

Guildhall Gainsborough
Lincolnshire DN21 2NA
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AGENDA

This meeting will be webcast live and the video archive published on our website

Regulatory Committee

Thursday, 9th December, 2021 at 6.30 pm

Council Chamber - The Guildhall, Gainsborough, DN21 2NA

PLEASE NOTE DUE TO CAPACITY LIMITS WITHIN THE GUILDHALL THE PUBLIC VIEWING GALLERY IS CURRENTLY SUSPENDED

This Meeting will be available to watch live via: <https://west-lindsey-public-i.tv/core/portal/home>

Members: Councillor Mrs Jessie Milne (Chairman)
Councillor Mrs Angela Lawrence (Vice-Chairman)

Councillor Liz Clews
Councillor David Cotton
Councillor Timothy Davies
Councillor Mrs Caralyne Grimble
Councillor Paul Howitt-Cowan
Councillor Mrs Cordelia McCartney
Councillor Peter Morris
Councillor Mrs Judy Rainsforth
Councillor Jim Snee
Councillor Jeff Summers

1. **Apologies for Absence**

2. **Public Participation**

Up to 15 minutes are allowed for public participation.
Participants are restricted to 3 minutes each.

3. **Declarations of Interest**
Members may make declarations of Interest at this point or may make them at any point in the meeting.

4. **Minutes of Previous meetings** (PAGES 3 - 6)
To confirm and sign as a correct record the Minutes of the Meeting of the Regulatory Committee held on Thursday 16 September 2021.

5. **Matters Arising** (PAGE 7)
Setting out current position of previously agreed actions as at 1 December 2021
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6. **Public Reports for approval**
 - i) Food, Health and Safety Work Plan - Mid Year Update (PAGES 8 - 15)

Ian Knowles
Head of Paid Service
The Guildhall
Gainsborough

Wednesday, 1 December 2021

Regulatory Committee- 16 September 2021
Subject to Call-in. Call-in will expire at 5pm on

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Regulatory Committee held in the Council Chamber - The Guildhall on 16 September 2021 commencing at 6.35 pm.

Present: Councillor Mrs Jessie Milne (Chairman)
Councillor Mrs Angela Lawrence (Vice-Chairman)

Councillor Liz Clews
Councillor David Cotton
Councillor Mrs Caralyne Grimble
Councillor Peter Morris
Councillor Jim Snee

In Attendance:
Andy Gray Housing and Enforcement Manager
Katie Storr Democratic Services & Elections Team Manager (Interim)

Apologies: Councillor Timothy Davies
Councillor Mrs Cordelia McCartney
Councillor Mrs Judy Rainsforth

9 CHAIRMAN'S WELCOME

The Chairman opened the meeting by welcoming all Members of the Committee back to the Chamber for the first time since the onset of the Covid-19 pandemic in March 2020. The safety measures that were in place were highlighted. In the absence of a public gallery, due to capacity within the Chamber, the Chairman advised the Committee meeting would be live webcast and extended her welcome to those watching at home.

Apologising for having not done so earlier, a warm welcome was also extended to newly appointed Member, Councillor Peter Morris, attending his first meeting, having been elected to the Council in May 2021, and appointed to this Committee in June.

10 PUBLIC PARTICIPATION

There was no public participation.

11 DECLARATIONS OF INTEREST

There were no declarations of interest at this point in the meeting.

12 MINUTES OF PREVIOUS MEETINGS

Regulatory Committee – 10 June 2021

RESOLVED that the Minutes of the Meeting of the Regulatory Committee held on Thursday, 10 June 2021 be confirmed and signed as an accurate record.

13 MATTERS ARISING

In the absence of any questions, the report was taken “as read” and with no requirement for a vote, the Matters Arising were **DULY NOTED**.

