

TABLES AND CHAIRS IN PUBLIC SPACE POLICY 2020

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1.0 INTRODUCTION

Tables and Chairs on public space make an important contribution to the quality of public places in the Town Centres by providing an active street frontage that is vibrant, dynamic, comfortable and attractive. They provide a space for social interaction and the opportunity to withdraw from pedestrian movement in the street and rest while observing street activity.

The presence of people in public places increases the sense of safety and security in streets and even when empty, the tables and chairs suggest street life. They also provide restaurant and café owners with the opportunities of extending their businesses and promoting patronage with a more visible presence.

The Queenstown lakes District Council retains control over table and chair Licences in public space to ensure that pedestrian flow is maintained and that visual amenities are not compromised.

1.1 Definition of a Table and Chair Area

A Table and Chair Area is defined as the use of any public place, under the jurisdiction of the Queenstown Council for the arrangement of tables and chairs used for the consumption of food and beverages in association with a lawfully existing restaurant and /or café.

1.2 Purpose of a Table and Chair Area

The purpose of the Table and Chair Policy (“Policy”) is to inform and advise town centre businesses of the requirements when applying to have tables and chairs located in public places. By providing a framework for the layout and design, the Policy also ensures a high standard and further strengthens the Council’s direction in promoting street activities.

The intention of a Table and Chair Area is to provide a safe and inviting environment for outdoor seating that forms a natural extension to the seating of an existing restaurant or café. The approval of a Table and Chair Licence makes provision for the use of a specified area of the public place in accordance with conditions stipulated by the QLDC. All furniture to be used on public space must be approved by the Council.

Furniture should not compromise existing street activities, and pedestrian or vehicle flow or safety.

QLDC is charged with the responsibility of managing public places within the District and will consider the new establishment or reapplication of a Table and Chair Licence on a case-by-case basis. QLDC reserves the right to review, amend, refuse or revoke any Table and Chair Licence or application at any time.

It is the responsibility of the licence holder to comply with all laws and bylaws and all other legal requirements relevant to the activity permitted pursuant to this Licence and to ensure that employees, patrons and other agents also comply.

2.0 OPERATION AND MANAGEMENT OF TABLE AND CHAIR AREA

2.1 Responsibilities

The operation of a Table and Chair Area is the responsibility of the licence holder. To ensure that the use of tables and chairs is an enjoyable experience for everyone, the licence holder is required to:

- Operate in accordance with the specific and general conditions of the licence and the requirements contained in the Tables & Chairs in Public Space Policy.
- Monitor the area, i.e. observe patrons at all times and respond to behaviour that may interfere with the use, enjoyment or personal comfort of another person in the Table and Chair Area or adjacent public place.
- Abide by any Council smokefree and vape-free policy.
- Maintain access for all patrons in and around the area at all times with particular attention given to the needs of people with disabilities.
- Manage the position and use of furniture within the area and ensure furniture is returned to its original position when moved by patrons.
- Comply with all legislation, regulations, bylaws or the District Plan or with any reasonable requests or directions given by an Authorised Officer. No loud speaker, amplifier, relay or other audio equipment shall be installed or used in association with the Table and Chair Area.
- Allow an Authorised Officer access to the area at all times without notice.
- Occupy and use the area at the licence holder's own risk.

2.2 Waste Management and Cleanliness

All waste must be stored in an appropriate container and any owner or occupier must accept and demonstrate responsibility for the cleanliness of the area immediately adjacent to their premises.

Tables and Chairs licence holders MUST manage the containment and proper disposal of tobacco waste including cigarette butts. The introduction of legislation banning smoking from dining areas has seen an increase in the amount of cigarette butt litter that has accumulated around Table and Chair Areas, which in turn is often blown into the streets, storm water drains and into our waterways. **Table & Chair** areas may be smokefree and vape-free if required under a specific Council policy, and this can be reinforced in Licence conditions.

To ensure the Table and Chair Areas must be maintained in a clean and hygienic state at all times, and to reduce the impact of waste upon the environment, the following requirements will apply:

- Staff must uphold the cleanliness of the site i.e. ensure that tables and chairs are kept clean and that litter is promptly removed from in and around the table and chairs and disposed of properly. This includes the removal of cigarette butts from the ground and/or any other nearby structures such as planters. Waste must not be swept into or allowed to enter storm water drains.
- Licence holders must maintain a high standard of presentation for all Table and Chair Areas by ensuring that furniture is clean, in good order and well presented.
- Licence holders must maintain the cleanliness of the public place throughout the trading period by removing all food, paper, cigarette butt waste and tree debris such as leaves and branches, and cleaning grime from solid surfaces.
- Any spills should be washed away promptly.

