of their business. However, where the operator is a tenant, the lease should be reviewed to confirm if the tenant has the right to use the outdoor area and the consent of the landlord may be required.

Where the outdoor area is owned by (or in the charge of) the local authority, the operator can apply for a Street Furniture Licence. Cafes, restaurants, hotels bars and pubs can avail of Street Furniture Licences, which typically permit business operators to place furniture such as tables, chairs and barriers outside of their premises and to provide an outdoor dining service to customers in this area.

It is important to note that regardless of whether a Street Furniture Licence is required or not, the operator will still need to comply with all aspects of planning and liquor licensing legislation when installing an **outdoor seating area**.

Application Process

In order to avail of a Street Furniture Licence, the business must prove that the outdoor area is under their control, is suitable for accommodating a seating area, and that the business is able to serve food and beverages to the public which are suitable to be consumed at that location.

The steps for applying for a Street Furniture Licence are as follows:

- The business arranges a meeting with a representative from their local authority's Street Furniture Unit at the location so that the outdoor area can be assessed.
- The business publishes a notice in a national newspaper of their intention to apply for the licence (details of the applicant, the premises, the number of tables and size of the outdoor area should be included).
- The business places a notice on the premises in a manner which is visible to the public and which summarises the content of their application.
- The business completes the Street Furniture Licence Application Form (available from each local authority's website) and pays the associated licence fee, if required. Fees for Street Furniture Licence renewals and Temporary Street Furniture Licences have been waived for 2020.
- The local authority processes the application and where appropriate, the licence will be granted. In assessing the application, the local authority will have regard to the impact of the outdoor furniture on the neighbouring properties and the street, the health and safety of customers and pedestrians in the area, and adherence to social distancing guidelines.
- The business must then put in place relevant public liability insurance to indemnify the local authority and provide confirmation of this to the local authority.

Once the above steps are completed and the licence is granted, the business may proceed to provide an outdoor dining service in accordance with the licence, the general conditions of the local authority and any specific conditions the local authority may attach to the licence.

Expiration Date

The licence period for a Street Furniture Licence is twelve months and is renewable on an annual basis. Street Furniture Licences which were due to expire in 2020 were automatically extended for a period up to six months and will expire on the end of 2020. The same expiration date applies to Temporary Street Furniture Licences.

At the time of writing, local authorities are advising that Temporary Street Furniture Licences and any existing Street Furniture Licences which were automatically renewed, will expire at year end. However, as uncertainty continues over the likely duration of the Covid-19 Pandemic, it may be the case that local authorities will continue to automatically renew existing Street Furniture Licences and will grant additional Temporary Street Furniture Licences until the outlook becomes clearer.

Street Furniture Licences, which may once have been an afterthought for many businesses, will now play a vital role in authorising operators of restaurants, cafes and bars to continue to trade once COVID-19 restrictions begin to ease. Street Furniture Licences are likely to retain their importance as more cautious customers may have a preference for outdoor seating, even when indoor dining is an option again.

If you would like any further information, please contact Emer Wilkie at ewilkie@lkshields.ie.

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