14 CAFE/PAVEMENT LICENSES - EXTENSION OF SUB DELEGATION TO LINCOLNSHIRE COUNTY COUNCIL

On the 21 July 2020 an Urgent Delegated Decision was made to delegate the District Council’s function in relation to “Pavement Licenses” under the Business and Planning Act 2020 to Lincolnshire County Council up until the 30 September 2021.

It had now been confirmed that the provisions within the Act would be extended until the 30 September 2022. The Committee therefore gave consideration to a report in which it was proposed that the existing Sub-Delegation of Pavement Licenses to Lincolnshire County Council be extended until 30 September 2022

The report set out the rationale for proposing to continue with the delegated arrangement noting, prior to the Business and Planning Act 2020 , such matters had been a function of the County Council and as such the District Council had no processes in place to administer the function.

Section 3 of the report set out the extent of the current sub-delegation, the services the County Council provided as a result, free of charge and the number of applications made since the introduction of the legislation, which amounted to six in the District. There were alternative options to the Council and these were outlined in Section 4.

Debate ensued and given some Members experiences, some were of the view that in the longer term it may be better that the District Council undertake the function within the auspices of the planning remit, as it was considered there were a number of conditions and circumstances which appertained to planning. Recent experiences were shared including difficulties in seeking enforcement from Lincolnshire County Council, with a suggestion this would be much easier if the function remained in-house due to it being more localised, and Officers having more local knowledge of specific circumstances. Some Members felt there needed to be a greater input at a local level.

Members were reminded that street licensing was historically at County Council function, and as such the District Council had limited systems and resources in place to manage the emergency legislation. Returning the function in-house was an option that could be

considered should the legislation continue to be extended and should uptake increase, particularly with the planned regeneration in Gainsborough.

Officers also highlighted, whilst the legislation was not intended to ride roughshod over the issues highlighted by Members, it was fully focussed on enabling and allowing businesses to extend their operations due to the restrictions. Therefore from a planning perspective, unless there was a significant impact, it would be difficult to not allow a business to have a cafe/pavement licence. Accepting Members concerns however, Officers did have the ability to and would feedback the issues which had been raised.

In response to questions, it was confirmed that both the Licensing and Planning Departments of West Lindsey were consulted when applications for such licences were received, but again were reminded the emphasis of the legislation was to enable businesses.

Following discussion and having been moved and seconded it was: -

RESOLVED that

- (a) the Districts Council's function in relation to "Pavement Licenses" under the Business and Planning Bill Act 2020 be delegated to Lincolnshire County Council for a further 12 months up until the 30 September 2022; and
- (b) a further report be submitted to the Regulatory Committee, prior to September 2022, to provide an update on the sub-delegation and to consider whether an assessment of any further options are needed should the provisions in the legislation be extended further.

15 ABANDONED SHOPPING TROLLEYS - SCHEDULE 4 UPDATE AND REVIEW

Consideration was given to a report which provided an update on the Schedule 4 scheme to-date. The Council had agreed to implement the scheme using its powers under the Environmental Protection Act 1990 and it had come into effect in August 2018 for the Gainsborough area.

The scheme had been introduced to combat the persistent issue of abandoned shopping trolleys, which at the time were being collected at a rate of 30 per week.

Section 2 of the report set out the Scope of the Scheme and its intentions, whilst Section 3 detailed the Scheme's impact to-date including the number of shopping trolleys collected and subsequent income generated, as a result of re-charging the supermarkets.

Whilst the issue of abandoned shopping trolleys was still present in Gainsborough. The figure had reduced by 62% since the implementation of the scheme. Noting a slight increase in the recent year, there was still a significant reduction on the volumes that were being collected prior to the scheme and as such, it was recommended that that consultation in relation to its continuation be carried out in 2023.

Debate ensued and in response to Members' questions the performance was clarified, noting that whilst 20/21 had since an increase in trolleys collected compared to previous year, when comparing that to collection levels pre scheme introduction , the number collected per week had reduced.