Under no circumstances are cobbled surfaces to be water blasted.

Should the licence holder not heed Council's request to clean the area, Council reserves the right to arrange cleaning by an independent contractor, and to deduct the cost of such cleaning from the Bond.

All litter must be swept, collected and disposed of at the end of each day. This includes the removal of cigarette butts from the ground and/or any public structure such as planters.

2.3 Safety and security

The safety and security of both pedestrians and patrons are significant considerations when assessing an application for a Table and Chair Licence.

- Protection from vehicles may be required where tables and chairs are close to roads or intersections e.g. installation of Council approved bollards.
- No chairs placed immediately adjacent to roads are to be placed with their backs to the roadway.
- Table and Chair Areas should be monitored by the licence holder at all times and provide an inviting, clean and safe place for people to sit, relax and enjoy dining.
- Street furniture should generally be removed from the public place overnight/outside of trading hours, or it should be shown in the application how the furniture is to be secured in place.

2.4 Insurance requirements

The licence holder is required to hold valid public liability insurance to the satisfaction of the Council. To meet Council's requirements the policy must:

- Note the interest of the Council on the policy;
- State the period covered by the insurance policy. i.e. commencement date and expiration date of policy;
- Be for a minimum amount of \$2,000,000 in respect of any single occurrence;
- Indemnify the Council against all claims of any kind arising from any negligent act either by the licence holder or the licence holder's agents; and
- Be in a form and with an insurer to the satisfaction of the Council.

2.5 Reinstatement of a public place

Upon the expiry, cancellation or termination of the Table and Chair Licence, the licence holder is required, within 14 days of the expiry, cancellation or termination, to remove all the furniture from the public place and reinstate the public place to its original condition. Failure to remove the furniture within the specified period of time will result in the Council removing and disposing of the street furniture. No claim for payment or compensation from the Council shall be made for, or in respect of, such removal and disposal of furniture. Should the licence holder fail to reinstate the area to its original condition, the Council reserves the right to have the necessary work undertaken, to deduct the cost of this work from the Bond held, and to invoice the licence holder for any costs over the amount of the Bond.

2.6 Rights of Access

The Council or its contractors may from time to time require access to the Table and Chair Area for maintenance to the surface or to access underlying services. In such circumstance, the licence holder shall ensure that the furniture is cleared from the Table and Chair Area for the required period. The

Council will give reasonable notice to the licence holder and shall carry out the work with due haste. It will not be liable for any loss of business to the licence holder caused by the works to the area.

The licence holder will clear the Table and Chair Area where it is necessary for any fire appliance, ambulance or other vehicle to enter the Area for the protection of human life or property. The Council shall not be responsible or liable for any loss of business to the licence holder under such circumstances.

If the licence holder does not clear the Area as required above, the Council and emergency services shall have the right to clear the furniture from the Area and shall not be liable for any loss resulting from the removal of the furniture.

2.7 Arbitration

Where either party serves to the other a Dispute Resolution Notice, the parties shall attempt to resolve the dispute or difference by negotiation. If this cannot be done within 14 days, the dispute or difference shall be referred to the arbitration of a single arbitrator if one can be agreed upon by the parties. If the parties cannot agree to the appointment of an arbitrator within 14 days, the dispute or difference shall be submitted to a single arbitrator appointed by the President of the Southland District Law Society. Any arbitration in terms of this clause shall be conducted in accordance with the provisions of the Arbitration Act 1996 or any re-enactment or modification of that Act.

