

AGENDA

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

Regulatory Committee
Thursday, 15th September, 2022 at 6.30 pm
Council Chamber - The Guildhall

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 Keith Panter
- Councillor Mrs Judy Rainsforth
- Councillor Mrs Diana Rodgers
- 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

a) For Approval

To approve and sign as a correct approve the minutes of the (PAGES 3 - 5)

Regulatory Committee meeting held on 9 June 2022.

b) For Noting

To note the Minutes of the Regulatory Sub-Committee meeting held on 21 July 2022. (TO FOLLOW)

5. **Matters Arising** (PAGE 6)

Matters Arising schedule setting out current position of previously agreed actions as at 7 September 2022.

6. **Public Reports for approval**

a) Taxi Fare Increase Request (PAGES 7 - 17)

b) Gainsborough Cemeteries PSPO - Decision (PAGES 18 - 27)

c) Cafe/Pavement Licenses - Extension of Sub Delegation (PAGES 28 - 33)

Ian Knowles
Head of Paid Service
The Guildhall
Gainsborough

Wednesday, 7 September 2022

Regulatory Committee - 9 June 2022
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 9 June 2022 commencing at 6.30 pm.

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

Councillor Liz Clews
Councillor Timothy Davies
Councillor Mrs Caralyne Grimble
Councillor Paul Howitt-Cowan
Councillor Mrs Cordelia McCartney
Councillor Peter Morris
Councillor Keith Panter
Councillor Mrs Tracey Coulson

In Attendance:
Andy Gray Housing and Enforcement Manager
Kimble Enderby Senior Licensing and Community Safety Officer
Katie Storr Democratic Services & Elections Team Manager
Andrew Warnes Democratic and Civic Officer

Apologies:
Councillor David Cotton
Councillor Mrs Judy Rainsforth
Councillor Mrs Diana Rodgers
Councillor Jim Snee
Councillor Jeff Summers

Membership: Councillor Mrs Tracey Coulson substituted for Councillor Mrs Diana Rodgers

1 PUBLIC PARTICIPATION

There was no public participation.

2 DECLARATIONS OF INTEREST

Councillor T. Davies declared personal interest in relation to agenda item 5a, Gainsborough Cemeteries – Public Space Protection Order Review, as he was a Gainsborough Town Councillor.

Councillor P. Howitt-Cowan declared a personal interest in relation to agenda item 5a, Gainsborough Cemeteries – Public Space Protection Order Review, as he was a founder member of Friends of Gainsborough Cemeteries.

3 MINUTES OF PREVIOUS MEETINGS

Regulatory Committee – 10 March 2022

RESOLVED that the Minutes of the Meeting of the Regulatory Committee held on Thursday, 10 March 2022 be confirmed and signed as an accurate record.

4 GAINSBOROUGH CEMETERIES - PUBLIC SPACE PROTECTION ORDER REVIEW

Members gave consideration to a report which provided Members of the Regulatory Committee the background to, and proposals in respect of the Gainsborough Cemeteries Public Space Protection Order (PSPO).

The Senior Licensing and Community Safety Officer stated that the Public Space Protection Order (PSPO) for Gainsborough Cemeteries had been in place since 2019 and was due to expire on 13th October 2022. Both sites were owned and managed by Gainsborough Town Council. The Officer referred to the importance of Sections 2.2 and 2.3, and gave detailed specifications regarding the PSPO, and criteria which needed to be met for a PSPO to be in place. Details of the activity undertaken by Officers in maintaining the PSPO was highlighted in section 3.5 of the report.

The report sought to provide information on the situation regarding the PSPO and proposed that consultation be undertaken with a view to the PSPO being discharged (i.e. is not extended) when it came to an end.

Debate ensued, and there was discussion on the merits of the usage of the PSPO, it was suggested that the Cemetery had been underused by the public in recent times and this could have masked issues.

In response, the Housing and Environmental Enforcement Manager stated that the Town Council Clerk had been contacted, advise of the intention and the Town Council's comments would be take into consideration as part of the wider consultation. The Officer gave assurance that the Town Council would be fully consulted.

Having been proposed and second, on voting it was unanimously

RESOLVED that: -

- a) a consultation be undertaken in regards to discharging the "Gainsborough Cemeteries PSPO";
- b) the consultation be held for a period of 4 weeks, between Monday 4th July and Monday August 1st 2022; and
- c) a further report be submitted to the Regulatory Committee in September 2022, detailing the response to the consultation and a final proposal for the PSPO.