Members were reminded the Scheme did not, nor was it intended to provide a solution that resolved the issue of abandoned shopping trolleys, it provided a mechanism to recover the cost of clearing them, which in turn, encouraged supermarkets to take more steps to reduce the issue occurring. The Council were collecting the trolleys and either storing or returning them at its own cost prior to the Scheme.

In response to further questions, Officers confirmed the scheme currently applied to Gainsborough only, its extension could be investigated as part of the future consultation, but there would have to be an evidenced need.

Thanks were expressed to the Operatives, working behind the scenes to deliver these successes.

RESOLVED that:

- (a) the progress of the scheme and its success to-date be noted; and
- (b) that consultation on the continuation of the scheme and any subsequent decision on it, in line with the legislation, be carried out in 2023 when the scheme has been in place for around 5 years.

The meeting concluded at 7.06 pm.

Chairman

Regulatory Committee Matters Arising Schedule

Purpose:

To consider progress on the matters arising from previous Regulatory Committee meetings.

Recommendation: That members note progress on the matters arising and request corrective action if necessary.

Meeting	Licensing and Regulatory Committee				
Status	Title	Action Required	Comments	Due Date	Allocated To
Black	FSA RECOVERY ROAD MAP - PERFORMANCE / PROGRESS	Extract from mins of meeting Reg Cttee 10 June 21: - an update on performance against the FSA Recovery Plan be submitted to the Committee by January 2022 in order that the Committee can have assurance on progress being made, given the current circumstances raised through the report.	please ensure this report is added to the committee's work plan ., Item to be considered by Committee in Dec 2021	31/08/21	Andy Gray
Black	review of sub delegation of pavement/cafe licences - future report	Extract from mins of mtg 16/9/21 a further report be submitted to the Regulatory Committee, prior to September 2022, to provide an update on the Sub-Delegation and to consider whether an assessment of any further options are needed should the provisions in the legislation be extended further.	Please ensure this report is added to the Committee workplan / Reports Management system . Item has been added to Committee workplan	31/12/21	Andy Gray
Green	FLY POSTING - WIDER CONSIDERATION AS PART OF GAINS PSPO WORK	extract from Reg Cttee Mins June 2021: - fly-posting be considered as part of the broader Public Space Protection Order work due to be undertaken for Gainsborough.	will remain on matters arising until the wider work completed	30/09/21	Andy Gray
Green	ABANDONED SHOPPING TROLLEYS - SCHEDULE 4	Extract from mins of mtg 16/9/21 that consultation on the continuation of the Scheme and any subsequent decision on it, in line with the legislation, be carried out in 2023 when the Scheme has been in place for around 5 years.	LONGER TERM ACTION- but logged here for oversight until report is added to the workplan in due course	31/12/22	Andy Gray

Agenda Item 6a



Regulatory Committee

**Thursday 9th December
2021**

Subject: Food, Health and Safety Work Plan - Mid Year Update

Report by:

Assistant Director – Change Management &
Regulatory Services

Contact Officer:

Andy Gray
Housing and Enforcement Manager

andy.gray@west-lindsey.gov.uk

Purpose / Summary:

To provide Regulatory Committee with a mid-year update on food hygiene inspections and progress against the Food Standards Agency Recovery Plan.

RECOMMENDATION(S):

Committee are asked to:

- a) Receive the update report, as requested by Members at their meeting on 10 June 2021, in regards to the Food Standards Agency Recovery Plan and the action plan, that is being developed, to address the issues.
- b) Agree that a further update on the resources and inspection position is provided to the Chair and Vice Chair at the end of January 2022.

IMPLICATIONS

Legal:

The Council is required to complete a Food, Health and Safety Work Plan annually and it is completed in line with the Food Standards Agency Framework Agreement.

The Council has a statutory obligation to ensure that it meets the requirements of the framework agreement and any other such plans produced by the Food Standards Agency such as the current recovery plan.

Financial :FIN/138/22/SSc

This report highlights the challenges facing the Council to complete the Food, Health and Safety Work Plan. There is a need for further resources. This issue is being addressed by the Management team and will be detailed in a further report.

