

Guildhall Gainsborough  
Lincolnshire DN21 2NA  
Tel: 01427 676676 Fax: 01427 675170

## AGENDA

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

### Regulatory Committee

Thursday, 15th June, 2023 at 6.30 pm

Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA

**Members:**

- Councillor Jim Snee (Chairman)
- Councillor Mrs Mandy Snee (Vice-Chairman)
- Councillor Eve Bennett
- Councillor Trevor Bridgwood
- Councillor Karen Carless
- Councillor Liz Clews
- Councillor David Dobbie
- Councillor Mrs Angela Lawrence
- Councillor Paul Lee
- Councillor Maureen Palmer
- Councillor Roger Pilgrim

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 - 7)

To confirm and sign as a correct record the Minutes of the Meeting of the Regulatory Committee held on Thursday 22 September 2022.

5. **Matters Arising Schedule**

(PAGE 8)

Matters Arising schedule setting out current position of previously agreed actions as at 7 June 2023.

Agendas, Reports and Minutes will be provided upon request in the following formats:

Large Clear Print: Braille: Audio: Native Language

**6. Public Reports for approval**

- a) Schedule 4 - Abandoned Shopping Trolleys: Review and Consultation (PAGES 9 - 16)
- b) Food, Health and Safety Work Plan 23/24 (PAGES 17 - 42)
- c) District Wide Dog Fouling PSPO (PAGES 43 - 51)
- d) Pavement Licenses (PAGES 52 - 58)

Ian Knowles  
Head of Paid Service  
The Guildhall  
Gainsborough

Wednesday, 7 June 2023

## WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Regulatory Committee held in the Council Chamber - The Guildhall on 22 September 2022 commencing at 6.30 pm.

**Present:** Councillor Mrs Jessie Milne (Chairman)

Councillor David Cotton  
Councillor Mrs Caralyne Grimble  
Councillor Paul Howitt-Cowan  
Councillor Peter Morris  
Councillor Jim Snee

**In Attendance:**

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

**Apologies:**

Councillor Mrs Angela Lawrence  
Councillor Timothy Davies  
Councillor Mrs Judy Rainsforth  
Councillor Mrs Diana Rodgers

### 6 PUBLIC PARTICIPATION

There was no public participation.

### 7 DECLARATIONS OF INTEREST

Councillor D. Cotton declared a non-pecuniary personal interest in relation to agenda item 6b, Gainsborough Cemeteries PSPO – Decision as through his role as a vicar had undertaken many services at the Gainsborough Cemetery.

Councillor P. Howitt-Cowan declared a personal interest in relation to agenda item 6b, Gainsborough Cemeteries PSPO – Decision, as he was a founder member of Friends of Gainsborough Cemeteries.

### 8 MINUTES OF PREVIOUS MEETINGS

Regulatory Committee – 9 June 2022

**RESOLVED** that the Minutes of the Meeting of the Regulatory Committee held on Thursday, 9 June 2022 be confirmed and signed as an accurate record.

Regulatory Sub-Committee – 21 July 2022

**RESOLVED** that the Minutes of the Meeting of the Regulatory Sub-Committee held on Thursday, 21 July 2022 be noted.

## **9 MATTERS ARISING**

In respect of the action entitled “Update Report on the target number of visited establishments”, the Housing and Environmental Enforcement Manager advised the Committee that by August 2022, the team had completed 50% of the visits. The Officer then further explained that there was an expectation of reaching the 90% target and possibly beyond that. An update report would be brought to the Committee’s next meeting.

The Officer then took the opportunity to raise with Members recent correspondence received which impacted the Council’s Licensing Policy.

With effect from 2022 it was a statutory requirement for Local Authorities to be a Member of the “National Register of Refusals and Revocations (or NR3)”. Officers outlined the purpose of the national register which allowed licensing authorities to record details of where a hackney carriage or PHV driver’s license had been refused or revoked and allowed licensing authorities to check new applicants against the register.

The Policy would need to be amended, to reflect the inclusion of this “new step”, but given it was a Statutory obligation, no Committee decision would be sought and the Licensing Team would make the required amendment and re-publish the Licensing Policy in due course.

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

## **10 TAXI FARE INCREASE REQUEST**

Members gave consideration to a report which provided Members of the Regulatory Committee the background and options to the Taxi Fare Increase Request.

**Note:** Councillor C. Grimble entered the Chamber at 6.34 pm.

Under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 the District Council was the Authority responsible for licensing hackney carriages and private hire vehicles. The Council was also responsible for setting a scale of fares, which set out the maximum amount that could be charged by hackney carriage proprietors. The Council could not, however, control fares for private hire vehicles.

The number of vehicles licensed was outlined and Members noted in the last 10 years, there had been three increases in the scale of fares that WLDC taxi proprietors charge their

customers, the last one being in March 2022.

The latest request for an 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 had come specifically from a licensed driver that completed longer journeys, which occurred less, and such he felt that he did not benefit in the same manner. This request received was shown in Appendix 1.

The options consulted on and response rates, as set out in section 2 of the report were summarised to the Committee. The full response to the consultation was shown in Appendix 2.

Debate ensued, and Members recognised longer-term issues such as the rise of inflation, the high prices of petrol and diesel, and the war in Ukraine as potential causes. There were also raised points about the economic situation and whether the lack of support in the consultation process was enough to warrant an increase in the fares. Members commented on the limited number of responses, in comparison to the previous consultation, with only the minority explicitly wanting an increase. There was also concern about the possible reaction by local people to any increase in fares and the subsequent loss of business.

In response to a questions and comments, Officers confirmed changing tariffs did have a knock-on cost to operators. Members enquired as to whether it was feasible and/ appropriate to link these charges, and changes to charges, to inflation, and looking at them more regularly. In responding, Members learned that the taxi trade could propose a raise at any time, that there was no natural mechanism for a fare increase to match inflation, and that regular changes may not be supported by the Trade given the costs involved in re-calibrating the machines in vehicles, referred to earlier. It was suggested this matter was best lead by the Trade, as it was at present.

Having considered the impact on both the taxi-drivers and their customers, taking into consideration the number and nature of consultation responses. It was proposed and seconded that there should be no increase. Upon taking the vote, it was unanimously

**RESOLVED** that the incremental rate within the current taxi fare tariffs be not increased.

## **11 GAINSBOROUGH CEMETERIES PSPO - DECISION**

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

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 report provided information on the consultation response regarding the discharge of the PSPO these were summarised to the Committee and set out in Section 4 of the report. The

Officer concluded the introduction by advising that discussions relating to specific problems in the town and cemeteries were ongoing, as was the review of additional powers. A report was due at this Committee in December 2022

Debate ensued, and there was discussion over the low level of interest in the consultation, the possible deterrent effects of the PSPO, and the support for its continuation from Gainsborough Town Council. There were also statements regarding general anti-social behaviour in the District, including dog fouling and a lack of regular enforcement. Officers confirmed regular patrols would remain in the absence of the PSPO and outlined the effective deterrents in place.

In response to questions, Officers confirmed a PSPO could be re-instated and outlined the work involved, and the timeline involved. However, it was re-emphasised that the scale of the problem on the site did not meet the level required by legislation, to support the continuation of the PSPO at present.

It was confirmed that Gainsborough Town Council did not offer any support for this additional work but Officers advised that future endeavours would include collaboration with parish and town councils. Gainsborough Town Council did not employ someone trained to issue fixed penalty notices (FPNs). Officers explained this function could be delegated, as was in some parishes utilising FPNs. Officers explained the main issue was a lack of individuals willing to conduct enforcement procedures.

It was confirmed that the discharge of the PSPO applied to both the Ropery Road Cemetery and the Gainsborough General Cemetery.

Having been proposed and seconded, on voting it was unanimously

**RESOLVED** that the “Gainsborough Cemeteries PSPO” be discharged and not renewed when it expired on the 13 October 2022.

## **12 CAFE/PAVEMENT LICENSES - EXTENSION OF SUB DELEGATION**

On the 21 July 2020 an Urgent Delegated Decision had been taken 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 30th September 2021. With the legislation extended, this decision to delegate was further ratified for another 12 months at the Regulatory Committee meeting held on 16 September 2021, extending the delegation to 30 September 2022.

It had now been confirmed that the provisions within the Act would be extended until the 30 of September 2023. 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 further extended until 30th September 2023. The Committee were also asked to consider, in the event the Act’s provisions were extended further, that the existing Sub-Delegation of Pavement Licenses to Lincolnshire County Council be extended until 30 September 2024.

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. The Officer concluded his presentation to emphasise that resolution c) was about communication with the Committee.

Debate ensued, and Members expressed their general support for continuing the process. Some Members referenced case studies in their wards and asserted problems with Lincolnshire County Council's approach regarding enforcement. It was highlighted in the debate that Members could contact the Licensing and Enforcement teams at any point about issues in their wards.

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, and that local ward members would also be informed. Members were reminded the legislation was to enable businesses to succeed. Members also learned that Lincolnshire County Council notified West Lindsey District Council and the relevant parties and would contact the Environmental Protection team, the Health officers, and the local ward member(s), utilising a time-limited online portal for comments. Further assessments would then include site visits and making residents aware that a cafe/pavement license application had been made.