5 FOOD AND HEALTH AND SAFETY WORK PLAN 2022/23

Members gave consideration to the Food and Health and Safety Work Plan 2022/23. The Council was required to produce and approve a Work Plan that was in line with the Food Standards Agency (FSA) Framework Agreement and the Statement of Commitment, agreed nationally, between Local Authority Representatives and the Health and Safety Executive.

The Committee therefore considered such a Plan, which covered all work undertaken within the Housing and Environmental Enforcement work area, relating to Food and Health and Safety. The Plan's purpose was to set out how the Council delivered its official controls and fulfilled its duties under Food, Health and Safety, Public Health and Drinking Water legislation.

The Plan before Members also reflected the impact that the Covid-19 pandemic had had upon the Food Hygiene work area in relation to delivering its statutory functions. The information on performance and the inspection regime were shown in sections 8 and 9 of the Plan and were specifically highlighted to the Committee. The Housing and Environmental Enforcement Manager advised that the Service had returned to a degree of normality, following the Covid-19 crisis. Re-introduction of a routine planned Inspection Programme had commenced from 1st April 2022. There was a significant backlog of food hygiene inspections resulting from the Covid-19 crisis and resources continued to be challenged, with Members having previously been advised of national recruitment challenges, demand outstripping supply due to the level of training required, and the steps the Authority had taken to go some way to addressing these issues. The Food and Health & Safety Team was to continue to provide the Council's response to the ongoing coronavirus pandemic in relation to advice, education and ultimately, enforcement, to both businesses and residents, should this be required in the future.

Debate ensued and a Member asked a question about the resources available. In response, the Officer stated that there were additional temporary resources, and these depended on additional factors, in order to achieve the '477' target of visited establishments. Members would be kept up to date and it was suggested a six month position update report would be of assistance.

In response to a question on sampling and guaranteeing it would be done, Members heard that Officers were already working on this, and that figures would be factored into the performance outcomes.

Having been proposed and second, on voting it was unanimously

RESOLVED that the Food, Health and Safety Work Plan as detailed at Appendix 1, be approved.

The meeting concluded at 6.48 pm.

Chairman

Regulatory Committee Matters Arising Schedule

Purpose:

To consider progress on the matters arising from previous Licensing and 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
Green	Update Report on the target number of visited establishments	From Minutes of Regulatory Committee meeting on 9 June 2022: "...a Member asked a question about the resources available. In response, the Officer stated that there were additional temporary resources, and these depended on additional factors, in order to achieve the '477' target of visited establishments. Members would be kept up to date and it was suggested a six month position update report would be of assistance."	Please see the action required. This action came in response to a query about the staffing levels and resourcing within the team. Please add this report to the forward plan.	30/12/22	Andy Gray



Regulatory Committee

Thursday 15th September 2022

Subject: Request from taxi trade for an increase in hackney carriage fares

Report by:	Andy Gray Housing and Environmental Enforcement Manager andy.gray@west-lindsey.gov.uk
Contact Officer:	Kimble Enderby Senior Licensing and Community Safety Officer kimble.enderby@west-lindsey.gov.uk
Purpose / Summary:	Requests have been received from hackney carriage proprietors for an increase to the incremental element of the hackney carriage fares.

Recommendation(s):

Regulatory Committee are asked to:

- a) Determine whether the incremental rate within the current taxi fare tariffs should be increased.
- b) Determine by what amount fares should increase, subject to approval of an increase (a).

Implications

Legal:

Under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 the District Council is the Authority responsible for licensing hackney carriages and private hire vehicles.

The Council is also obliged to advertise any increase by publication of the required statutory notice and reconsider if any objections are received.

Financial: FIN/71/23/SL

The cost of publishing the public notice (referred to above) can be met from existing budgets.

For the avoidance of doubt the subject matter within this paper has no direct link to the fees and charges WLDC apply to any type of taxi application e.g. drivers, vehicles or operators. The fees considered are the fees that the licensed taxi driver can charge their passengers.

Staffing:

No additional resources required as a result of this report.

Equality and Diversity including Human Rights:

The increase of any fares will have an impact on various groups, given the nature of the service that is provided.

An increase will provide operators with additional income to contribute towards covering additional costs that may have been incurred over the years since the last increase.

An increase may also adversely affect service users who are on low income or who are dependent on the service to gain access to employment, education, shopping and facilities or other support services.

Risk Assessment:

Not applicable.

Climate Related Risks and Opportunities:

None as a result of this report.

Title and location of any background papers used in the preparation of this report:

Email responses received by the Licensing Team from hackney carriage proprietors are held within the work area but are not shared specifically within the report.

Regulatory Committee March 2022: Taxi Fare Increase information can be found here <https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MId=2909&Ver=4>

Call in and Urgency:

Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?