Staffing :

There are no staffing implications within this report. The report does refer to the lack of staffing resources and a plan is in place to attempt to address this.

Equality and Diversity including Human Rights :

None noted

Data Protection Implications :

None noted

Climate Related Risks and Opportunities :

None noted

Section 17 Crime and Disorder Considerations :

There are no direct implications within this report. In line with the Council's Corporate Enforcement Policy this work area seeks to ensure that other agencies are engaged where necessary to address specific concerns.

Health Implications:

The delivery of an effective Food and Health and Safety service has a clear and direct impact on the health of the Districts residents. The plan seeks to ensure that Food Hygiene Standards are maintained in line with legislation and that Health and Safety incidents are investigated accordingly.

Title and Location of any Background Papers used in the preparation of this report:

Risk Assessment :
See section 5 of report.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

x

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

x

1. Introduction

1.1. At its meeting on Thursday 10th June 2021, Regulatory Committee approved that an update on performance against the Food Standards Agency (FSA) Recovery Plan be submitted to the Committee by January 2022 in order that the Committee has assurance on what progress in being made, given the current circumstances raised through the initial report.

1.2. The original report can be found here [Agenda for Regulatory Committee on Thursday, 10th June, 2021, 6.45 pm | West Lindsey District Council \(west-lindsey.gov.uk\)](https://www.west-lindsey.gov.uk/agenda-for-regulatory-committee-on-thursday-10th-june-2021-6.45-pm)

2. Background

2.1. The June 2021 report highlighted that the main challenges the Council were facing were as follows:

- The FSA Recovery Plan inspection numbers were estimated to total 74 required by March 22.
- The FSA also believed (now evidence locally) that there has been a significant increase in the number of food businesses with unknown risks due to lack of inspection along with a general trend of reducing standards since the onset of the pandemic.
- The volume of premises requiring some form of inspection overall stood at 554 from 22/23. This is significantly higher than in previous years.
- There is a resource challenge to meet the enhanced level of inspections that will be required to take place from 22/23.

2.2. The FSA recovery plan is still in the form of the approach set out below and there is a general concern that the programme is placing an additional burden on Environmental Health as evidenced by the following Chartered Institute of Environmental Health (CIEH) article [‘Significant decline’ in food hygiene standards increases EH burden \(cieh.org\)](https://www.cieh.org/significant-decline-in-food-hygiene-standards-increases-eh-burden)



2.3. Whilst the recovery plan is aimed at ensuring that the Council can return to a planned programme, the volume of unrated premises inspected within year one are likely to increase the overall figures. A worked example from an actual premise and the impact it has on the number of inspections is shown below:

Worked Example for new unrated premises:

	Inspection 1	Inspection 2	Inspection 3	Inspection 4
	1/7/21	11/2/22	11/2/23	11/2/24
Category	Unrated	A	B	B
Category	Unrated	A	C	n/a

2.4. The premises above, shows as one inspection within the schedule for the recovery plan, however following on from the initial inspection may then require inspecting multiple times again during the recovery plan period. This has placed an additional inspecting burden on the work area.

3. Current Position

3.1. Within the work plan and associated report from June 2021 it was estimated that there were around 140 unrated premises, of which the 74 high risk would need inspection. The table below shows the current position.

Recovery Plan Inspection Progress Report			
	TOTAL 1/04/2021	Updated at 30/09/2021	October 31 st 2021
Manufacturers	15	15	15
Cat A	3	4	4
Cat B	22	22	21
Unrated	156 (HR – 76) (LR – 80)	158 (HR – 86) (LR – 72)	154 (HR – 83) (LR – 71)
Total	196	199	194
+20% (complaints)	236	239	234
Completed inspections		40	14
Total completed inspections		40	54

3.2. The key points to note are as follows:

- The number of premises requiring inspection has increased since June 21. This is due to unrated premises being rated and then requiring further inspection alongside new premise registrations.
- The overall number of inspections required has remained static, despite the number of inspections completed (for the reasons stated above)
- A large proportion of the inspections relate to reactive work based on complaints from the public, from which an inspection will occur.