Having been proposed and seconded, upon taking the vote, it was

**RESOLVED** 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 30 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 30 September 2024, subject to the provisions within the bill remaining in place; and
- c) to enable Members to determine whether the matter should be called back to Committee prior to the delegation ceasing, information relating to "Pavement Licenses" be shared electronically with Members of the Regulatory Committee in advance of the end date of each delegation.

The meeting concluded at 7.22 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
<b>Black</b>	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.  AG 14/9/22: The percentage of completed inspections against the 447 Food Standards Agency target is recorded within the progress and delivery report that goes to PCC and CP&R Committees. As it stands, as of the end of August 22, 48% of scheduled inspections have been completed. There is confidence that the 90% target will be achieved.	30/12/22	Andy Gray





**Regulatory Committee**

**15<sup>th</sup> June 2023**

**Subject: Abandoned Shopping Trolleys - Schedule 4 Update and Review**

Report by:

Director – Change Management, ICT & Regulatory Services

Contact Officer:

Andy Gray  
Housing and Enforcement Manager

[andy.gray@west-lindsey.gov.uk](mailto:andy.gray@west-lindsey.gov.uk)

Purpose / Summary:

To provide an update on the Schedule 4 scheme to date and set out the proposed approach to consultation.

## **RECOMMENDATION(S):**

Committee are asked to:

- a) Note the progress of the scheme to date.
- b) Agree that the proposals for consultation are approved to take place for a 4 week period commencing Friday 23<sup>rd</sup> June 2023.
- c) Subject to agreement of (b), agree that a further report be brought back to Regulatory Committee in September to provide the outcome of the consultation and recommend a course of action for the scheme's future.

## IMPLICATIONS

### Legal:

The Council adopted this schedule at a meeting of the Prosperous Communities Committee on the 1<sup>st</sup> of May 2018 and it came into effect on the 17<sup>th</sup> August 2018.

The provision for adopting this schedule is provided with the Environmental Protection Act 1990, schedule 4.

The legal requirements as stated in the Act have been complied with. Previous legal challenges in other areas of the country have not been upheld.

### Financial :

This report asks for approval to continue the scheme to collect abandoned shopping trolleys. The main income from this scheme is in the form of charging for each trolley recovered, claimed and paid for, and returned to store. The full charging schedule for the scheme is shown in appendix 1.

The table below details the income received in the last 5 years.

Financial Year	Income Collected
2018/19	£13,875
2019/20	£29,025
2020/21	£51,525
2021/22	£68,505
2022/23	£42,600
<b>Total</b>	<b>£205,530</b>

This income has supported the Street Cleansing service costs for collecting these trolleys. From 2023/24 a budget of £18.7k has been built into the Street Cleansing budget for each year. If this scheme was to be discontinued this would create an ongoing pressure of £18.7k pa on the Street Cleansing Service budget.

FIN Ref : FIN/11/24/RC

### Staffing :

This function is delivered as part of the Council's ongoing street cleansing operation. Reporting of abandoned shopping trolleys is undertaken by both the street cleansing and enforcement teams.

### Equality and Diversity including Human Rights :

None noted

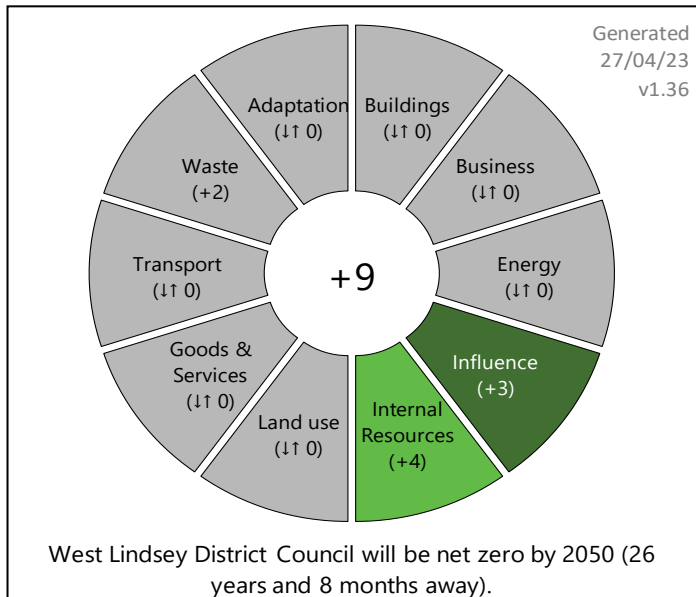
**Data Protection Implications :**

None noted.

**Climate Related Risks and Opportunities :**

The clearance and return of the trolleys help to ensure that they can be reused for the intended purpose and reduces the volume that may otherwise end up as general waste for landfill.

The CESIA wheel below indicates that the scheme is having a positive impact on the climate for the Council. It is bringing in additional income for the Council, whilst at the same time ensuring that an environmental issue is addressed.



**Section 17 Crime and Disorder Considerations :**

Prior to the scheme, trolleys presented a general concern in regards to their volume and their use for activities that constituted anti-social behaviour. The collection of trolleys seeks to reduce this impact.

**Health Implications:**

Ensuring that the street scene is clear of trolleys contributes to the enhancement of the space within the area, which in turn helps it to be an aesthetically better place to be. Likewise, the collection of any abandoned trolleys is done in turn with other waste collection, which also contributes to this.

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

Schedule 4 Adoption – Initial report and decision.

<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=176&MId=1736&Ver=4>

**Risk Assessment :**

Impact on resources: prior to the scheme this activity was undertaken using the Council's existing resources. The scheme seeks to reduce this risk by recovering the cost of the activity.

**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 Council has agreed to implement this scheme using its powers under the Environmental Protection Act 1990 and it came into effect in August 2018 for the Gainsborough area.
- 1.2 The scheme was introduced to combat the persistent issue of abandoned shopping trolleys, which at the time were being collected at a rate of 30 per week.
- 1.3 The scheme is operated and managed by the Street Cleansing Team with support from Enforcement Officers.

## **2 Scope of the Scheme**

- 2.1 The scheme seeks to make supermarkets more accountable and responsible for the trolleys that leave their premises and in turn provides a mechanism for the Council to charge for their recovery and return. Appendix A sets out the charging schedule.
- 2.2 The scheme does not provide a solution that resolves the issue of abandoned shopping trolleys, it provides a mechanism to recover the cost of clearing them, which in turn, should encourage supermarkets to take more steps to reduce the issue occurring.
- 2.3 Prior to the scheme being introduced the Council were collecting the trolleys and either storing or returning them at its own cost.

## **3 Governance**

- 3.1 Under the legislation, the Local Authority has an obligation to consult about the operation of Schedule 4 and “to consult with the persons or representatives of persons who appear to the authority to be persons who will be affected by its application”.
- 3.2 This report sets out the process for consultation and the associated timescales.

## **4 Progress to Date**

- 4.1 On immediate commencement of the scheme one of the key Gainsborough supermarkets took immediate steps to address the issue by amending the width of a gated access to remove the ability to take a trolley from the supermarket site. This was implemented alongside reinstating its trolley wheel security system. These actions have both had a positive impact on the issue.
- 4.2 However, the volume of trolleys collected is still relatively high and further contact will be made with the main supermarkets to look at what other measures could be introduced to reduce the issue. This is occurring now in advance of the consultation. The level of reporting in

relation to abandoned shopping trolleys specifically, remains very low, less than 5 per year although some may be reported as fly-tipping.

- 4.3 Since the introduction of Schedule 4, the following number of trolleys have been collected from the Gainsborough area:

<b>Year</b>	<b>No. of trolleys collected</b>
2018 (From August)	109
2019	373
2020	669
2021	789
2022	721
2023 (up to 31 <sup>st</sup> March)	98
<b>Total</b>	<b>2759</b>

- 4.4 The level of income achieved from the scheme to date is as follows, this equates to roughly £75 per trolley:

<b>Financial Year</b>	<b>Income Collected</b>
2018/19	£13,875
2019/20	£29,025
2020/21	£51,525
2021/22	£68,505
2022/23	£42,600
<b>Total</b>	<b>£205,530</b>

- 4.5 The income collected is used to cover the costs of delivering the service and supplement as required the Council's waste collection services.

## **5 Consultation**

- 5.1 It is proposed that consultation takes place for a 4-week period commencing on Friday 23<sup>rd</sup> June 2023, subject to committee approval. It will therefore run until Friday 21<sup>st</sup> July 2023.

- 5.2 The consultation will require the Council to contact the main supermarkets within Gainsborough directly to seek their views. There will also be an online survey created for the public to provide their views.

- 5.3 The survey will seek to determine the following;

- Whether respondents believe that abandoned shopping trolleys are still a concern within Gainsborough.
- Whether respondents believe that the scheme should continue to be in place.
- Whether the charging schedule is appropriate

- 5.4 The results of the consultation will be brought back to Management Team for consideration in August 2023 and a decision scheduled on the schemes extension or alternative options that may arise from the consultation for the September 2023 Regulatory Committee.

## **6 Summary**

- 6.1 The issue of abandoned shopping trolleys is still present in Gainsborough and the current collection rates are on average 12 -13 per week. The first quarter of 2023 has seen this number fall below an average of 10 per week.
- 6.2 This figure is a reduction of 62% since the implementation of the scheme. Whilst the number of trolleys collected in 2020/21 has increased, it is still less than the volumes that were being collected prior to the scheme of circa 30 per week.
- 6.3 Overall, it is believed that there is a clear rationale for the scheme continuing and the consultation process will help the Council to determine whether this should be the case.