Yes

No

Key Decision:

Yes

No

1 Introduction

- 1.1 Under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 the District Council is the Authority responsible for licensing hackney carriages and private hire vehicles. The council also sets a scale of fares which is the maximum amount that can be charged by hackney carriage proprietors. The Council cannot, however, control fares for private hire vehicles.
- 1.2 The Council currently licenses 56 hackney carriages, 24 private hire vehicles and 93 drivers in the District. In the last 10 years there have been three increases in the scale of fares that WLDC taxi proprietors charge their customers, the last one being in March 2022.
- 1.3 The request for this additional increase in fares related specifically to the incremental rate within the tariffs. In March, Regulatory Committee agreed to increase the standing rate (the rate charged once at the start of a journey) by 10% across all tariffs. The additional request to review the incremental rate has come specifically from a licensed driver that completed longer journeys, which occur less, therefore does not benefit in the same manner from the change to the standing rate. The information submitted by the person requesting the fare review is in appendix 1.

2 Consultation

- 2.1 Out of the 44 proprietors consulted, there have been 16 responses (36%). 37.5% say yes to an increase, 43.8% say no to an increase, 18.8% are unsure. 6 persons responded to the amount of increase required, 50% of these wanted a 10p and 50% wanted more than a 10p in increase. Other than the options given, two responses suggested 20p or 25p as the increase. The full response to the consultation is shown in appendix 2.
- 2.2 The request for the fare review shown in appendix 1, was also supported by 14 licensed drivers. Some of these drivers have not completed the subsequent survey that was distributed.

3 Scale of Fares

- 3.1 The existing taxi fares following on from the March 2022 increase can be found here <https://www.west-lindsey.gov.uk/sites/default/files/2022-05/20Customer%20Fare%20Rates%20%28effective%20May%202022%29.pdf>
- 3.2 The survey specifically asked respondents to provide a view on increasing the incremental tariff. This has resulted in 4 options being available;
 - a) Add 5p per mile to the incremental rate across all three tariffs.
 - b) Add 10p per mile the to the incremental rate across all three tariffs.
 - c) Do not increase the incremental rate across all three tariffs.
 - d) Or any other option that Members believe appropriate.
- 3.3 An additional 5p per mile would add circa 10% to tariff 1 and circa 8% to tariffs 2 and 3.

- 3.4 An additional 10p per mile would add circa 25% to tariff 1 and 16% to tariffs 2 and 3.

4 Procedure

- 4.1 Any proposed change in hackney carriage fares must be advertised in the press for a 28-day period. If any objections are received these must be considered by the Council. If no objections are received the new fare structure comes into effect from the date specified in the public notice. The public notice would be placed at the earliest opportunity following on from any decision and on this basis would be likely to be published on or around the first week of October 2022.
- 4.2 The Council's Regulatory Committee must approve any fare increase and officers cannot make a specific recommendation as to what that increase should be.

5 Conclusion

- 5.1 Since 2017, operating costs such as vehicle insurance, fuel prices and staffing have increased, which has direct impact on the business. The consultation has not provided unanimous support for a further increase, however it has highlighted how the change to the standing rate has not benefitted all operators.
- 5.2 Between January 2017 and August 2022 the average price of diesel has risen from 120.34 pence per litre to 177.46ppl and in the same period the average price of unleaded petrol has risen from 117.77ppl to 188.23ppl (source: <https://www.racfoundation.org/data/uk-pump-prices-over-time>)
- 5.3 Alongside this, for the consumer, the rate of inflation increased to 9.4% in July 2022, the highest reading since 1992. This figure for inflation in 2017 was 2.68%.
- 5.4 During the Covid-19 pandemic of 2020/2021 the trade were not eligible for any main grants, nor offered any help by way of discretionary grants from the council, some may have been able to claim from the self-employment income support scheme. When taking all these factors into account it would seem, therefore, that a small rise in fare could be justified at the present time.
- 5.5 Members of the Regulatory are asked to consider the request made and determine whether to grant and increase and if so, the level of increase.

END

APPEAL AGAINST THE ABOVE LICENSING DECISION 10TH MARCH 2022.

The councillors are well aware we have seen increased inflation, 10.6% since Oct 2017. Also a massive increase in the cost of fuel £1.25/litre up to £1.90 litre 52%

With this in mind it was hoped that WLDC licensing Committee would grant an increase on all our potential income streams i.e. starting rate and tick-over rate. The recent increase applies to the starting rate only and no increase has been applied to the tick-over rate

The 40p increase on the starting fare is fantastic for those operators that are busy around town & only travel 1 or 2 miles however this does nothing for those journeys that travel above 4 miles as there is no increase on the tick-over rate. After this, the 40p is already consumed on the additional fuel alone.