3.0 APPLYING FOR A TABLE AND CHAIR LICENCE

3.1 Application requirements

The Council requires the following information from the applicant when submitting an application for a licence:

- Application form: a fully completed application form including contact details and signatures.
- Site plan of existing conditions: a plan at scale 1:100 accurately showing the existing conditions adjacent to the restaurant including:
 - the width of the building frontage and the footpath from the outside face of the kerb to the building line;
 - the location of building lines; and
 - an accurate location and type of abutting properties, existing trees, litter bins, light poles, signs, existing street furniture, pits, fire hydrants, parking meters, utility supply boxes, telephone boxes, bicycle rails, car parking and other features.
- Site plan of proposed table and chair layout: A plan at scale 1:100 accurately showing the area of the proposed Table and Chair Area and layout of all tables, chairs, umbrellas, etc. All dimensions associated with the Table and Chair Area should be shown including the required clearances.
- Photographs of the site: clearly showing the proposed Table and Chair Area relative to buildings and existing features in the footpath.
- Details of furniture: Colour photographs and/or detailed architectural drawings of chairs, tables, umbrellas and other items proposed for the restaurant.
- Measurement of furniture: including the width span and clearance height of umbrellas.

- Letter(s) of Consent: any letters of consent as required under this policy.
- Application Fee of \$250.

3.2 Application assessment

Upon receiving an application, a representative of QLDC will:

- Check that all relevant information has been received. If incomplete, the applicant will be contacted to discuss and clarify any outstanding requirements and make arrangements for the information to be provided within a specified period.
- Check the application to ensure it meets requirements for access, site plans, health and safety, and design. If the requirements are inadequate, the applicant will be contacted to discuss amendments. The applicant is required to arrange any amendments and these are to be re-submitted before approval will be given.
- Inspect the site and check accuracy of submitted plans. If plans are inaccurate or inadequate, the applicant will be contacted and requested to submit revised plans.
- Assess other outstanding QLDC matters. Clarification will be sought from other Council departments to ensure there are no outstanding Health and Safety, Building or Planning orders or notices on the property. The licence will only be issued when all relevant licences and approvals have been issued, and all outstanding matters have been satisfactorily resolved. It is the responsibility of the applicant to obtain all relevant licences/approvals.
- Licence decision. Successful applicants are then required to supply an Insurance Certificate for a minimum of Two Million Dollars (\$2,000,000) Public Liability Insurance, specifically covering the area occupied by the tables and chairs and indemnifying the Council against all claims in a form and with an insurer to the satisfaction of the Council, and pay the required licence fee and performance bond before a Licence will be issued.

Once a decision on the application is made, the applicant will be advised. A Licence will then be prepared for execution by both QLDC and the applicant. The licence will include a site plan of the exact location of the approved table and chair area and its size.

Metal markers may be inserted into the paving to show the corners of the approved table and chair area (at the applicant's cost). It is the responsibility of the licence holder to ensure that all furniture is contained within the specified area at all times.

3.3 Amendments to a licence

Licence holders must submit an application in writing to QLDC for any amendment to their existing Table & Chair Licence. Amendments may include:

- Changes to furniture style or design.
- Addition of gas heaters, umbrellas or any other furniture.
- Any other variation.

An amendment fee (non-refundable) of \$100.00 must accompany the application, and any additional costs incurred by Council in attending to the amendment may be required to be paid in full.

In dealing with any application to amend a licence, the Council will use a similar process and consider similar criteria to those used in an application for a new licence.

Other matters including outstanding fees and breaches of licence conditions must be fully rectified before an amendment will be considered.

The licence holder will be notified within two or four weeks of the Councils decision.

3.4 Reapplication for a licence

All current licence holders are required to re-apply for a Table and Chair Licence on an annual basis. The QLDC reserves the absolute discretion to renew the licence for a further period or not.

All reapplications will undergo an annual assessment process to ensure the layout meets the requirements for access, public safety, amenity, design and general compliance issues. In considering any reapplication for a licence, the Council will use a similar process and consider similar criteria to those used in an application for a new licence. Other matters including outstanding fees and breaches of licence conditions must be fully rectified before any reapplication will be considered.

An application fee is not charged for the annual re-application. A decision regarding a re-application for a Table and Chair Licence, including any variations determined suitable by Council, will take approximately two to four weeks or longer if the application is found to be deficient. Licence holders must supply proof of a new licence to the Alcohol Licensing Inspector annually.

3.5 When can alcohol be served and consumed in Table and Chair Licence areas

Any supply and consumption of alcohol within the Table and Chair area requires an alcohol licence issued by the Queenstown Lakes District Licensing Committee. District Plan requirements must also be addressed, and a resource consent may also be required.

