

## **SOUTH HOLLAND DISTRICT COUNCIL**

**Report of:** Portfolio Holder for Public Protection and Licensing and Business Support Manager

**To:** South Holland District Council Wednesday, 29 July 2020

**(Author:** Donna Hall Licensing and Business Support Manager)

**Subject** Pavement Licences

**Purpose:** To consider delegating to the Lincolnshire County Council authority to discharge all functions relating to pavement licences under sections 1 to 9 of the Business and Planning Act 2020

### **Recommendations:**

- 1) That the Lincolnshire County Council be authorised to discharge, for the South Holland District Council area, all functions relating to pavement licences contained in sections 1 to 9 of the Business and Planning Act 2020; and
- 2) That the Licensing and Business Support Manager be authorised to:
  - make all decisions under sections 1 to 9 of the Act until such time as the County Council formally agrees to discharge such functions; and
  - agree arrangements with the County Council regarding the administration of the scheme pending such formal agreement.

### **1.0 BACKGROUND**

- 1.1 The Business and Planning Act 2020 received Royal Assent on 22 July 2020 and sections 1 to 9 of the Act came into effect on the same day.
- 1.2 Sections 1 to 9 allow local authorities to issue pavement licences to enable proprietors of premises which sell food or drink for consumption on or off the premises to place removable furniture on part of a highway adjacent to their premises, either to enable to proprietor to sell or serve food or drink, or for use by customers.
- 1.3 The Act places this function with the District Council, but the County Council already deals with furniture licences, mainly under Part 7A of the Highways Act 1980, and it has therefore provisionally been agreed by each District Council within Lincolnshire that this function be delegated to the County Council. The purpose of the new legislation is that the new process provides a cheaper, easier and quicker way for businesses to obtain licences with a view to businesses being able to use outdoor space during the summer.

## 2.0 **DELEGATION OF FUNCTION**

2.1 The Business and Planning Act 2020 states that functions relating to pavement licences are non-executive functions, and therefore any decision to delegate this function to the County Council must be made by the full Council.

2.2 Lincolnshire County Council must also formally agree to accept any delegation. Its next scheduled full Council meeting is not until September, although it is understood that the County Council may call an extraordinary Council meeting in early August. Until such time as the County Council formally agrees to accept any delegation it will be necessary for decisions to be made by the District Council, but it is still possible for the County Council to be involved in the administration of the process. It is therefore suggested that the Licensing and Business Support Manager be authorised to:

- make all decisions under sections 1 to 9 of the Act until such time as the County Council formally agrees to discharge such functions; and
- agree arrangements with the County Council regarding the administration of the process pending such formal agreement.

2.3 Sections 1 to 9 expire 30 September 2021.

## 3.0 **OPTIONS**

3.1 To delegate this function to the Lincolnshire County Council. This is the preferred option.

3.2 Not to delegate this function to the Lincolnshire County Council. This option is not recommended, but if members decide to pursue this option it is recommended that members approve a fee of £75 per licence (the fee may be up to £100), and that the Executive Director Commercialisation be authorised to determine all other issues, including conditions and duration of licences.

## 4.0 **REASONS FOR RECOMMENDATION(S)**

4.1 The Lincolnshire County Council already deals with pavement licences, mainly under Part 7A of the Highways Act 1980, and it therefore considered appropriate for the County Council to determine pavement licences under the Business and Planning Act.

## 5.0 **EXPECTED BENEFITS**

5.1 All District Councils within Lincolnshire have provisionally agreed to delegate this function to the County Council, allowing an integrated process across the County.

## 6.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be

implications under one or more of these headings, these are identified below.

## 6.1 **Constitutional & Legal**

6.1.1 Sections 1 to 9 of the Business and Planning Act 2020 came into effect on 22 July 2020.

6.1.2 In accordance with section 8 of the Act, the functions relating to pavement licences are non-executive functions and cannot be dealt with by the Cabinet.

6.1.3 Under section 101 of the Local Government Act 1972, a local authority may arrange for the discharge of any of their non-executive functions by another local authority.

## 6.2 **Financial**

6.2.1 There are no financial implications arising directly from this report. Lincolnshire County Council will be able to charge a fee of up to £100 per licence, but that is a matter for the County Council to determine.

## 6.3 **Health & Wellbeing**

6.3.1 The licences are intended to assist relevant businesses to operate safely during the pandemic.

## 6.4 **Stakeholders / Consultation / Timescales**

6.4.1 The Act requires the relevant Council to consult on each application, with the consultation period being 7 days beginning with the day after the day on which the application is made. The period for making representations is therefore very short.

## 7.0 **WARDS/COMMUNITIES AFFECTED**

7.1 All wards.

## 8.0 **ACRONYMS**

8.1 None

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Background papers:- The Business and Planning Act 2020 which can be found on-line.

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### **Lead Contact Officer**

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**Key Decision:** N

**Exempt Decision:** N

**This report refers to a Mandatory Service**

**Appendices attached to this report:** None