After the first 4 miles, there is then no increased income to pay for the inflation we all have experienced & the drastically increased fuel costs.

The 9% (40p) mentioned by the councillors is quickly eroded once we begin to travel as there is no increase to the tick-over rate. So this income source out of town work is now becoming unsustainable.

With no increase in the tick-over rate on our taxi meters, we are eroding our income. For example it costs an extra £8.00+ in fuel to take a car to Manchester Airport. In a Minibus an extra £10.00+ in fuel. 40p equates to around 0.24% increase. That in no way helps keep our businesses sustainable.

Those same businesses that you have stated are providing a vital service to the town & the public.

Those same businesses that had no financial support from WLDC during Covid 19.

Those same businesses that are suffered terribly due to huge cost of fuel.

We the under signed state and request that:-

Eroding our income is not sustainable. A review is needed with a view to increasing the tick-over rates on all 3 tariffs to reflect the increased inflation & fuel costs. This is so we can main profitability across all our income streams (not just the short fares around town).

Company	Date	Signature
[REDACTED]	9/6/22	[REDACTED]
[REDACTED]	10/6/22	[REDACTED]

West Lindsey District Council

Taxi Consultation

Consultation on the possible 352 yard increment. 16 responses received in total.

1. Name:
16 responses (names removed)

2. Do you agree an increase in the 352 yard increment is required at this time?
6 (37.5%) Yes
7 (43.8%) No
3 (18.8%) Unsure

3. How much do you believe the increment for each tariff should be increased by?
0 (0.0%) 5 pence
3 (50.0%) 10 pence
3 (50.0%) More than 10 pence

4. How much would you like to see it increased by?
3 responses:
 - 25p
 - Not sure
 - 10 pence or 20 pence

5. Any comments in regard to a possible increment increase?
10 responses:

- It is with regret that we have to make this request to put taxi fares up. But obviously fuel has increased by over 50 pence per litre in the last few months. This is actually eating in to my personal wages as there is nowhere else for it to come from. Vehicle maintenance still needs doing and insurance needs paying for. Also can you have a look at the flag fare on rate 2. The initial increase was 40p on the start fare and on rate 2 it's 36p. Meaning we now have to have a bag full of coppers or knock 6p off most fares.
- Pure greed
- I would like to see the running mile increase from £2 to £2.50/£2.75 for tariff 1 and £3.50 for tariff 2. Thanks. It must increase per mile as the costs of everything from fuel, oil, parts, cost of living is ever increasing.
- I would like the tariffs on even numbers so you don't have to carry small change
- We shouldn't do any increase
- Not sure it will put customers off
- May I suggest that you look at reducing the 352 yards so that the click is more regular if this was reduced you would need to increase the rate slightly as there would be a shorter blank payment between clicks. I would be will to demonstrate this if it's not making sense in writing.
- I am happy with the 40p increase we have already had. I think ant more would damage the business.
- If any increment was to be approved please let it be minimal as even a 5p increase would spiral prices and cause more harm than good and stop people from travelling with us.
- I believe if people want to earn more money then there are plenty of hours at night that need covering, a lot of taxis do not do this and are not offering a flexible service for the population of Gainsborough and surrounding areas

6. Any other comments you wish to make about the consultation?
9 responses:

- Thank you for listening and taking notice of the taxi trade in West Lindsey. And please understand it's not a plea to make massive profits. Most of us are single vehicle, small companies and it's about making wages to keep ourselves.

- Certain greedy people that want to rinse the people of Gainsborough I've spoken to a few of them they would like to make more on the rolling price not just the start but I believe what we have at the moment is correct as it earns us a little more but also respects the locals of west Lindsey for our areas many are trying to make money on long runs. In all honesty I'm happy but if they want more how about only have tariffs 1 for all day night and bank holidays at a middle point between the t1 and t2 at the moment and have a separate tariff for Xmas Eve Xmas day boxing New Year's Eve New Year's Day Point is we need to make more ok but there's too many greedy people trying to fleece people this will discourage usage of many so finding that balance and not listening to the line of a certain (name removed) would be advised especially as the he wants more on tariff 1 but openly promotes that he never charges tariff 2 at all yet makes a letter up. Anyway that's my rank have a great day :)
- I hope you look in to this and see that a proper fare increase is needed and also could we think about keeping everything in zeros money wise as it makes things easier when handling money, instead of the six pence on the start-up. Thanks
- I personally think out of town travel is dear enough and the increase on the start price is fair all around if we increase again we will scare customers away
- 1 driver has been actively lobbying for an increase for some years. He will damage the reputation of all drivers. Any further increase in the next year will significantly decrease the use of taxis in this town
- The fare increases need to be on review more often than they are at the moment, as an employer I see increased costs every year for wages so with the lack of frequency in the fare increase it soon eats into any profits We may have made for the first year after the increase has been made also fuel insurance and various other costs rise every year but the fare does not. the reduced yard increment would go a long way to helping with this problem.
- I can understand that we may need an increase to cover our rising costs. My concern is we may go too high and people may not use our services.
- There's no doubt it will get approved because some people don't see the bigger picture but you can only do your best.