3.7 Change of Ownership

Should the licence holders' business change ownership, the Table and Chair Licence will need to be assigned to the new owner. A fee to process the assignment will be chargeable to the assignee. In the event the licence cannot be assigned, a new licence will need to be applied for if the new owner wishes to continue occupying the Table & Chair Area.

3.7 Licence Fees

The Licence fees are to be paid in advance each year, when the licence or renewal is approved.

The Licence fees are as below, and these can be reviewed annually, subject to a resolution of Full Council.

Location	Proposed rate per m2 (all figures ex GST) per annum
Queenstown Mall (lower)	\$200
Queenstown Mall (upper)	\$200
Queenstown Lakefront	\$160
Beach and Shotover Streets	\$140
Remaining Queenstown Pavements	\$140
Arrowtown – Buckingham Street	\$70

Remaining Arrowtown Pavements	\$70
Wanaka Waterfront	\$100
Remaining Wanaka Pavements	\$70
Glenorchy	\$35

3.8 Bonds

A performance bond may be required to be paid to the Council at the commencement of each licence, and the signed licence will not be released to the applicant until the Bond is received. The Bond may be used by the Council to rectify cleaning problems if the applicant has not heeded a written request to do so, and/or to reinstate the public space when the licence is terminated.

The Bond is to be set at \$50 per square metre (plus GST) at the commencement of this policy, and will be reviewed every three years by Council. The minimum Bond amount will be \$200 plus GST.

4.0 LIASON, COMPLIANCE AND ENFORCEMENT PROTOCOL

The Council will monitor the operation of Table and Chair Areas within the District to ensure that conditions of the licence and the Table and Chair Policy are consistently being maintained, including regular unscheduled inspections by authorised officers of Council. Where it is evident that conditions are not being met, the liaison and compliance protocol will follow.

Following a complaint or report of breach of a Table and Chair licence, Council Officers or their representatives will visit the premises and seek rectification if a breach is determined. Action will be instituted according to the impact the breach of the licence is having upon safety, access and amenity in the area. The Council is able to initiate discussions with proprietors and explain the rationale for licence specifications where appropriate. This process acts as a catalyst for open communication between all parties and seeks to resolve the issue as quickly and amicably as possible. Failing this, the appropriate compliance protocol will be followed.

4.1 Operating Without a Licence

Any person locating table and chairs or any other equipment in a public space without a licence may be in breach of the Activities in Public Places Bylaw (2016), Reserves Act 1977 and Local Government Act. This also applies to premises operating with an expired or suspended licence.

4.2 Breach of licence conditions

Written notice will be issued explaining the breach and the actions required by the licence holder to remedy the situation.

Should the licence holder continue to be in breach of the licence conditions, the licence will be suspended for one week, and finally if the infringement continues, the licence will be cancelled. Should the operator continue to occupy the Table and Chair Area while the licence is suspended or cancelled, they will be in breach of the Activities in Public Places Bylaw (2016), Reserves Act 1977 and Local Government Act.

4.3 Suspension of a licence for works likely to threaten safety

Certain road, building construction, and/or demolition work has the potential to cause injury, harm or inconvenience to staff and/or occupants of Table and Chair Area if such work is being undertaken in

the vicinity of the tables and chairs. In such instances the Council may suspend the Table and Chair Licence immediately. If the suspension period is more than one month, a pro rata portion of the licence fee may be refunded to the Licensee.

4.4 Cancellation or suspension of a licence

In addition to any other rights of the Council detailed in this Policy or an individual Table and Chair Licence, if a licence holder fails to comply with a written notice from the Council relating to breaches of the Table and Chair Policy or conditions of the licence, the Council may, at its discretion, cancel or suspend the Table and Chair Licence, or decide not to re-issue an expired licence for a period of at least 12 months. The Council may also suspend the licence by giving at least 30 days written notice to the licensee if the Council or any other external bodies require the site for events, festivals, footpath maintenance or works, or for any other purpose. If the suspension period is more than one month, a pro rata portion of the licence fee may be refunded to the licence holder.

4.5 Cancellation by licence holder

The licence holder may request the cancellation of the licence at any time during its period of validity. Thirty (30) days' notice of intention to cancel must be provided in writing to the Council.