- A number of inspections have been completed in line with the recovery plan requirements.
- No sampling programme has been reintroduced as yet.
- The likelihood of meeting the overall target within this FSA Recovery Plan is now reduced.
- The number of staff available to complete the required inspections has reduced within the period due to vacancies and one officer not becoming fully competent until the end of September 2021.

3.3. The updated position from 1/4/22 onwards is as follows: **The figure in bold is the revised figure.**

Time Period	Details	Added into Programme	Volume	Change since July 21
Up to March 2022	Unrated		196 (up to March 22 total – 20%)	n/a
1/04/2022 to 31/03/2023	Cat C	+ 149 152	(198 + 149) = 347 (201 + 152) = 353	+6
	+ 20% Inspections falling outside recovery plan)	(347 + 20%) (353 + 20%)	416 424	+8
1/04/2023 onwards	Cat D	+ 248 249	(248 + 347) = 595 (353 + 249) = 602	+7
	+ 20% Inspections falling outside recovery plan)	(595 + 20%) (602 + 20%)	714 723	+9

3.4. There continues to be a significant resource challenge to not only meet the required number of inspections beyond March 2022, but also up to March 2022 based on the current actual figures shown in the table within section 3.1.

3.5. Alongside the +20% additional inspections, there is also a further estimated +20% of compounded work that impacts upon the ability to complete inspections. This is in the form of the external health and safety function, which is currently not resourced, alongside functions such as sampling, business advice and any proactive work.

4. Resources

4.1. The resources available to complete inspections has been impacted between June and October 2021 due to the vacancies that are within the broader environmental health work area. The qualified officer from the broader work area has not been able to complete any food inspections during the period due to the need to meet the Council's other statutory obligations.

4.2. One officer is now deemed to be fully competent therefore there are circa 2.2 FTEs available for food hygiene inspections. In order to meet

the requirements within the recovery plan and beyond a minimum of 3 FTEs is required. The estimates below set out the resource challenge against the target of 723 (not including the compounded 20% activity)

a) 660 = Projection of estimated food hygiene inspections undertaken between 1/10/2021 and 31/03/2024 at current resource level.

b) 900 = Projection of estimated food hygiene inspections undertaken between 1/10/2021 and 31/03/2024 at 3 FTE resource level

4.3. Steps are being taken via Management Team to address the resource challenge to ensure that the targets can be met. The options will consider short and long term resource available. A set of actions is also being developed to ensure that assurance can be sought from the FSA in relation to the measures the Council are taking to address the issue.

4.4. The vacancies within the broader work area relate to the ability to recruit qualified environmental health staff and a process is in place to resolve this with recruitment currently being undertaken.

5. Risks

5.1. The main risks associated with the current position are as follows:

Ability to complete required FSA inspections: not completing the required number of inspections will result in the Council coming under scrutiny from the FSA and will require an action plan to be put in place to ensure the required inspection levels can be met. Alongside this there are public health risks in not ensuring that a sufficient number of premises are inspected.

Ability to complete additional obligations: these obligations have been referred to as the compounded obligations and contain matters such as Health and Safety. The Health and Safety Executive may also require the Council to take steps to address the inability to complete any proactive health and safety investigations.

Ability to recruit required staff: both permanent and temporary options are being considered in regards to qualified staff and the current recruitment process (if successful) may impact upon the required inspection levels. This will depend on the type of staff recruited, their experience and qualifications

6. Summary

6.1. The report highlights that there is still a significant challenge for the Council in order to meet the requirements of the FSA Recovery Plan and beyond this the overall requirements in relation to food hygiene inspections.

6.2. It should be noted that steps are being taken to address this challenge and further work will be undertaken via Management Team in this regard.