- Also people are already struggling to pay their bills, if out rates go up too much people will stop using taxis

Agenda Item 6b



Regulatory Committee

**Thursday 15th September
2022**

**Subject: Gainsborough Cemeteries - Public Space Protection Order
Discharge**

Report by:

Director – Change Management, ICT &
Regulatory Services

Contact Officer:

Andy Gray
Housing and Enforcement Manager

andy.gray@west-lindsey.gov.uk

Purpose / Summary:

To propose that the current PSPO in place at the
Gainsborough Cemeteries is discharged and
seek approval for this matter.

RECOMMENDATION(S):

Regulatory Committee are asked to approve that the:

- a) "Gainsborough Cemeteries PSPO" is discharged and not renewed, when it expires on the 13th October 2022.

IMPLICATIONS

Legal:

Public Space Protection Orders are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. The legislative consultation requirement has been met.

Power to make a PSPO is within the Terms of Reference of the Regulatory Committee.

Breach of a PSPO may be dealt with by a fixed penalty notice or prosecution. Delegated powers are in place for service of fixed penalty notices.

Appeals against the making of a PSPO can be made in the High Court within 5 weeks of the PSPO being made, on the grounds that the process has not been followed, or that the Council did not have the authority to make the Order or put certain restrictions in the Order.

At the point that it expires a PSPO can be discharged or extended subject to the necessary publication, consultation and communications taking place.

Financial : FIN/70/23/MT.SL

There will be a small amount of revenue funding required to publicise the discharge in the form of a public notice. This will be met from existing revenue budgets.

Staffing :

No further implications.

Equality and Diversity including Human Rights :

The proposed removal of the PSPO is not deemed to disadvantage any social groups over another.

It is not believed that lifting the restrictions will prohibit any specific group from accessing the cemetery.

Data Protection Implications:

None noted.

Climate Related Risks and Opportunities:

None noted.

Section 17 Crime and Disorder Considerations:

The nature of the PSPO is aimed at addressing particular specific concerns. There is no evidence to suggest that crime and disorder is prevalent at this site, nor that the matters that sought to be addressed within the original PSPO are causing ongoing concern.

Health Implications:

Disruptive activity at a site such as a cemetery can cause distress and annoyance for any visitors to the site. This in turn could have a detrimental impact on a person's mental health.

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

Original Decision to approve PSPO: Regulatory Committee Minutes and Reports, 12th September 2019

<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MId=2358&Ver=4>

Decision to consult on discharge of PSPO: Regulatory Committee Minutes and Reports, June 9th 2022.

<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MId=3182&Ver=4>

Risk Assessment :

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

Key Decision:

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

Yes

No

1. Introduction

- 1.1. The Public Space Protection Order (PSPO) for Gainsborough Cemeteries has been in place since 2019 and is due to expire on 13th October 2022. Both sites are owned and managed by Gainsborough Town Council.
- 1.2. This paper seeks to provide information on the current situation regarding the PSPO and to propose that it be discharged (i.e. is not extended) when it comes to an end.

2. PSPOs

- 2.1. These Orders can be made on any land open to the air that the public have a right or entitlement of access to. This means that the legislation can apply to land belonging to local authorities, as well as, for example, Church grounds and land belonging to a resident owned management company.
- 2.2. To make an Order, the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:
 - Have had, or are likely to have a detrimental effect on the quality of life of those in the locality
 - Is, or is likely to be persistent or continuing in nature
 - Is, or is likely to be unreasonable
 - Justifies the restrictions imposed
- 2.3. A PSPO can be varied, extended or discharged and in order to do so, the same legislative tests of detrimental impact, proportionality and reasonableness need to be satisfied.
- 2.4. In considering the determination of the proposed PSPO the Council have had regard relevant guidance including the revised statutory guidance, which can be found here

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/823316/2019-08-05_ASB_Revised_Statutory_Guidance_V2.2.pdf

3. Current Position

- 3.1. The existing PSPO (see appendix 1) seeks to address the following;

“That within the boundaries of Gainsborough General Cemetery and North Warren Cemetery outlined in red in Schedule 3, dogs must be kept on leads at all times and the use of motor vehicles for recreational purposes will be prohibited.”

