



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Officer Delegated Decision

16 April 2024

Karen Bradford, Chief Executive



Pavement licences – Delegation to Lincolnshire County Council

Since Covid 19 Lincolnshire County Council (LCC) has received delegated powers to process pavement café licences from the district councils, including South Kesteven District Council (SKDC) via the Business and Planning Act 2020 and its corresponding extensions. The Levelling-Up and Regeneration Act 2023 has updated the Business and Planning Act 2020 and subsequent extensions. This report seeks to extend the current agreement to delegate this function to Lincolnshire County Council.

Contact

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Decision made by:	Karen Bradford, Chief Executive
Decision:	To approve the continued delegation of issuing pavement licences to LCC.
Public or Exempt:	Public
Reasons for exemption:	N/A
Conflicts of interest:	No
Policy compliant:	Yes
Details of delegation:	Part 3(c) – Delegated Powers to Officers: Licensing (19) To enter premises and take relevant action in relation to any licensable activity in accordance with the relevant legislation and the Council's policies and procedures. This delegation is granted to Chief Executive, Deputy Chief Executive, relevant Director, Assistant Director (Governance and Public Protection) and any officers they

authorise in writing as being appropriately qualified and trained.

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance

- 1.1 Lincolnshire County Council has confirmed that there would be no cost to the Council in delegating authority to it to deliver the function.

Financial Implications reviewed by: Richard Wyles, Deputy Chief Executive and s151 Officer

Legal and Governance

- 1.2 The Business and Planning Act 2020 relating to pavement licensing came into effect on 22 July 2020. Schedule 22 of the Levelling-Up and Regeneration Act 2023 updated the 2020 Act or subsequent extensions.
- 1.3 In accordance with section 8 of the Business and Planning Act 2020, the functions relating to pavement licences are non-executive functions and cannot be dealt with by the Cabinet. This remains unchanged by the Levelling-Up and Regeneration Act 2023.
- 1.4 Under section 101 of the Local Government Act 1972, a local authority may arrange for the discharge of any of its non-executive functions by another local authority.

Legal Implications reviewed by: Graham Watts, Monitoring Officer

2. The Purpose of the Report

- 2.1 The Business and Planning Act 2020 introduced a streamlined route for businesses to secure a licence to place furniture on the highway adjacent to their premises. This bypassed the previous regulatory regime administered locally by Lincolnshire County Council and placed the responsibility for issuing the licences on district councils.

- 2.2 In anticipation of the implementation, on 21 July 2020 the Chief Executive made the decision (under delegated authority given by Cabinet on 7 July 2020) to delegate the pavement licensing function to the executive of Lincolnshire County Council. To ensure that applications could be processed from the day the Act took effect.
- 2.3 The Business and Planning Act 2020 and its corresponding extensions has now been updated by the introduction of the Levelling-Up and Regeneration Act 2023. The power to grant pavement café licences remains with district councils.
- 2.4 The new legislation includes modifications that the extensions to the Business and Planning Act 2020 introduced, namely:
- It replaces S115E of the Highways Act 1980 in terms of the legislation supporting Pavement Café Licences.
 - Pavement café licences can be issued for a maximum of 2 years with no minimum time.
 - Fees confirmed as £500 for a new application, £350 for a renewal (subject to no changes).
Extended consultation period from 7 to 14 days for each of the public and determination consultation periods.
- 2.5 If, as a district council, the current delegated authority is to continue in that Lincolnshire County Council will continue to manage the pavement café licence process, delegated powers will need to be approved again.
- 2.6 LCC has made appropriate arrangements to continue issue issuing pavement licences upon receipt of confirmation of the delegation.

3. Available Options Considered

- 3.1 The Council could choose to administer this function itself, however, as this would be a new function for the Council there are currently no processes in place, no knowledge or experience of this function, and existing staff capacity to take on this additional function is limited.
- 3.2 Lincolnshire County Council already has the necessary processes in place to receive and determine applications.

4. Preferred Option

- 4.1 To continue with the delegation to LCC.

5. Reasons for the Decision(s)

- 5.1 It is considered preferable to retain the delegation to Lincolnshire County Council of issuing pavement licences as no issues have been encountered during the previous delegations and they have the established processes and procedures in place.

6. Consultation

- 6.1 Councillor Knowles, Cabinet Member for Corporate Governance and Licensing is aware of the content of this decision report and has confirmed his approval.

7. Appendices

- 7.1 None

Signed by: Karen Bradford, Chief Executive