**END**

## Appendix 1

### West Lindsey District Council Schedule 4 EPA 1990 scheme

#### Scope

Trolleys found abandoned in Gainsborough will be seized by West Lindsey District Council ('the council') and removed to the council depot in Gainsborough for storage.

Once a trolley has been seized the council will notify the owner, if identifiable, within 14 days. If the owner claims the trolley, the council will deliver the trolley back to the store once the payment for release has been made.

If the trolley is not claimed or payment not received the council will store the trolley for 6 weeks, after which the trolley will be disposed of. The owner will be charged for the costs of recovery, storage and disposal.

If no owner can be identified the council will store the trolley for 6 weeks, then dispose of it. The scheme will apply to all supermarkets who supply shopping trolleys in Gainsborough.

#### Charges

Our charges are set out below (stated fee is per trolley):

- |  |      |
|--|------|
| - Trolley recovered, claimed and paid for, and returned to store                             | £75  |
| - Trolley recovered, claimed but payment not received, trolley disposed of after 6 weeks     | £100 |
| - Trolley recovered, unclaimed by owner, trolley disposed of after 6 weeks                   | £100 |
| - Trolley recovered, owner cannot be identified and no claim made, disposed of after 6 weeks | £0   |

Debtor invoices will be raised in all cases, and where payment is not received, the council will recover via civil debt recovery.





**Regulatory Committee**

**Thursday 15<sup>th</sup> June 2023**

**Subject: Food and Health and Safety Work Plan 2023/24**

Report by:	Director - Change Management, ICT and Regulatory Services
Contact Officer:	Andy Gray Housing and Enforcement Manager  andy.gray@west-lindsey.gov.uk
Purpose / Summary:	To provide Committee with the Food, Health and Safety Work Plan 2023/2024 for approval.

**RECOMMENDATION(S):**

Committee are asked to:

- a) Approve the Food, Health and Safety Work Plan as detailed at Appendix 1.
- b) Note that the Food, Health and Safety work area will undergo a T24 review commencing in May 2023, as set out in section 7.
- c) Approve that an update on progress against the plan is brought to Regulatory Committee at its December 2023 meeting.

## IMPLICATIONS

### Legal:

The provision of this document is a statutory requirement, and it is completed in line with the Food Standards Agency Framework Agreement.

### Financial: FIN/18/24/SSc

There are no financial implication arising from this report.

The table below summarises the Medium-Term Financial Plan budget for Food Safety approved by Committee in March 2023.

Ledger code Food Safety	Base budget 2023/24 £	Base budget 2024/25 £	Base budget 2025/26 £	Base budget 2026/27 £	Base budget 2027/28 £	Base budget 2028/29 £
Employees	249,000	255,700	260,600	268,100	274,100	280,300
Transport	200	200	200	200	200	200
Supplies and Services	900	900	900	900	900	900
Third party Payments	0	0	0	0	0	0
Support Services	48,700	50,300	51,500	52,700	53,000	53,000
Customer and Client Receipts	(7,100)	(7,300)	(7,400)	(7,400)	(7,400)	(7,400)
<b>Total</b>	<b>291,700</b>	<b>299,800</b>	<b>305,800</b>	<b>314,500</b>	<b>320,800</b>	<b>327,000</b>

### Staffing :

The report identifies the staffing resource available to the service and how they are deployed in order to meet the Council's statutory responsibilities.

### Equality and Diversity including Human Rights :

There are no implications noted.

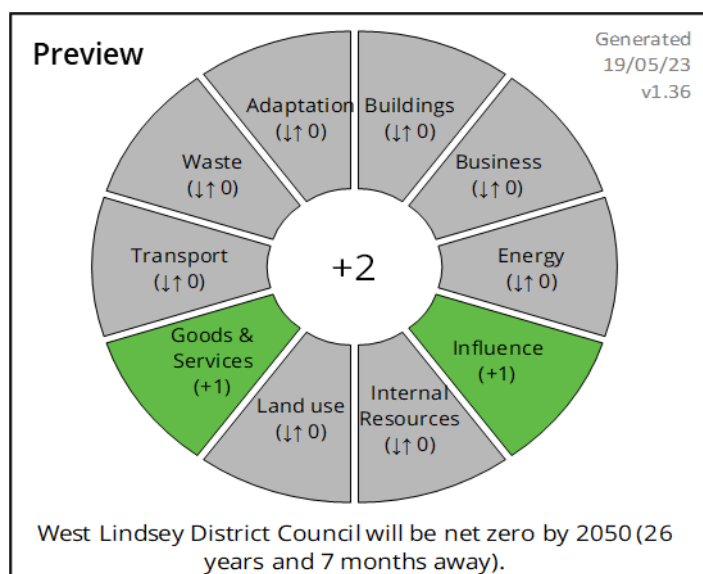
### Data Protection Implications :

There are no implications noted.

### Climate Related Risks and Opportunities :

In relation to the climate, this work plan seeks to deliver a number of the Council's statutory obligations focussed on food and health and safety. Within this there are opportunities to positively impact climate related risks through advice and engagement that can be provided to food businesses.

This mainly relates to advice and guidance in regards to waste and the appropriate practices for its disposal and storage.



### 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 Work Plan 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.

During the period of 2021/2022, the service played a direct role in the response to the Covid-19 pandemic. This response was based on the work areas resources being re-directed to address Covid-19 related concerns, to enforce the new Coronavirus Regulations and to respond to any Outbreak Management concerns in partnership with Lincolnshire County Council Public Health.

At the time of writing the 2022/2023 work plan, there are no such restrictions in place, however the service is still working in line with the FSA recovery plan, which was developed during the pandemic and is continually reviewed.

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

None noted.

**Risk Assessment :**

Maintaining Food Hygiene Inspection Requirements – the ability to deliver statutory obligations will continue to be impacted by Covid-19 and the Council will continue to work to the FSA guidance in relation to this.

**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 Council is required to produce and approve a work plan that is in line with the Food Standards Agency Framework Agreement and the Statement of Commitment agreed nationally between Local Authority Representatives and the Health and Safety Executive (HSE). This plan covers all work undertaken within the Housing and Environmental Enforcement work area relating to Food and Health and Safety.
- 1.2. The purpose of the work plan (shown in appendix 1) is to set out how the Council delivers its official controls and fulfils its duties under food, health and safety, public health and drinking water legislation.

## **2. Context**

- 2.1. The Covid – 19 pandemic severely impacted upon the ability to deliver the usual obligations in relation to food safety. The cohort of officers allocated to this work were immediately identified and delegated by Government to provide the frontline response within the majority of Local Authority Coronavirus Regulations.
- 2.2. During 22/23, there were minimal requirements across this cohort of officers to respond directly to Covid-19 related issues. This was generally in line with the Government's roadmap for living with Covid, which has now come to an end.
- 2.3. There are currently 937 food businesses registered within the district, a decrease from 1037 in the previous year, a 9.6% reduction. Since 2010/11 the average number of registered food businesses annually has been 955. This figure was 977 prior to the pandemic.
- 2.4. The reduction in the number of food businesses operating within the district can be significantly linked to the impact of the Covid pandemic, and current cost of living financial crisis. This has the potential to be an ongoing volatile situation whereby the number of food businesses operating within the district may further reduce, or may significantly increase, dependent on economic stability.

The specific reduction of 100 businesses within the last year is believed to be linked to the reduction of “home based” and takeaway style food businesses, which increased significantly during the pandemic. Alongside this, around 15% of the reduction is believed to relate to restaurants and pubs that have ceased trading due to significant cost of living challenges and financial impacts.

## **3. Service Demand in 22/23**

- 3.1. The table below shows the demand placed on the service over the last 4 years.

	2019/20	2020/21	2021/22	2022/23
<b>Total Routine Planned Food Hygiene Inspections (A to D, &amp; Unrated)</b>	372	291	198*	447
<b>Completed Food Hygiene Inspections</b>	347 (92.5%)	18 n/a	172 (87%)	418 (91%)
<b>Food Inspection Visits (inc abortive)</b>	401	39	210	542
<b>Food Inspection Revisits (additional)</b>	25	4	26	131
<b>Request for Revisit (FHRS)</b>	16	0	2	17
<b>Health &amp; Safety Intervention Visits</b>				32
<b>Health &amp; Safety Targeted Interventions</b>				20
<b>Food / H&amp;S Complaints and Service Requests (Note: 2020/21 figure includes Covid related complaints and service requests)</b>	354	875	395	247
<b>Service Requests Requiring a Premises Visit (additional)</b>	45	5	28	39
<b>Accident Investigations</b>	2	12	2	1
<b>RIDDOR Reports</b> Reporting of Injuries, Diseases and Dangerous Occurrences Regulations	37	50	64	50
<b>Infectious Disease Reports</b>	41	23	50	47
<b>Sampling Undertaken</b>	37	4	0	24

3.2. The figure of 447 total routine planned food hygiene inspections (A to D) reflected the number of inspections required within the FSA Recovery plan to the end of March 23.

3.3. There is a level of uncaptured demand that relates to general advice and queries that arise as part of the day-to-day work relating to food and health and safety. The total number of visits in 22/23 was 542. The offering of advice provides additional value to businesses in the district and help to ensure that strong relationships are in place.

