



Regulatory Committee

Thursday 6th June 2024

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

Report by:

Director – Change Management, ICT &
Regulatory Services

Contact Officer:

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Purpose / Summary:

To seek approval to extend the existing sub-
delegation in regard to pavement licenses until
September 2026.

RECOMMENDATION(S):

Regulatory Committee are asked to approve that:

- a) The Districts Council’s function in relation to “Pavement Licenses” under the Levelling Up and Regeneration Act 2023 be delegated to Lincolnshire County Council until September 2026.
- b) The County Council, under this delegation, will look to issue licenses for a two year period, unless there is good reason to issue them for a shorter time period.
- c) A summary of the delegation relating to Pavement Licenses will be presented to Regulatory Committee bi-annually and any further delegations considered within this.

IMPLICATIONS

Legal:

The Business and Planning Act 2020, in relation to Coronavirus, gave powers to District and Borough authorities to determine and issue pavement licenses. This power was not a power that had been previously held by those authorities and had always previously been a power held by County Council's.

The original regulations came into effect until September 2021, were extended until September 2022 and were 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 Levelling Up and Regeneration Act 2023 came into effect in October 2023 [Levelling-up and Regeneration Act 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2023/55/enacted#schedule-22)

The Act and made the provisions within the Business and Planning Act 2020 permanent. The schedule for the modification of the Business and Planning Act can be found here

<https://www.legislation.gov.uk/ukpga/2023/55/enacted#schedule-22>

The Levelling Up and Regeneration Act also included provision for the administering authority to charge a fee of up to £500 for a new application and £350 for a renewal.

Financial: FIN/21/25/SSC

There are no direct financial implications for the Council.

In June 2023, the Council agreed to continue to delegate its power to the County Council for this function, who in turn confirmed that they would charge the maximum fees for new applications and renewals.

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 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.

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://www.west-lindsey.gov.uk/officer-decisions)

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

Regulatory Committee Report: dates Dated September 22nd 2022: <https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MId=3340&Ver=4>

Regulatory Committee Report: Dated June 2023: <https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=262&MId=3438&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 30th September 2023. The Committee also agreed to delegate the same function until 30th 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 Within the time that has passed since the June 2023 decision, the Government have confirmed the Levelling Up and Regeneration Act 2023, which has made the provisions for pavement licensing with the Business and Planning Act permanent.
- 1.4 The revised legislation within the Act now enables the Local Authority to charge an increased fee for the issuing of and the renewal of a Pavement Licence. These fees are set at £500 for a new application and £350 for renewal.
- 1.5 The County Council are charging the fees stated within the Act for new applications at the maximum amounts. Previously the service was offered for a fee of £100 and the new fees will be charged from the 10th of June 2024 (subject to approval).
- 1.6 Licenses will also be issued for a two year period unless there is good reason to issue them for a shorter time period. If a licence is issued for a shorter time period then the fee will reflect that pro-rata.

2 Current Licenses

- 2.1 To date there are only four active licenses within West Lindsey, which the County Council have determined. These are shown below.

NAME	DATE REC'D	EXPIRES	LOCATION
Canute	02/10/2023	30/09/2024	12-14 Silver Street, Gainsborough, DN21 2DP
The Plough	20/10/2023	30/09/2024	1 The Green, Nettleham, Lincoln, LN2 2NR
Stokes Coffee Shop	17/01/2024	02/02/2025	2a Ropery Road, Gainsborough, DN21 2NL
Alfie's Gainsborough Ltd	26/03/2024	22/04/2025	2 Market Place, Gainsborough, DN21 2BY

- 2.2 When the report was presented to Regulatory Committee in June 2023 there were two active licenses.
- 2.3 The District Council and other stakeholders (i.e., The Police and Ward Councillors) are consulted with as part of any new application and the Council is responsible for notifying parties that an application has been received. Any comments on the application are made directly to the County Council.
- 2.4 The new streamlined process detailed in the Act means that applications are subject to 14 days (previously 7) of consultation and then a decision has to be taken within a further 7 days, otherwise the licence is deemed to have been granted.

3 Options Available

- 3.1 It is believed that the Council have two options in relation to pavement licenses.
- Continue with and extend the sub-delegation.
 - Cease the sub-delegation and deliver the service in house.
- 3.2 Given the extent of the licenses issued and the role the County Council already play in regard 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 Councils 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.
- 3.3 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.
- 3.4 The Council 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. These considerations will include those in relation to the developments in Gainsborough relating to Levelling UP, which are likely to provide more opportunities.

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