3.2. The request for the PSPO to be put in place came via Gainsborough Town Council and at its inception, signage was placed across the site advising visitors to the area that the PSPO was in place.

3.3. As with all PSPOs the Council's approach has been to publicise the restrictions and then monitor the site initially. This approach is then scaled back based on the level of reports that are received. A pragmatic educational approach is taken in line with the Police 4 Es approach; Engage; Explain; Encourage; Enforce.

3.4. At the cemetery sites, there has been very little intervention needed from Council officers and there have not been any fixed penalty notices issued relating to either of the restrictions.

3.5. The activities carried out relating to the PSPO are as follows:

- 61 visits to monitor (averaging 30 minutes @ £15.64ph)
- 6 reports from the public
- 0 FPNs
- 1 warning letter (dog off lead)
- 7 persons given words of advice (dog off lead and asked to be put back on lead)
- 2 offences witnessed (dog off lead, offender left cemetery before action could be taken)
- 17 instances where dogs were witnessed being on leads
- 0 instances of offences relating to motor vehicles

4. Consultation

4.1. At its meeting in June 2022, the Regulatory Committee agreed to consult on the proposed discharge of the PSPO. This consultation took place for a period of 4 weeks, between Monday 4th July and Monday August 1st 2022.

4.2. The consultation results in full are shown in appendix 1. A summary is below:

- 14 persons completed the survey.
- 50% were in favour of the discharge, 50% were against.
- 8 additional comments were made about the proposals.
- 4 of the comments related directly to the PSPO. The remaining 4 related to matters outside of the scope of the PSPO.

4.3. Officers attended a meeting of the Town Council on Tuesday 12th July to discuss the PSPO. The minutes are not yet available for this meeting, however the key points from the meeting were as follows:

- The Town Council would like the PSPO to remain in place as they believe it acts as a good deterrent for what they see as a real issue for the cemeteries.
- The Town Council also recognise that the Council can use existing powers to deal with the issues should they be reported.

- Officers committed to meet with the Town Council to look at other “non PSPO” issues that were raised in relation to their land to consider whether any other areas should be considered for PSPOs in the future.

5. Summary

5.1. The consultation has not demonstrated that there is a need to continue the PSPO within the area and this is supported by the activities cited in 3.5, which outline how the Council has dealt with the issue since the PSPO was introduced.

5.2. A copy of the order required to discharge the PSPO is shown in appendix 2. Subject to committee agreement, this notice will then be signed and dated accordingly.

6. Future Approach

6.1. Whilst it is proposed that the PSPO be discharged. This does not mean that any future concerns cannot be addressed. There are measures that the Council and the Town Council could carry out to address any future concerns. These measures are listed below;

- Use of Community Protection Notices (CPNs) to address dog owners who are not in control of their dog.
- Additional signage in and around the areas regarding expected behaviours for dog owners and the general public
- Continued patrols of the sites by enforcement officers

END

Appendix 1

West Lindsey District Council Public Spaces Protection Order (PSPO)

Consultation on use of a Public Spaces Protection Order (PSPO), under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014

This proposal is with reference to discharging a PSPO that within the boundaries of Gainsborough General Cemetery and North Warren Cemetery, dogs must be kept on leads at all times and the use of motor vehicles for recreational purposes has been prohibited. At the cemetery sites, there has been very little intervention needed from Council officers and there have not been any fixed penalty notices issued relating to either of the restrictions.

1. Do you agree with the proposal to discharge the PSPO at Gainsborough General Cemetery and North Warren Cemetery?

7 (50.0%) Yes

7 (50.0%) No

0 (0.0%) Unsure

2. Please state the reasons why you believe the PSPO should not be discharged:

7 comments:

- The amount of dogs I see off leads
- Historically, graves have been vandalised. Without the protection, I fear for further damage. It is a hive for anti-social behaviour at the cost of others.
- It has worked in ensuring untrained dogs are not a nuisance! Cemeteries are a place for quiet reflection and I don't need lone dogs suddenly approaching me.
- Because there are still problems on there
- Because without him there I feel graves would be vandalised and items removed
- I don't think any dog except service dogs should be in the grave yard. There is a perfectly good forest nearby for dog owners to walk their dogs. I don't understand why they need to disturb the peace of the dead?

- Anti social behaviour. Alcohol and drug abuse.