#### 4. Approach to Food Hygiene Inspections in 22/23

4.1. The Food Law Code of Practice (March 2021) provides opportunity for a range of interventions in relation to food premises. The approach that the Council takes regarding these interventions is linked to its Corporate Enforcement Policy, which officers have regard for when making any decision. The planned programme of intervention is shown in the table below:

<b>Category</b>	<b>Inspection Frequency</b>	<b>No of Premises</b>
<b>A</b>	6 months	2
<b>B</b>	12 months	25
<b>C</b>	18 months	101
<b>D</b>	24 months	74
<b>E</b>	36 months	6
<b>UNRATED</b>		26

4.2. The above table represents a normal routine inspection program for the 2023/24 financial year of 234. Of these, 228 require a physical food hygiene inspection, and 6 category E are inspected via an Alternative Enforcement Strategy.

4.3. The FSA have also stated that there has been a significant increase in the number of food businesses where the risks associated with them remain largely unknown as initial inspections have not been undertaken. The FSA have also stated that there is anecdotal information suggesting that there has been a general trend of reducing hygiene standards in food establishments since the onset of the pandemic. The above two points may impact on delivery against the service plan in the short to medium term. This again, may require further resources, which will be monitored ongoing.

4.4. Food hygiene inspections undertaken, which do not form part of the routine inspection programme, are estimated to increase this number by 20 to 30% to these figures. Non-routine inspections include: -

- Paid for food hygiene inspections undertaken as part of the Food Hygiene Rating Scheme.
- Food hygiene inspections undertaken as part of a complaint investigation.
- New food businesses opening after 1st April 2023.
- Changes to the risk rating, resulting in more frequent inspection.

4.5. Therefore, the true food inspection programme, comprising of both the routine planned and unplanned inspection program's is estimated at between 274 and 296 food hygiene inspections required in the current financial year 23/24.

4.6. With the existing resources in place (and the current fixed term resources in place until the end of June 23), it is estimated that circa 70 inspections will be completed in quarter one. This is roughly a quarter of the overall total and indicates with reduced capacity there is likely to be a challenge in meeting the level of inspections required within year.

## **5. Resources**

5.1. There are currently 6 officers authorised to undertake food and/or health & safety related work within the Council. Four directly employed by the Council and 2 on temporary fixed term contracts. This equates to 4.2 FTE to deliver the food and health & safety service plan. This translates to:

- 1 FTE Senior Environmental Health Practitioner
- 2 FTE Food and Health and Safety operational inspecting officers
- 1.2 FTE fixed term contract food and health & safety inspection officers (until June 2023)

A further 0.3 FTE, towards delivery of the food and health & safety function, is provided by administrative support.

5.2. There is sufficient resource within the Support Officer roles across the broader work area to assist with the administrative functions relating to food and health and safety.

5.3. The additional 1.2 FTE fixed term contractors have clearly made a significant difference to the inspection regime. This resource has enabled a far greater number of inspections to be completed as is shown through the service demand table. These additional resources have also enabled proactive health and safety work to be undertaken at a level that has not been achieved previously.

5.4. When these resources come to an end there will be three FTEs delivering the overall service plan. Two of these are inspecting officers and one is Senior EHO, who completes inspections at a reduced frequency due to their additional responsibilities and the support being provided to staff.

5.5. It is believed that moving forward that additional resources may be needed to ensure that the Council's food hygiene requirements can be met, along with its health and safety requirements. A full T24 review of the service and this situation will be completed along with a report to Management Team as outlined in the latter sections of this report.

## **6. Service Risks**

6.1. As we move into the 23/24 inspecting year, there are a number of risks within the service, which are expected to have an impact on its delivery moving forward. These risks are outlined below:

- Increased likelihood that the inspection target of 90% may not be maintained consistently over 23/24
- Fluctuating inspection numbers which could result in increasing volumes for 24/25.
- Additional demand on Senior EHOs reducing availability to complete inspections.



- Inability to recruit experienced staff to replace fully competent officers

## **7. Proposed Way Forward**

7.1. The service is due to go through its T24 review process and this will present an opportunity to consider the above risks and identify some potential solutions and mitigations. This will be a full T24 review in line with the Council's agreed approach to this process.

The initial T24 scoping process has already taken place and depending on the extent of the work needed to be undertaken the T24 process is expected to take three to six months. This includes both process and resource reviews to ensure mitigating options can be provided to deliver the future work plan.

7.2. During this time period the inspection regime and progress will be monitored closely and is included within the Council's progress and delivery performance reporting regime. An update report on progress against the plan and its targets will be provided at the December 2023 meeting of the Regulatory Committee.

**END**

# Food, Health and Safety Work Plan 2023/2024

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## 1. Introduction

- 1.1. The Council is required to produce and approve a work plan that is in line with both the Food Standards Agency Framework Agreement, and the Statement of Commitment agreed nationally between Local Authority Representatives and the Health and Safety Executive (appendix A). It covers all work undertaken within the Housing and Environmental Enforcement work area relating to Food and Health and Safety.
- 1.2. The purpose of the work plan is to set out how the Council delivers its official controls and fulfils its duties under food, health and safety, public health and drinking water legislation.
- 1.3. The Service has now returned to a normal operating model following the Covid-19 Pandemic. The FSAs Covid-19 Recovery Plan was withdrawn on the 31<sup>st</sup> March 2023 and the Council have been fully aligned with the expectations detailed within this throughout its existence. The service is now working back in line with the Routine Planned Inspection Programme, which commenced in April 2022 and is ongoing. Specifically, local authorities should now be planning to:
  - Carry out due interventions for establishments that are back in the routine programme of interventions in accordance with the frequencies set out in the Food Law Code of Practice (the Code). This is in line with the expectation in the Recovery Plan that establishments should revert to Code frequencies once subject to an intervention as part of the Plan.
  - Work towards realigning with the provisions set out in the Code from 1 April 2023 using the full range of flexibilities already offered by the Code.
  - Continue to exercise a risk-based approach to the requirements set out in the Code based on available resource. Please note, services should be resourced to ensure they can meet the requirements of the Code.
- 1.4. The Food and Health & Safety Team will continue to provide the Council's response to any future coronavirus pandemic, should it return. Providing advice, education and ultimately, enforcement, to both businesses and residents. The Increased temporary resources available in the 2022/23 financial year have resulted in significant reductions to the backlog of food hygiene inspections following the Covid-19 Pandemic.
- 1.5. The increased temporary resources in the 2022/23 financial year have allowed the service to implement a targeted programme of proactive health & safety interventions. This follows a serious, preventable accident within the district in 2022. The resulting benchmark has demonstrated both the extent of health and safety provision, and legal compliance, of businesses within the district. The findings have identified that this area of the service should continue, to ensure that West Lindsey is a great place to be where people, businesses and communities can thrive and reach their potential.

- 1.6. Continuation of the progress made in points 1.4 & 1.5 is subject to adequate resource provision being made available.

## **2. Service Aims and Objectives**

- 2.1. The Food and Health & Safety work areas play a key role in ensuring that the district is safe and healthy.

The work of the service:

- Protects and improves the health, wellbeing and safety of all persons who live in, work in or visit the district
- Enables economic development and prosperity
- Protects and improves the local environment
- Ensures that a proportionate and risk-based approach to enforcement is delivered

## **3. Links to the Corporate Plan and Other Functions**

- 3.1. The Councils Corporate Plan 2023 – 2027 has the following vision:  
“West Lindsey is a great place to be where people, businesses and communities can thrive and reach their potential”

In order to deliver the Councils vision, it will focus on three key areas: Our Council, Our People and Our Place.

- 3.2. This work plan supports this vision and specifically contributes to a number of key strategic aims such as:
- To create a safer, cleaner and greener district in which to live, work and socialize
  - To reduce health inequalities, promote healthy lifestyle and improve wellbeing across the district.
  - To create strong, resilient communities and promote positive life choices for disadvantaged residents.
- 3.3. The Councils Corporate Enforcement Policy was reviewed and updated in 2022 and provides the framework under which these functions operate.
- 3.4. The work across the wider Housing and Environmental Enforcement service area seeks to broaden the scope of the food and health and safety work areas. This particularly relates to food premises that may present wider issues relating to housing or environmental health.
- 3.5. The work areas also contribute and influence work relating to development management and policy, growth, licensing, and community safety.

## **4. Authority Profile**

- 4.1. The West Lindsey District is one of the largest and most rural in England. It covers 1,156km<sup>2</sup> (446 square miles), with the administrative center in Gainsborough on the River Trent to the west, and the market towns of Caistor and Market Rasen to the east.
- 4.2. The 2021 Census revealed that the population of West Lindsey is at its highest ever recorded level having grown from 89,300 in 2011 to 95,200 in 2021. This is an increase of 6.7%, which is a high increase than the nation average. The districts population is ageing and continues to age at a faster rate than the population nationally.
- 4.3. Across the district there are wide variations in the levels of deprivation. Some areas experience the highest levels of deprivation in the country, while others are amongst the most affluent.

