

**WRITTEN RECORD OF A DECISION IN RESPECT OF AN EXECUTIVE FUNCTION TO BE COMPLETED BY THE RELEVANT DECISION-MAKER**

**SECTION A**

**DATE OF DECISION:** 27<sup>th</sup> July 2020  
**PORTFOLIO AREA:** Legal and Democratic Service (Licensing)  
**SUBJECT TITLE:** Amendment to the Council's Licensing of Chairs and tables on the Highway Scheme pursuant to the Business and Planning Act 2020

**SECTION B – IDENTITY OF THE “DECISION-MAKER”**

**The Leader:** Councillor P North

Under Delegated Powers as set out in Part 3 of the Constitution under ‘Functions retained by the Leader, Deputy Leader Delegations to the Deputy Leader and Portfolio Holders’ provision (2) (e):

(2) That subject to the Council's Constitution, the Leader retains the following functions:

(e) the determination (within the Budget and Policy Framework set by full Council) of all matters relating to executive functions delegated to the Cabinet, to Portfolio Holders or to officers, where there is no convenient meeting of the cabinet or individual available (or willing) to exercise their delegated power.

**SECTION C – THE DECISION**

**That:**

1. The Head of Legal and Democratic Services is delegated authority to amend the Council's Scheme for the Licensing of Tables and Chairs on the Highway to take account of the provisions of the Business and Planning Act 2020 ('the Act').
2. Until 21<sup>st</sup> September 2021 (when the provisions of sections 1-9 of the Act expire) the Council will not require a fee to accompany applications for Licences for the placing of Chairs and Tables on the Highway.

**SECTION D – REASONS FOR THE DECISION**

**The Decision-maker's reasons for making the decision recorded in Section C:**

The Building and Planning Bill 2020 received Royal Assent on 22<sup>nd</sup> July 2020 and immediately passed into law; The Business and Planning Act 2020 ('the Act').

The Head of Legal and Democratic Services currently holds delegated power to “amend the scheme of the Licensing of Tables and Chairs on the Highway, save for any significant amendments which shall be referred to the Cabinet.”

The Act contains several amendments or refinements to the current regime including introducing a shortened public consultation period of seven days (section 2(4) of the Act). The Act also significantly shortens the period for determination of applications to seven days beginning with the first day after the ending of the public consultation period and provides for deemed issue of a licence in the event that the application is not determined within the determination period (sections 3 (9) and (10) of the Act).

The Act also limits the fee chargeable for a Chairs and Tables on the Highway application to £100 (section 2 (1) (c)). The Council currently requires a fee of £199. In order to support businesses and town centres in their recovery from the impact to trade of the COVID 19 pandemic, the Council will not charge a fee for applications for Licenses for Tables and Chairs on the Highway until the end of September 2021 when the charging restriction imposed by the Act ends. Based on historic applications it is unlikely that the financial impact of the fee waiver will exceed £1000 per annum, though of course this cannot be guaranteed if the volume of applications increases.

The Act came into force on 22<sup>nd</sup> July 2020. The changes required to the scheme cannot be said to be insignificant (in particular, the reduction in fee) and therefore are a matter for Cabinet. The Council's Licensing Scheme should be updated immediately to reflect the provisions of and to give applicants the benefit of the Act. There is no convenient meeting of Cabinet to consider this matter; the next meeting of Cabinet is on the 9<sup>th</sup> of September 2020. Neither does any officer or member hold delegated power to make a significant change to the Scheme. Therefore, in order that the Council's Scheme can be amended in accordance with the Act and a revised payment introduced, the Leader makes the decision set out at C above under the powers delegated to him.

**SECTION E – DETAILS OF ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

The alternative option of not changing the Council's scheme in accordance with the Act would leave the Council with a scheme and charging regime incompatible with the law and was therefore rejected.

**SECTION F – OTHER RELEVANT MATTERS CONCERNING THE DECISION**

None

**SECTION G – CONFLICTS OF INTEREST DECLARED AND DISPENSATIONS GIVEN**

Tick  ONE only, and complete the details if necessary

\*The decision-maker(s) / \*Any Member of the Executive consulted in taking the decision did not declare any interest in the matters which is the subject of this decision.

\*The decision-maker / \*A Member of the Executive taking the decision / \*A Member of the Executive consulted in taking the decision declared an interest in the Matters set out in the report and as detailed below:

Nature of Interest:

Personal

Disclosable Pecuniary Interest

Details:

\* Delete as applicable

NB: If an interest is prejudicial and no exceptions apply, the person who has declared such an interest must be recorded as leaving the room and taking no part in the decision.

Leader:

Phil North (signed electronically)

Dated:27<sup>th</sup> July 2020

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Councillor Phil North (Leader)  
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