3. Any other comments you wish to make about the consultation?

1 comment:

- A lot of the graves are crumbling. If the council is discussing the grave yard, perhaps it should be discussing the upkeep.

WEST LINDSEY DISTRICT COUNCIL

**Anti-Social Behaviour, Crime and Policing Act 2014, section 61(4)
Public Space Protection Order**

West Lindsey District Council hereby confirms that it has discharged a Public Spaces Protection order under Section 61 (4) of the above act. This notice relates to the order being the "Gainsborough Cemeteries Public Space Protection Order 2019"

The PSPO will cease to have effect on Friday 14th October 2022

If any interested person requests to question the validity of the discharge of this order on the grounds that the Council did not have the power to discharge it or that a requirement under the Act has not been complied with, then he or she may apply to the High Court within six weeks from the date in which the discharge has been made.

GIVEN under the Common Seal of West Lindsey District Council on the

(Date to be added when signed and sealed)

The Common Seal of

West Lindsey District Council

was hereunto affixed

in the presence of

Authorised Officer

Agenda Item 6c



Regulatory Committee

**Thursday 15th September
2022**

**Subject: Pavement Licenses - Extension of Sub Delegation to
Lincolnshire County Council**

Report by:

Director – Change Management, ICT &
Regulatory Services

Contact Officer:

Andy Gray
Housing and Enforcement Manager

andy.gray@west-lindsey.gov.uk

Purpose / Summary:

To propose that the existing Sub Delegation of
Pavement Licenses to Lincolnshire County
Council is extended until 30th September 2023.

RECOMMENDATION(S):

Regulatory Committee are asked to approve that:

- a) The Districts Council's function in relation to "Pavement Licenses" under the Business and Planning Act 2020 be delegated to Lincolnshire County Council for a further 12 months up until the 30th September 2023.
- b) The Districts Council's function in relation to "Pavement Licenses" under the Business and Planning Act 2020 be delegated to Lincolnshire County Council for a further 12 months beyond this, to 30th September 2024, subject to the provisions within the bill remaining in place.
- c) Information relating to "Pavement Licenses" be shared electronically with members of the Regulatory Committee in advance of the end date of each delegation for their consideration to enable them to determine whether the matter should be called back to Committee prior to the delegation ceasing.

IMPLICATIONS

Legal:

The Business and Planning Act 2020, in relation to Coronavirus, gave powers to lower tier local authorities to determine and issue pavement licenses. This power was not a power that had been previously held by lower tier authorities and had always previously been a power held by upper tier authorities.

The original regulations came into effect until September 2021, were extended until September 2022 and have been further extended until September 2023 here. The process for this is set out here

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

The Council may delegate executive functions to other local authorities or under joint arrangements, subject to access to information rules.

It is possible for any delegation of functions to another authority to be rescinded at a later date should it be required.

Financial: FIN/68/23/SL

Lincolnshire County Council have not charged a fee to the Council in delegating authority to them to deliver the function. There will be no change to this for the additional period to September 2023.

If the Council chose not to delegate authority and administer the function itself, there would be staffing costs associated with setting up and administering the function. The volume of applications is unknown and may result in additional staffing resource being required to process them within the statutory timescale. Therefore, it is not possible to quantify the financial implications at this time if this option was taken forward but it is suggested that the resource implication is one factor that will be taken into consideration when determining the preferred solution.

Staffing :

None noted.

Equality and Diversity including Human Rights :

No equality implications have been identified as this report relates to the implementation of legislation, which concerns the licensing of businesses. However, the Bill makes provision for a mandatory national licence condition which will ensure that clear routes of access along the highway are maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people.

Data Protection Implications :

None noted

Climate Related Risks and Opportunities :

None noted

Section 17 Crime and Disorder Considerations :

The approval of pavement licences with appropriate local conditions provides a framework for enforcement (remediation notices and revocation provisions) should poor behaviour associated with the licence be experienced.

Health Implications:

The provision of pavement licenses is seen as a key method for ensuring that businesses can reopen and continue to function effectively after the main period of the covid-19 pandemic.

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

Delegated Decision: Dated 21 July 2020 "Street Licenses"

[Officer decisions | West Lindsey District Council \(west-lindsey.gov.uk\)](http://west-lindsey.gov.uk)

Regulatory Committee Report: Dated September 16th 2021:
<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MIId=2907&Ver=4>

Risk Assessment :

Non-renewal of sub delegation: there are limited resources within the authority to set up and deliver the pavement licenses provision. The service is also provided free of charge, therefore any activity in relation to it will be an additional cost to the Council.

Existing Expertise: The County Council already determine licenses such as this therefore have the required resource and expertise to deliver the function.