## **5. Scope of the Service**

- 5.1. The Food and Health & Safety functions sit within the wider Housing and Environmental Enforcement work area. The main functions of the work area are as follows:
  - Inspection of registered food premises
  - Investigation of food poisoning and infectious disease notifications
  - Investigation of food related complaints
  - Responding to national and local food alerts
  - Inspection of businesses in relation to health and safety compliance
  - Investigation of statutory reportable incidents
  - Provision of advice and guidance in relation to the matters above
  - Maintenance of a register of cooling towers and food premises
- 5.2. Some functions within the food safety work area come with an associated fee. These fees are reviewed annually and detailed on the Councils website.

## **6. Service Delivery**

- 6.1. There are several elements within the service delivery aspect of this plan:

### 6.1.1. Staff Development / Internal Monitoring

We are committed to ensuring that we have a high standard of competency for Authorised Officers working within the Food / Health and Safety Team. We will ensure that resources are available to allow Authorised Officers to meet their obligations of Continued Professional Development. Training needs will be reviewed as part of the appraisal process to identify any competency deficiencies and further staff development.

Internal monitoring of food interventions / complaints / service requests will be conducted by the Food Team Manager / Lead Food Officer. Verification of the above will be undertaken at regular 1-2-1 meetings with Authorised Officers. Review of Competency Assessments, required under the Food Law Code of Practice / Practice Guidance will form part of the appraisal process.

Subject to the findings of the internal monitoring at 1-2-1 meetings. Accompanied food hygiene inspections will be undertaken as a minimum, yearly.

#### 6.1.2. Food Complaints

We will investigate all complaints about food / complaints about food premises received, where we have the authority and jurisdiction to do so. Food complaints will be investigated by Authorised Officers, demonstrably competent to do so, in accordance with the requirements of the Food Law Code of Practice: Statement of Competence for Authorised Officers. Officers will use their Professional Competency, coupled with available guidance, to determine the nature and scope of the investigation. Advice may also be obtained from colleagues. All complaints may trigger a food hygiene inspection, at the professional discretion of the Authorised Officer.

#### 6.1.3. Home Authority Principle & Primary Authority Scheme

The Council supports the Primary Authority Scheme and Home Authority Principle. However, the Food Service does not have any formal Home Authority arrangements with individual businesses. Currently there are no food related Primary Authority relationships in place.

#### 6.1.4. Advice to Businesses

The Council provides advice and education to food businesses, to support them in complying with their legal requirements, whilst also helping them to adopt good practices. The Council supports businesses by providing information on the Council webpage. Advice is readily available by contacting Officers directly. The Council also operates one to one advice visits for the benefit of food businesses, although this is a paid service.

#### 6.1.5. Control of Infectious Disease

The service will investigate all outbreaks of food or water borne disease. All suspected cases will be followed up and confirmed cases will be contacted by telephone or by questionnaire to try and ascertain if there are any common factors.

#### 6.1.6. Food Safety Incidents

Food safety alerts notify the public and food authorities of incidents concerning food which does not meet food safety or composition standards. Alerts are received via the FSA alert system into the Commercial Team shared e-mail inbox which is monitored during

office hours. Any alert marked “for action” is referred to the Team Leader to determine the most appropriate course of action.

#### 6.1.7. Sampling

West Lindsey District Council shall comply with all relevant UK and retained EU legislation to ensure food within the district is appropriately sampled for microbiological safety. Each year a food sampling policy and programme will be produced and published to be available to local businesses and consumers. This will outline our general sampling strategy and approach relating to specific local situations.

Sampling within the district will be carried out in accordance with this policy, programme and following a set documented procedure.

West Lindsey District Council has access to Senior Microbiologists from the Food, Water and Environmental Microbiology Laboratory (York) Laboratory as Food Examiners.

West Lindsey District Council aims to participate in all sampling programmes organised nationally through the Food Standards Agency and UK Health Security Agency. As agreed through Lincolnshire Environmental Health Manager’s Group all programmes organised through Lincolnshire Food Sampling Group will be participated in.

Locally, West Lindsey District Council will have regard to sampling from food businesses and manufacturers, particularly those premises producing high risk foods of animal origin. The Council will also sample businesses which produce and distribute foods outside the area. Food sampling and swabbing of food premises may be included as part of food hygiene inspections to help assess hygiene standards and processes. Food sampling will also be used as an important tool, when appropriate, in the investigation of food complaints and food poisoning incidents.

#### 6.1.8. Food Sampling Policy

This policy will set out West Lindsey District Council's general approach to food sampling and its approach in specific situations such as process monitoring, Home Authority Principles, inspections, complaints, special investigations and national, regional and locally co-ordinated programmes.

Sampling makes an important contribution to the protection of public health and the food law enforcement function of the Local Authority. It is a useful tool for:

- Investigating complaints



- Investigating food poisoning or food contamination incidents
- Assisting in measuring compliance with food safety legislation when undertaking food hygiene inspections.

These matters are demand driven and samples will be taken as required.

Local Authorities have a duty to ensure food meets legally prescribed standards and routine sampling will monitor compliance.

West Lindsey District Council will ensure appropriate action on non-compliance with food safety legislation is taken in accordance with relevant Food Safety Legislation, Food Standards Agency Codes of Practice, and the Enforcement Policy.

A procedural document details the method for taking samples, continuity of evidence and preventing deterioration or damage to samples whilst under the Authority's control.

Samples for examination are sent by courier to UK Health Security Agency, Food Water and Environmental Microbiology Laboratory (York). Other accredited laboratories may be used for specialist projects.

West Lindsey District Council's sampling programme will reflect the manufacturing, retail, and catering premises within the district to ensure locally produced foods meet legal requirements and to assist those businesses in monitoring compliance. This will also reflect our Home Authority and any future Primary Authority responsibilities.

West Lindsey District Council will participate in UK Health Security Agency and local co-ordinated sampling programmes with other Local Authorities.

Figures relating to food sampling undertaken by the Authority will be returned to the Food Standards Agency via the Food Surveillance System and LAEMS returns.

West Lindsey District Council will follow documented procedures to ensure consistency following results of sampling and consider the Enforcement Policy before deciding what action to take.

During routine sampling if unsatisfactory results are found the manufacturer or if relevant the local retailer/caterer will be notified of the results to discuss the proposed course of action.

If formal samples are taken in accordance with the FSA Code of Practice the local business will be notified and action taken in

accordance with the Code of Practice, the Council documented Food Sampling Procedure and the Enforcement Policy in consultation with the Senior Environmental Health Officer/Environmental Health Manager as appropriate.

The sampling programme will be reviewed and updated annually and as required to reflect local and national priorities.

## 7. Profile

7.1. The current profile of food premises and timescales for inspections are as follows:

Category	Primary Producers	Manufacturers & Packers	Importers / Exporters	Distributors / Transporters	Retailers	Restaurants & Caterers	Totals
A (6 months)	0	0	0	0	1	1	2
B (12 months)	0	7	0	0	0	18	25
C (18 months)	0	14	0	1	9	106	130
D (24 months)	0	4	0	2	34	248	288
E (36 months)	7	10	0	27	102	320	466
Unrated	1	1	0	1	4	19	26
<b>Total</b>	<b>8</b>	<b>36</b>	<b>0</b>	<b>31</b>	<b>150</b>	<b>712</b>	<b>937</b>

7.2. The total number of food premises is 937 and there are currently 8 approved premises which may require 2 inspections per year.

7.3. The food hygiene rating system (FHRS) extends to businesses supplying food directly to consumers. The overall aim of the scheme is to reduce the incidence of food borne illness and the associated costs of this to the economy. The system helps to inform members of the public in regards to places they wish to eat or purchase food from. This in turn helps to raise food hygiene standards. The rating of premises across the district as of March 2023 is shown below;

FHRS Rating	Description	Number	%
5	Very Good	535	79.9%
4	Good	70	12.6%
3	Generally Satisfactory	40	5.7%
2	Improvement Necessary	2	0.3%
1	Major Improvement Necessary	10	1.2%
0	Urgent Improvement Necessary	0	0.3%

\*\* Please note. These figures come from the Food Standards Agency website and includes premises that may have been rated but that may no longer require rating

## 8. Service Demand

8.1. The table below shows the demand placed on the service over the last 4 years

	2019/20	2020/21	2021/22	2022/23
<b>Total Routine Planned Food Hygiene Inspections (A to D, &amp; Unrated)</b>	372	291	198*	447
<b>Completed Food Hygiene Inspections</b>	347 (92.5%)	18 n/a	172 (87%)	418 (F3 + F5)
<b>Food Inspection Visits (inc abortive)</b>	401	39 (M38)	210	542 (M38)
<b>Food Inspection Revisits (additional)</b>	25	4 (M24)	26	131 (M24)
<b>Request for Revisit (FHRS)</b>	16	0	2	17 (MFV)
<b>Health &amp; Safety Intervention Visits</b>				32
<b>Health &amp; Safety Targeted Interventions</b>				20
<b>Food / H&amp;S Complaints and Service Requests (note 2020/21 figure includes covid related complaints and service requests)</b>	354	875	395	247 (SRR com)
<b>Service Requests Requiring a Premises Visit (additional)</b>	45	5	28	39 (M29)
<b>Accident Investigations</b>	2	12	2	1
<b>RIDDOR Reports</b>	37	50	64	50
<b>Infectious Disease Reports</b>	41	23	50	47
<b>Sampling Undertaken</b>	37	4	0	24

\*the figure of 198 total routine planned food hygiene inspection in 21/22 reflects the number of inspections required within the FSA recovery plan. In a normal inspecting year, the programme would have required 554 inspections.