Following the cancellation of a Table and Chair Licence, all furniture must be removed from the public place. The restitution of a public place is the responsibility of the licensee. The pavement must be returned to its original condition at the cost of the licensee. The Council is responsible for approving the quality of work completed and ensuring the pavement is restored to a satisfactory condition. All furniture and fittings are to be removed from the Table and Chair Area from the date the Table and Chair Licence is cancelled. If the furniture is not removed and the public place is not reinstated to its original condition within a period specified by the Council, then works will be carried out at the licence holder's expense. Operators may re-apply for a new licence at any time.

5.0 GUIDELINES FOR SITING TABLES AND CHAIRS

Table and Chair Areas should provide a comfortable, attractive and relaxing environment for patrons, whilst complementing other street activities. For example:

- In streets with adequate pavement space to accommodate tables and chairs without compromising pedestrian access and other street activities (Refer to Section 5.4)
- In public reserves and open spaces, once the requirements of the Reserves Act 1977 have been undertaken (Refer Section 5.5);
- In the Queenstown Mall (refer Section 5.6).

As a general rule, Table and Chair Areas will be the length of the premise frontage, and at a depth which Council believes maintains suitable pedestrian flows and visual amenity.

5.1 Amenity and Appearance

Table and Chair Areas should provide an attractive and comfortable place for people to relax and should not compromise the level of amenity for other people in the street.

- Types and designs of furniture should be of high-quality materials with finishes that are attractive and durable.
- Existing verandahs and street trees should be integrated into the siting and layout of Table and Chair Areas to maximise a comfortable environment for patrons.
- Umbrellas may be appropriate where verandahs and trees do not exist to provide shelter.

5.2 Adjoining premises

To minimise the impact upon other businesses, tables and chairs should generally be sited in front of the adjoining food premises. The location of trees, artwork, street furniture and other public infrastructure as well as the width of the footpath, may affect the establishment of a Table and Chair Area. Under these circumstances, an applicant may request that Council (at its own discretion) give consideration to permitting the Table and Chair Area to occupy a public place adjoining another premise. In this instance the written approval of the occupier of the affected premises is to be provided with the application (such approval not to be unreasonably withheld) and the owner of the adjoining building should be notified.

In all cases, the Council will assess the request to determine the impact upon the safety, access and amenity of the immediate area. The Council is not obligated to approve an application if these criteria cannot be satisfactorily met.

5.3 First Floor premises

If seeking to occupy a public place on the ground floor, where the restaurant or premises is located on the first floor, the applicant is required by the Council to provide consent in writing from the occupier of the ground floor premises (such approval not to be unreasonably withheld). The owner of the building should also be notified. If the consent is withdrawn during the licence period, the licence will not be cancelled before its expiry date, provided all conditions of the Licence and the Table and Chair Policy are consistently observed. Written consent must be provided each year as this provides the opportunity for the siting of adjacent Tables and Chairs Areas to be reviewed in the event that the ground floor occupier's consent is withdrawn, or a new owner occupies the premises.

Where an existing licence has been granted for a first floor restaurant to occupy the public space on the ground floor adjacent to the building, and the ground floor tenancy then applies for a Table and Chair Licence, the ground floor tenancy will have priority for a table and chair area.

5.4 Pavements

Table and Chair licences may be approved for ordinary pavements in the town centres however it is expected that a minimum pedestrian width of 3 metres will be maintained at all times between the table and chairs licenced area and the edge of the footpath, or as an unobstructed pathway for pedestrians. A lesser width may be accommodated in some limited circumstances if safe to do so without creating pedestrian conflicts, or in areas that are not susceptible to high pedestrian traffic.

If tables and chairs are aligned immediately adjacent to the road, no chair can back to the road unless there is at least 800mm clearance to the kerb. This rule is intended to prevent diners from pushing their chairs into traffic or parked vehicles when standing up.

The Council may require greater setback or consider variations to the above setbacks depending upon pedestrian and vehicular traffic conditions, impact upon access and circulation, existing street activities, amenity value and interest and concerns of particular user groups in using the streetscape.