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

Key Decision:

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

Yes

No

1 Introduction

- 1.1 On the 21st July 2020 an Urgent Delegated Decision was made to delegate the District Council's function in relation to "Pavement Licences" under the Business and Planning Act 2020 to Lincolnshire County Council up until the 30th September 2021. This decision to delegate was further ratified for another 12 months at the Regulatory Committee meeting held on 16th September 2021, extending the delegation to 30th September 2022.
- 1.2 It has now been confirmed that the provisions within the Act will be extended until the 30th of September 2023. This paper sets out the basis for proposing to continue this delegation.

2 Background

- 2.1 Prior to this Act pavement licences (also known as "street café licences" and "tables and chairs licences") which allow businesses such as cafes, restaurants and bars to place furniture on the highway were determined by Lincolnshire County Council (LCC) under the Highways Act 1980.
- 2.2 The Act introduced a streamlined route for businesses to secure a licence to place furniture on the highway and bypasses the existing regulatory regime. The government continues to intend to support businesses to operate safely during recovery from Covid-19 and this extension is part of this process. The Act places the responsibility for issuing the licences on district councils, in consultation with the highways authority and other relevant persons, until 30 September 2023.
- 2.3 There is now a need to deliver this service until 30th September 2023.

3 Current Sub Delegation

- 3.1 From July 2021 LCC have provided the following for no fee as it is included within their existing licensing provision;
- Use of LCC website as first point of contact, make available application form, terms and conditions & updated guidance
 - Single e mail contact
 - Confirm suitability (within the new relaxed legislation) using info from application form
 - Post Notice via LCC website
 - Check liability insurance
 - Carry out consultation with stakeholders (including District Councils and Police)
 - Review any objections
 - Grant licences
 - Enforce if licence terms are broken
 - Keeping of records

3.2 To date there are 7 active licenses within West Lindsey, which LCC have determined. These are shown below. Alongside this, two applicants did not reapply after expiry and a further two applications were refused.

NAME	STAGE OF PROCESS	Legislation	LICENCE TYPE	EXPIRES	LOCATION
Canute	APPROVED	Prior	Renewal	30 September 2022	12-14 Silver Street, Gainsborough, DN21 2DP
Clock House	APPROVED	Prior	Renewal	30 September 2022	3 Lord Street, Gainsborough, DN21 2DD
Pig & Poke	APPROVED	B & P 2020	New	30 September 2022	Market Place, Caistor, LN7 6GA
Tillbridge Tastery	APPROVED	B & P 2020	New	30 September 2022	4 High Street, Sturton By Stow, LN1 2AE
Sweet Carolines	APPROVED	B & P 2020	New	30 September 2022	11-15 Silver Street, Gainsborough, DN21 2DT
Family Café/Teco Toys	APPROVED	B & P 2020	New	30 September 2022	4 Silver Street, Gainsborough, DN21 2DP
Black Bull	APPROVED	B & P 2020	New	30 September 2022	25-27 Lord Street, Gainsborough, DN21 2DD

3.3 The District Council and other stakeholders (i.e. The Police) are consulted with as part of any new application. The application is currently free of charge to businesses.

3.4 The District Council are responsible for ensuring that all relevant parties are made aware of the application including the relevant elected Ward Members.

3.5 The new streamlined process detailed in the Act means that applications are subject to 7 days of consultation and then a decision has to be taken within a further 7 days, otherwise the licence is deemed to have been granted for a year (or less, up to 30 September 2021, then 2022, now 2023).

4 Alternative Options

4.1 In previous conversations about the delegation there has been a suggestion that the Council may wish to deliver this function independently and not delegate the authority to the County Council.

- 4.2 The Council could choose to administer this function itself. As this would be a new function for the Council there are currently no processes in place, limited knowledge or experience of this function and limited staff capacity to take it on.
- 4.3 If the above provisions are not in place there is a risk of deemed licences as a result of non-determination. Given the way the sub-delegation is working and the relatively small number of applications it does not appear as though there is any benefit to changing the sub-delegation for a 12-month period. Alongside this, LCC are offering this service for free to those businesses that apply, therefore the Council would be advised to do the same in order to ensure that applications came forward and to avoid a negative reputational impact.
- 4.4 A more detailed business case for this could be produced, however the basic financial aspects of the situation mean that the service would be delivered at a deficit and an increase in applications would result in an increase in deficit.
- 4.5 Given that the Act continues to be extended annually, this report asks Committee to agree in advance a delegation for the following year, up to 30th September 2024 to avoid having to bring a further report on the same matter back to Committee in that instance.

END