8.2. There is a level of uncaptured demand that relates to general advice and queries that arise as part of the day-to-day work relating to food and health and safety. The offering of advice provides additional value to businesses in the district and help to ensure that strong relationships are in place.

8.3. Further uncaptured demand relates to technical advice provided to the wider Council, as the technical lead to the Council for both food and health & safety.

8.4. Additional uncaptured demand is generated from attendance, by the service, at site specific events throughout the year. For example. Four Officer attendance at the two-day Lincolnshire Show to ensure public safety at the event.

- 8.5. There is a specific charging schedule in place for various aspects of food safety work such as food hygiene revisits and advice and guidance provided to new businesses.

## 9. Planned Inspection Programme

- 9.1. An inspection programme is established and maintained for all food premises within the district. Inspections are undertaken in accordance with the Food Safety Act 1990, Code of Practice. The frequency of inspection is determined by the risk that is presented. The Council has no formal Home/Lead/Primary Authority Agreement with any business operating in the district.

In 2023/24 the service aims to:

- Provide advice and support to businesses and residents
- Maintain an effective food inspection program, comprising both routine planned & unplanned inspections seeking to achieve a total of 100%, in line with the requirements of the Food Law Code of Practice. To investigate, and instigate an action plan should this figure fall below 90%.
- Ensure that any high-risk complaints are addressed
- Maintain a level of 97% of premises rating 3\* or above
- Respond to any future Covid-19 pandemic, and recovery, as required
- Maintain and improve service delivery of health & safety provision within the district to capitalise on advances made in the 2022/23 financial year.
- Maintain and improve service delivery at site specific events within the district.
- Respond to and implement the proposed changes to the Food Law Code of Practice (and Practice Guidance), and their effect on food service delivery.

- 9.2. The Food Law Code of Practice (March 2021) provides opportunity for a range of interventions in relation to food premises. The approach that the Council takes regarding these interventions is linked to its corporate enforcement policy, which officers have regard for when making any decision. The planned programme of intervention is shown in the table below

Category	Inspection Frequency	No of Premises
<b>A</b>	6 months	2
<b>B</b>	12 months	25
<b>C</b>	18 months	101
<b>D</b>	24 months	74
<b>E</b>	36 months	6
<b>UNRATED</b>		26

- 9.3. The above table represents a normal routine inspection programme for the Year 2023/24 of 234. Of these, 228 require a physical food hygiene

inspection, and 6 category E are inspected via an Alternative Enforcement Strategy.

- 9.4. Food hygiene inspections undertaken which do not form part of the routine inspection programme are estimated to add a further 20 to 30% to these figures. Non-routine inspections include: -
- Paid for food hygiene inspections undertaken as part of the Food Hygiene Rating Scheme.
  - Food hygiene inspections undertaken as part of a complaint investigation.
  - New food businesses opening after 1<sup>st</sup> April 2023.
  - Changes to the risk rating, resulting in more frequent inspection.
- 9.5. The true food inspection programme, comprising of both the routine planned, and unplanned inspection program, is estimated at between 274 and 296 food hygiene inspections required in the current financial year. The reduction in the number of food businesses operating within the district may be significantly linked to the impact of the Covid pandemic, and current financial crisis. This has the potential to be a volatile situation whereby the number of food businesses operating within the district may further reduce, or significantly increase, dependent on economic stability.
- 9.6. Food sampling is an important aspect of food safety enforcement, providing information about the microbiological safety of food available within the district. Sampling will be undertaken in accordance with the relevant guidance and may be taken during a routine inspection, in response to a complaint or as part of a national sampling programme.
- 9.7. The Council ensures that a risk-based approach to inspections occurs in regard to its health and safety obligations. Reference is made to targeting advice produced by the Health and Safety Executive contained within Local Authority Guidance LAC 67/2 version 12, ensuring we are aligned with wider national priorities, and other relevant guidance. Programmed work focuses on reports that are received from members of the public or reports that are received via the Health and Safety Executive.
- 9.8. The Council is required to undertake accident investigations relating to fatalities and life changing injuries as a result of poor health and safety practice. We also investigate cases of occupational ill health and dangerous occurrences as defined by the Reporting of Incidences, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013.
- 9.9. The Council works in partnership with the UK Health Security Agency to identify, control and prevent the spread of infectious diseases.

## **10. Resources**

10.1. There are currently 6 officers authorised to undertake food and/or health & safety related work within the Council. Four directly employed by the Council and 2 temporary contractors. This relates to 4.2 FTE posts to deliver the food and health & safety service plan. This translates to:

- 1 FTE food and health & safety manager
- 2 FTE food and health & safety operational inspecting officers
- 1.2 FTE temporary food and health & safety inspection contractors

A further 0.3 FTE, towards delivery of the food and health & safety function, is provided by administrative support.

10.2. There is sufficient support officer resource in place to assist with the administrative functions relating to food and health and safety. These resources are shared across the broader work areas.

10.3. All relevant officers are delegated and authorised to carry out their functions. The level of authorisation is determined by their specific role, responsibility and competency level. Specific competency assessments for individual officers are in place relating to the work areas.

## 11. Financial Allocation

11.1. The table below summarises the Medium-Term Financial Plan budget for Food Safety approved by Committee in March 2023.

Ledger code Food Safety	Base budget 2023/24 £	Base budget 2024/25 £	Base budget 2025/26 £	Base budget 2026/27 £	Base budget 2027/28 £	Base budget 2028/29 £
Employees	249,000	255,700	260,600	268,100	274,100	280,300
Transport	200	200	200	200	200	200
Supplies and Services	900	900	900	900	900	900
Third party Payments	0	0	0	0	0	0
Support Services	48,700	50,300	51,500	52,700	53,000	53,000
Customer and Client Receipts	(7,100)	(7,300)	(7,400)	(7,400)	(7,400)	(7,400)
<b>Total</b>	<b>291,700</b>	<b>299,800</b>	<b>305,800</b>	<b>314,500</b>	<b>320,800</b>	<b>327,000</b>

## 12. Liaison with Other Organisations

12.1. Alongside working within the Council, officers liaise with a number of other local authorities, agencies and organisations to ensure that consistency is maintained, develop best practice and to share learning. The groups engaged with as are as follows:

- Lincolnshire Environmental Health Managers Group
- Lincolnshire Food and Health and Safety Group
- Food Standards Agency (East Midlands, Yorkshire and Humber Region)
- Health and Safety Executive
- UK Health Security Agency

- Lincolnshire County Council
- Lincolnshire Police
- Drinking Water Inspectorate
- Anglian Water

### **13. Review**

- 13.1. The Food and health and Safety Work Plan will be reviewed on a yearly basis

# HSE

## Statement of commitment between: Local Authority and HSE Regulatory Services

This joint statement of commitment (SoC), agreed by local authority (LA) representative bodies and the Health and Safety Executive (HSE) in March 2019, sets out our shared vision for an ongoing LA/HSE co-regulatory partnership. Ensuring LAs and HSE work together as effective, modern and professional regulators - delivering the positive benefits of efficient, world leading workplace health and safety, to achieve:

- Sustainable arrangements for the enforcement of work related health and safety.
- Established joint working arrangements resulting in effective engagement, consultation and communication.
- Consistency of high quality regulation across HSE and LA enforced businesses.

This shared SoC is aimed at Councillors, LA Chief Executives and their Heads of Regulatory Services. It outlines how LA senior managers and HSE will work together, to achieve sustainable future delivery of effective workplace health and safety enforcement in Great Britain (GB).

### Current position

LAs are a key part of the health and safety system in GB. They have a statutory duty under Section 18 of the Health and Safety at Work etc. Act 1974 to 'make adequate provision' for health and safety enforcement in their area, as set out in the 'National LA Enforcement Code' (the Code) ([www.hse.gov.uk/lau/la-enforcement-code.htm](http://www.hse.gov.uk/lau/la-enforcement-code.htm)).

LAs enforce workplace health and safety in two thirds of all business premises, around half of the total GB workforce. LAs predominantly cover the retail, consumer services, entertainment and warehousing/supply chain sectors.

Currently failures in the management of health and safety in LA enforced business sectors result in around 10 deaths, 5000 major injuries and over 100,000 new cases of ill health a year. Many of those harmed are members of the public/children, or vulnerable workers not provided with reasonable workplace protection.

HSE provides national direction via the Code and its supporting documentation e.g. annually updated targeting advice ([www.hse.gov.uk/lau/lacs/67-2.htm](http://www.hse.gov.uk/lau/lacs/67-2.htm)) supports LAs to develop locally responsive sustainable delivery plans, using the most current intelligence and regulatory practice.

Effective management of health and safety brings direct benefits to the local community, by:

- Reducing work related death, injuries and ill health.
- Reducing the need for local public health and support for those recovering from injury and ill health.
- Reducing the rate of business failure due to business outages caused by incidents and harm to staff, or the loss of reputation.