5.5 Reserves

In some situations Table and Chairs Areas may be appropriate on the parks and reserves within the urban centre and townships. The Reserves Act 1977 requires that a separate public process is followed for consideration of commercial use of parks and reserves. Applications for use of reserves will need to cover the full cost of public notification and the hearing of any submissions and other processing costs. The costs are non-refundable should an application be declined by either the Council or the Minister of Conservation. Upon application for a Table and Chair Licence on reserve land, a deposit of \$500 must be paid to cover processing costs. If the costs for processing the application are less than

this, the residual amount will be refunded when applicant is notified of the decision. If they are more, the additional amount must also be paid by the applicant prior to the licence being issued.

Generally, the area will be the width of the premises frontage, and a depth to be determined at the absolute discretion of Council. Generally, the area will be the width of the premises frontage, and a depth to be determined at the absolute discretion of Council.

Where appropriate, Council may consider undertaking capital works (paving, landscaping etc.) to enable a table and chair area to be located on a reserve. Council will expect a suitable return for such capital expenditure, generally at the rate of 7.5% per annum. This return will be over and above the usual licence fee.

5.6 The Queenstown Mall

The Queenstown Mall often has a high pedestrian traffic, and pedestrians must be able to flow freely through the mall at all times.

Generally, the area will be the width of the premises frontage, and a depth to be determined at the absolute discretion of Council. No tables and chairs will be permitted inside the verandah posts, or inside the line these form where there is no verandah. A minimum corridor of two metres must be maintained in the centre of the mall. The Council may install planter boxes to delineate this centre line for both operators and patrons when the Mall is upgraded or sooner if the Council deems it necessary. It remains the licence holder's responsibility to ensure that their patrons do not move furniture out of the permitted table and chair area. A clear unobstructed area without tables and chairs will be maintained at both the top and bottom of the mall.

Where appropriate, Council may consider undertaking capital works (paving landscaping etc.) to enable a table and chair area to be located on a reserve. Council will expect a suitable return for such capital expenditure, generally at the rate of 7.5% per annum. This return will be over and above the usual licence fee.

6.0 DESIGN GUIDELINES

6.1 Furniture specifications

In order to satisfy the requirements of the Table and Chair Policy, the type and design of outdoor furniture must be of a high standard in appearance and style, made of quality materials, with finishes that are attractive and durable. In all circumstances, furniture must be approved by the Council before use.

Furniture should be unobtrusive in nature, complementing the culture, character and significance of the street in style, appearance, materials, finishes and colours. For example, contemporary and brightly coloured furniture may be appropriate for a predominantly modern street. Tables and chairs proposed in heritage streetscapes, however, should use more traditional and simple colours.

6.2 Tables and Chairs

For the maintenance of public safety, furniture that is constructed solely of plastic is unacceptable.

- Tables and chairs should be uniform in style and design.
- Tables and chairs should be portable yet sturdy and not able to be moved by the wind.
- All chairs and tables should have a minimum 30mm diameter rubber pad on chair and table legs to protect the pavement surface.

- The number of tables and chairs placed within a Table and Chair Area will be specified in the licence and must allow unobstructed access and circulation for patrons and staff.

6.3 Umbrellas

The use of umbrellas is subject to approval by the Council.

- Umbrellas to be used only where there are no canopies to provide adequate shelter.
- Umbrellas are not permitted where building awnings exist at typical ground floor height (2800-3800mm high from the ground) and cover most of the footpath.
- Umbrellas must have suitable anchorage to prevent accidents caused by furniture being displaced.
- Umbrellas must have a minimum clearance height of 2200mm measured from the lowest edge to the pavement.
- Umbrellas must fit entirely within the Licence Area.

6.4 Gas heaters

- Portable gas heaters may be placed within the Table and Chair Area as per circulation requirements.
- Gas heaters must be installed and operated according to specifications outlined by the manufacturer.

6.5 Other Furniture

Other furniture such as:

- Screens.
- Landscaping features/planters.
- Waiter stations.

May be approved in certain circumstances, at the absolute discretion of Council.

6.6 Furniture layout and positioning

The licence holder is responsible for ensuring that all furniture remains within the approved area and that pedestrian clearances and safety requirements are maintained at all times during the operation of the Table and Chair licence. Failure to comply with the conditions of a Table and Chair Licence may result in enforcement action being taken (Refer Section 4.4)

6.7 Advertising

No signs, billboards, banners or advertising are permitted on the Table and Chair Area unless the Council has given its prior written approval to such under a Licence. All signage and advertising must comply with the Operational District Plan.

7.0 Review

This policy will be reviewed in three years.