This SoC was developed as part of the on-going work of the strategic group overseeing the HSE/LA co-regulatory partnership (HELA) and the supporting Practitioner's Forum. It also has the endorsement of the Local Government Association ([www.local.gov.uk/](http://www.local.gov.uk/)), Welsh Local Government Association ([www.wlga.gov.uk/](http://www.wlga.gov.uk/)) and Society of Chief Officers of Environmental Health in Scotland ([www.socoehs.com/](http://www.socoehs.com/)) and recognises that:

- LAs must target and prioritise regulatory resources to meet their legal duty to enforce health and safety;
- Continued delivery of effective co-regulation will require ongoing evolution in both the LA and HSE approaches to regulatory delivery, and
- The HSE and LA co-regulatory partnership plays a vital role in delivering the 'Help GB Work Well' strategy. ([campaigns.hse.gov.uk/hgbww/](http://campaigns.hse.gov.uk/hgbww/))

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This SoC does not relate to an LA's own responsibilities as a health and safety dutyholder. Information to support LAs as employers, service providers and procurers/commissioners of goods and services can be found on the HSE website ([www.hse.gov.uk/services/localgovernment/index.htm](http://www.hse.gov.uk/services/localgovernment/index.htm)).



# Joint LA/HSE Commitments to Targeted Sustainable Health and Safety Enforcement

## What LAs & HSE will do together as co-regulatory partners to #HelpGBworkwell

LAs & HSE will provide an effective regulatory framework by:

- Sharing information, to make sure we take decisions on the best available evidence.
- Delivering risk based, targeted frontline interventions.
- Maintaining liaison and effective two-way communication via joint representation at county liaison groups as well as the joint LA/HSE HELA and Practitioner forums.

LAs & HSE will secure effective management and control of risk by:

- Delivering a consistent approach to the enforcement of work related health and safety across GB in line with the principles of the Regulator's Code ([www.gov.uk/government/publications/regulators-code](http://www.gov.uk/government/publications/regulators-code)).

LAs & HSE will lead and engage with others to improve workplace health and safety by:

- Promoting the benefits of proportionate health and safety in their frontline engagement.
- Working together as co-regulatory partners to influence businesses as part of a national strategy.
- Using the latest in behavioural insight to develop new ways to change business behaviour.

## What LAs will do as independent co-regulators to #HelpGBworkwell

LAs will provide an effective regulatory framework by:

- Providing the competency, capacity, resource and support to fulfil their delivery plans.
- Working with other LAs to peer review activities and promote better health and safety outcomes.

LAs will secure effective management and control of risk by:

- Developing and implementing local delivery plans which clearly link to national and local priorities.
- Using national and local intelligence to effectively target poor performing sectors.
- Annually reporting their health and safety enforcement activity to HSE.

LAs will lead and engage with others to improve workplace health and safety by:

- Leading and engaging with their local business community to promote health and safety priorities and adopting the "Better Business for All" approach where relevant and sustainable.
- Sharing relevant local intelligence with HSE to inform the national perspective.
- Championing their role as health and safety regulators.

## What HSE will do as the national policy lead and a co-regulator to #HelpGBworkwell

HSE will provide an effective regulatory framework by:

- Reviewing the effectiveness of GB's occupational health and safety system.
- Providing LA regulators with access to topic specific materials and technical / forensic support.
- Monitoring and reporting on LA regulatory activity to the HSE's Board and other stakeholders.

HSE will secure effective management and control of risk by:

- Setting national regulatory priorities and the overarching strategic direction.
- Sharing expertise, practice and supporting materials to promote consistent/proportionate regulation.
- Supporting LAs to develop effective intervention plans by providing targeting guidance based upon up-to-date information and intelligence via targeting guidance which accompanies the Code.

HSE will lead and engage with others to improve workplace health and safety by:

- Co-ordinating national engagement and promotion of proportionate health and safety and using feedback from LAs to inform the development of national priorities in the LA enforced sectors.
- Providing support for LA local and national regulatory liaison and industry sector working groups.
- Championing the LA role as health and safety regulator.





**Regulatory Committee**

**Thursday 15<sup>th</sup> June 2023**

**Subject: Extension of District Wide Dog Fouling Public Space Protection Order (PSPO)**

Report by:

Director – Change Management, ICT and Regulatory Services

Contact Officer:

Andy Gray  
Housing and Enforcement Manager

[andy.gray@west-lindsey.gov.uk](mailto:andy.gray@west-lindsey.gov.uk)

Purpose / Summary:

To seek approval for an extension of the District Wide Dog Fouling Public Space Protection Order.

**RECOMMENDATION(S):**

**Elected Members are asked to:**

- a) Approve that the Dog Fouling PSPO, be extended for a three-year period from 6<sup>th</sup> June 2023 to 5<sup>th</sup> June 2026.

## IMPLICATIONS

### **Legal:**

PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. A minimum 30 day consultation period is required by Legislation. The Council intends to consult for its minimum 6 week period.

The Council can vary, extend or discharge a PSPO in line with section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014.

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.

### **Financial: FIN/22/24/SSc**

No financial implications arising from this report.

Fixed penalty notices (FPN's) for breach of a PSPO are set at £100 with a £75 early payment incentive within fees and charges. Income from fixed penalty notices may be used to support the service issuing the FPN.

### **Staffing:**

The Council already has provision in place to monitor and enforce the PSPOs in place and it is not proposed that any subsequent approval will affect this as it is an extension of an existing order.

### **Equality and Diversity including Human Rights:**

The proposed extension of this PSPO will not disadvantage any social groups over another, and the process will be applied fairly. The Council's approach to fixed penalties is outlined in its Corporate Enforcement Policy.

### **Data Protection Implications:**

None noted.

### **Climate Related Risks and Opportunities:**

None noted.

### **Section 17 Crime and Disorder Considerations:**

This legislation and approach allows the Council to take enforcement action in the form of a fixed penalty against any persons found to be in breach of the PSPO.

**Health Implications:**

Dog fouling has a detrimental impact on health, with the main concern being Toxocariasis <https://www.nhs.uk/conditions/toxocariasis/prevention/>

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

Guidance on preparation of PSPOs : <https://www.local.gov.uk/public-spaces-protection-orders-guidance-councils>

**Risk Assessment:**

Challenge in the High Court – the risk of this is reduced by following process and considering reasonableness throughout the process.

**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 In June 2020 the Council designated its “Dog Fouling Public Space Protection Order”, which is in place until the 5<sup>th</sup> of June 2023. This PSPO focused on dog fouling and disposal and applied across the whole district. It also included a provision for individuals to carry and have available a means to remove dog fouling.
- 1.2 The impact of dog fouling on both the natural environment and on public health is well known. It is essential for the Council to promote responsible dog ownership and to ensure that where this is not the case there is provision, in law, for addressing it.
- 1.3 This report proposes that the existing PSPO is extended for an additional three years. The existing order and information on dog fouling can be found here:

<https://www.west-lindsey.gov.uk/communities-safety/community-safety/dog-fouling>

## **2 Legal Position**

- 2.1 PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. Orders can be extended and varied under sections 60 and 61 of the Act.
- 2.2 These Orders can be made on any land open to the air that the public has a right or entitlement of access to
- 2.3 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

## **3 Consultation**

- 3.1 The legislation requires that the local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any) before extending the period for which a PSPO has effect.
- 3.2 The necessary consultation means consulting with the chief officer of police, and the local policing body for the police area that includes the restricted area; whatever community representatives the local authority thinks it appropriate to consult; the owner of land within the restricted area.

- 3.3 Consultation has been sent directly to the Police and to all Parish and Town Councils seeking their views on the matter.
- The Police Inspector for the area supports the schemes extension.
  - The Police and Crime Commissioner supports the schemes extension.
  - Market Rasen Town Council and the three Market Rasen area District Councillors support the schemes extension.
- 3.4 Public notices have been produced for both the extension and the variation. These have been available to view in the Guildhall, Marshall's Yard and on the Council website.

## **4 Context**

- 4.1 A list of frequently asked questions is shown in appendix 1.
- 4.2 Dog fouling goes relatively unreported to the Council and there were only 20 reports of incidents between July 2020 and April 2023. No offences were witnessed, however with every incident reported patrolling was carried out and signage added to the location. There is no specific pattern to reporting, although five of the reports were from within the Gainsborough area.
- 4.3 Whilst it is recognised that the majority of dog owners will not act in a way which will result in a breach of the order, it is clear that there is still an issue with dog fouling within West Lindsey. Any alternative approach is felt to be more effective where it does include a formal enforcement measure.
- 4.4 The dog fouling PSPO is seen as a very effective deterrent across the district and enables the Council to enact formal powers as required to deal with the issue. Whilst there is still a real challenge in regard to catching individuals who are in breach of the PSPO, it is still deemed to be necessary in order to combat the issue given the impact that it has or is likely to have on the quality of life for our residents.
- 4.5 The Council has recently, through the approval of its Environmental Crime Commitment, agreed to consider whether a more direct approach to enforcement through the use of a civil enforcement agency for offences such as dog fouling could be required and this matter will be subject for discussion at a future meeting of the Council's Prosperous Communities Committee.

## **5 Proposed Order**

- 5.1 It is proposed that Members approve the extension of the order for a further three-year period. Members must be satisfied that the conditions within the Act are met as referred to in 2.3 above.
- 5.2 There is general acceptance that the Council should take enforcement action in relation to dog fouling, and it is clear that the PSPO acts as a deterrent for this.

5.3 A copy of the proposed order including the extension and variation is shown in Appendix 2. The original order along with the extended and varied order will be made available on the Council's website.

## **6 Enforcement**

6.1 Officers will continue to patrol the district and respond to reports of dog fouling where they are made to seek to identify the perpetrators.

6.2 Signage will be placed in any hotspot areas as necessary. Signage will also be made available to Parish and Town Councils and community groups who may wish to be proactive within their area.

6.3 Alongside the PSPO, at Prosperous Communities Committee in March 2023, Councillors approved the Environmental Crime Commitment, which includes dog fouling as one of the key areas to address.

**END**



## **Appendix 2**

### **Consultation on Extension of District Wide Dog Fouling Public Space Protection Order**

#### **Frequently Asked Questions**

##### **What is a PSPO?**

Public Space Protection Orders (PSPOs) relate to activities taking place which are or may be detrimental to the local community's quality of life. The PSPO for dog fouling and dog control is aimed at preventing and reducing this anti-social behaviour and to help promote responsible dog ownership

##### **What does the Dog Fouling PSPO involve?**

The order requires people in charge of dog(s) in any public open space in West Lindsey to:

- Pick up immediately after the animal has fouled.
- Dispose of the waste appropriately - in a public bin, or at home.
- Carry something to pick up dog waste with, showing it to the enforcement officer if asked, regardless of whether the dog has fouled

##### **How will the PSPO be enforced?**

Any individual observed by an authorised officer breaching the PSPO will be issued with a fixed penalty notice of £100. Residents will be able to report issues with dog fouling to the Council, who will then carry out targeted patrols of that area.

##### **How will the enforcement work in practice?**

The PSPO is not aiming to “catch out” responsible dog owners. Any officer enforcing the PSPO will take a common sense approach and base this on the risk to the public. For example, we may choose to approach dog owners who are walking dogs in areas on the same open land as children’s play parks.

##### **Will signs be erected across the District?**

Only in problematic areas. Electronic copies of signs will be provided to all Parish Councils or community groups who will be able to put them up in any areas they wish.

##### **How many dog bags should I carry?**

There is no set limit. You should carry enough to ensure that you can clean up after your dog. We believe that most responsible dog owners carry a supply of bags. Running out of bags or forgetting to pick one up will not be deemed as a reasonable excuse for failing to comply with the Order.

### **What does carry a device or other suitable means to remove dog waste mean?**

Usually this will mean that you carry dog bags to remove waste, however other pieces of equipment are available and may be carried by dog owners. Suggesting that you would use your hands would not be deemed a reasonable excuse for failing to comply with the order.

### **Where should I dispose of dog waste?**

If your dog defecates on public land, the bagged waste can be placed in any public litter bin, dog waste bin or household waste bin. It is always the responsibility of the owner or person in control of the dog at the time to dispose of the waste responsibly.

### **I've bagged my dog's mess but there is no bin nearby. What should I do?**

If there are no bins nearby you must keep hold of your bagged dog waste until you reach a public litter bin or dog waste bin, alternatively it can be taken home and put into your household waste bin.

### **Can I come back and clear the mess later or collect the bag I have hidden or left?**

No, the mess deposited by your dog must be cleared immediately and any bag containing that mess must be removed without any delay.

### **I did not see my dog foul, is it still an offence?**

When you are out walking your dog it will be your responsibility to watch your dog at all times and to ensure you clean up after it. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), will not be deemed as a reasonable excuse for failing to comply with the Order.

### **Are there any exemptions to the order?**

Certain areas of land are exempt, such as roadside grass verges where the speed limit is above 40mph. Also agricultural land and any land that is private property where there is no right of public access.

Dog owners who are registered blind or partially sighted will be given exemptions. Likewise, exemptions may be given to dog owners who have physical or mental disabilities.

**WEST LINDSEY DISTRICT COUNCIL**

**Anti-Social Behaviour, Crime and Policing Act 2014, section 59  
Public Space Protection Order**

**Extension to the West Lindsey District Council –Dog Fouling Public Space Protection Order**

**Extension**

West Lindsey District Council, under s60 of the Act, has extended its Dog Fouling Public Space Protection Order for a period of three years from the 6<sup>th</sup> June 2023.

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

The Common Seal of  
West Lindsey District Council  
was hereunto affixed  
in the presence of

# Agenda Item 6d



**Regulatory Committee**

**Thursday 15<sup>th</sup> June 2023**

**Subject: Pavement Licenses - Revision 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](mailto:andy.gray@west-lindsey.gov.uk)

Purpose / Summary:

To seek approval for an amendment to the  
existing sub-delegation in regards to pavement  
licenses.

## **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 and subsequently the Levelling Up and Regeneration Bill be delegated to Lincolnshire County Council until September 2024.
- b) The District Council confirm that within the delegation until September 2024, Lincolnshire County Council be permitted to set and charge a fee of up to £500 for a new licence and £350 for a renewal.
- c) A summary of the delegation relating to Pavement Licenses will be presented to Regulatory Committee annually and any further delegations considered within this.

**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-draftguidance/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.

This Act is going to be replaced by the Levelling-Up and Regeneration Bill, which will contain a specific schedule relating to pavement licenses.

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

**Financial: FIN/12/24/MT/SSc**

Lincolnshire County Council have not charged a fee to the Council in delegating authority to them to deliver the function to date.

The Levelling-Up and Regeneration Bill now enables the administering authority to charge a fee of up to £500 for a new application and £350 for a renewal.

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 currently minimal, however has decreased and can be difficult to predict in terms of determining how to resource a service.

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, considering 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:**

None noted.

**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 \(west-lindsey.gov.uk\)](https://democracy.west-lindsey.gov.uk)

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

Regulatory Committee Report: dates Dated September 22<sup>nd</sup> 2022:  
<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MIId=3340&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. Even with the additional fee, there is still not believed to be a viable business case given the number of licenses issued and renewed annually.

**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 In September 2022, Regulatory Committee agreed to delegate the District Councils function under the Business and Planning Act 2020 for “Pavement Licences” to Lincolnshire County Council for a further 12 months up until the 30<sup>th</sup> September 2023. The Committee also agreed to delegate the same function until 30<sup>th</sup> September 2024, subject to the provisions within the bill remaining in place.
- 1.2 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.
- 1.3 Since September 2022, the Government have been seeking approval for the Levelling-Up and Regeneration Bill (The Bill), which will include the provisions for Pavement Licences and mean that the Business and Planning Act 2020 will be repealed.

## 2 Reason for Revision of Sub Delegation

- 2.1 The revised legislation within The Bill now enables the Local Authority to charge an increased fee for the issuing of and the renewal of a Pavement Licence. The current Act allows for a fee of £100 to be charged and to date, LCC under the sub-delegation have provided the service for no fee.
- 2.2 The Bill now enables a fee of £500 to be charged for a new licence and £350 to be charged for a renewal. It is believed that Committee need to further consider the sub-delegation and these revised fees as they were not considered when the original decision was made in September 2022.
- 2.3 LCC have confirmed that if the sub-delegation continues, they would wish to charge the full fee for both the new application and the renewal.

## 3 Current Licenses

- 3.1 To date there are only 2 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.

JADU REF	NAME	DATE REC'D	STAGE OF PROCESS	Legislation	EXPIRES	LOCATION
PCL000010	The Plough/ Greek2Me	07/09/2022	Cancelled	B&P 2020	TBD	The Green, Nettleham
PCL000075	Canute	26/09/2022	Licence Issued	B&P 2020	30/09/2023	12-14 Silver St, Gainsborough DN21 2DP



- 3.2 When the report was presented to Regulatory Committee in September 2022 there were 7 active licenses. Many of these were applied for during the pandemic where businesses were using additional outside spaces due to the indoor restrictions in place and the public's reticence to dine indoors.
- 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 and LCC remain the enforcing authority.
- 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 Options Available**

- 4.1 It is believed that the Council have two options in relation to pavement licenses.
- Continue with and amend the sub-delegation to enable the charging of fees as per The Bill.
  - Cease the sub-delegation and deliver the service in house.
- 4.2 Given the extent of the licenses issued and the role LCC already play in regards to pavement licenses (they are the statutory enforcement body), it is not believed to be viable to deliver the service in house. The Licensing work area currently covers all of the Council's statutory licensing functions, alongside dealing with Public Health Funerals and elements of the cemetery's operation. Pavement licensing would be an additional and new function for the team and additional resource would be required to be allocated if it were to be set up as a new service. If the demand increased significantly it could potentially be implemented at a future point in time.
- 4.3 This would also be a new function for the Council there are currently no processes in place, limited knowledge or experience of this function. If the above provisions are not in place there is a risk of deemed licences as a result of non-determination.
- 4.4 As the fee is currently zero, the increase to £500 may significantly limit the number of businesses that wish to apply. Where a business requires a small number of outdoor seats, it may not be cost effective to go down the route of applying for a licence.

- 4.5 Given that the Act is transferring into the proposed Bill, this report asks Committee to agree to continue the existing delegation until the end of September 2023 and subsequently September 2024.
- 4.6 Committee are also asked to confirm that along with the delegation, agreement is given for LCC to charge the licence and renewal amounts as stated within this report.
- 4.7 Committee will retain the ability to review and amend this delegation as required during this time period. Officers will also continue to monitor the application levels to enable continual consideration of whether the service could be delivered in house.

**END**