

**Open Report on behalf of Richard Wills,  
Executive Director for Environment & Economy**

Report to:	<b>Highways and Transport Scrutiny Committee</b>
Date:	<b>06 November 2017</b>
Subject:	<b>Control of Weeds Within The Highway</b>

**Summary:**

The purpose of this report is to update members on the control of weeds within the public highway in Lincolnshire. It relates to the policy covered in the Highway Asset Management Plan (HAMP) and aims to provide more detailed information on the delivery aspects of the service.

**Actions Required:**

Members of the Highways and Transport Scrutiny Committee are invited to consider and comment on the report and highlight any recommendations to the Executive Member for Highways, Transport and IT.

## 1. Background

With the exception of the Trunk Roads, Lincolnshire County Council is the Highway Authority for all roads in Lincolnshire and has a statutory duty to maintain the highway.

Controlling the growth of grass and weeds through joints between kerbing and surfacing - a common location for seed germination is a sensible course of action to reduce the potential longer term damage to the highway asset.

- Weeds will cause structural damage to the footways, carriageways and cycleways if they are allowed to grow freely. Hence in the long term, the risk to the authority is much greater maintenance costs will result from an inadequate weed control strategy.
- Weed growth in visibility areas can become a safety issue
- Weed growth is visually intrusive and heavy growth can give the impression that the highway network is being poorly maintained and the political fall-out which follows from that
- Weed growth in the carriageway channel will cause a build-up of detritus which will impede the effective drainage of the highway.
- There is also an expectation from the public that paved areas should be kept in a tidy manner.

There are two distinct aspects of the highway weed control function:

- The first is the treatment of general weeds which are likely to interfere with the highway e.g. when they create a hazard, cause structural damage, affect drainage systems or become unsightly.
- The second aspect is the statutory duty to control harmful/noxious weeds on the highway; these are defined in the Weeds Act 1959 and the Wildlife and Countryside Act 1981.

### General Weeds

Our contractual specification for the control of general weeds covers the control by chemical spray of weed growth:

- In kerb channels, including outlet mouths and gully gratings.
- Surfaced areas around all obstructions and street furniture
- Around all street tree bases
- Around all traffic islands
- On the back edge of the carriageway/footway abutting walls
- On areas of block paved carriageways

The existing contractual arrangements do not routinely include the removal of general weeds by hand or mechanical ripping. Routine sweeping of highways is carried out by District Councils as part of their environmental function and removes some weeds as well as detritus.

### Noxious Weeds

The Weeds Act 1959 empowers DEFRA to serve notice requiring an occupier of land to take action to prevent the spread of certain specified weeds. Prosecution under the Act can be pursued by DEFRA specifically when agricultural land is threatened by the specified weeds. DEFRA may also elect to have a third party undertake any necessary action and recover costs from the occupier.

The most common specified weed under the Weeds Act 1959 is Common Ragwort.

Section 14 of the Wildlife and Countryside Protection Act 1981 makes it an offence, liable to a fine, to plant or otherwise cause to grow in the wild, certain specified weeds. It may be a defence to prove that all reasonable steps were taken to prevent the plants growing in the wild. Specified weeds under the Wildlife and Countryside Act 1981 are Giant Hogweed; Himalayan Balsam and Japanese Knotweed.

It is clear from the legislation that there is a duty on the authority to take practicable measures to control the growth and prevent the spread of harmful/noxious weeds on the highway. Failure to do so could potentially result in prosecution under one of the above Acts and/or compensation claims from adjacent landowners.

The Authority's policy is to carry out selective weed control operations on rural highway verges to control the growth of injurious, noxious and controlled weeds including other invasive vegetation.

It is important to note that The Noxious Weeds Act 1959 does not seek to eradicate ragwort; but only seeks to control it where it poses a high risk to grazing animals and/or feed/forage production and the authority must take action to control the spread of ragwort.

### Service Level

Prior to 2016 the funding for highway weedspraying allowed for three applications of herbicide per annum, which was included in the current Highway Works Term Contract, which commenced in 2010.

In February 2016 Full Council agreed a budget which reduced the funding for weedspraying to two applications per annum. Furthermore, in February 2017 Full Council agreed a budget which allowed for a single application of herbicide; which is the current policy.

Weedspraying commences in June and the requirement of the operation is that three weeks after treatment there is to be no evidence of mature live weed growth in the treated area. Our weed spraying programme is dependent on dry weather which means that our schedule can change at short notice. It should be noted that this year's weed spraying programme has been amended in South Kesteven to accommodate the activities of 'The Big Clean' by the District Council.

A review of adjacent authorities shows the following approaches:

Leicestershire:	2 treatments
Nottinghamshire:	2 treatments
Norfolk:	2 treatments
North Lincolnshire	2 treatments
North East Lincolnshire	3 treatments

### Funding 2017/18

The current funding allocation available for the treatment of weeds is:

Basic Funding	£97,000
Agreements with WLDC/COLC/BBC	<u>£33,000</u>
Total	<b><u>£130,000</u></b>
Invasive and Noxious Weeds	<b><u>£40,000</u></b>

The current basic funding level is subject a budget pressure of £20,000 due to the increased delivery costs associated with more extensive weed development before spraying.

## Service Delivery

The Council carries out total weed control operations on areas of paving and hard standings, kerb and channels, back of footway, base of walls and around street furniture. Weed spraying covers a total of 4600 km of kerbs.

The bulk of the weed spraying service is delivered through the Highways Works Term Contract by Kier, as part of the Lincolnshire Highways Alliance. The application work is carried out by local specialist sub-contractors with the required level of expertise to comply with the regulations for storage, handling and application of herbicides.

At present, three out of the seven districts in Lincolnshire have elected to spray weeds on the public highway on behalf of the County Council. These long-term relationships have evolved through financial negotiation. In each case the District/ City Council concerned has agreed to provide the service at a cost equal to or less than it would have cost Lincolnshire Highways. The councils continue to meet this challenge and contribute to the objective of demonstrating value for money and meeting local savings targets. The principle of working closely with local councils will continue into the future. Also, we are currently working with Horncastle Town Council to trial the delivery of the service at Parish Council level.

This is the first year of operating to our single-spray policy and has resulted in an increased number of public complaints. The most visible effect to the public is that the extended growing period between treatments results in larger weeds. The longer term effects is uncertain and as neighbouring authorities still operate a two-spray regime there is no relevant feedback to inform our decision making.

## Chemical Usage

The use of chemical herbicides is carefully controlled by the Department for Environment, Food and Rural Affairs (DEFRA). All works and herbicides used are in accordance with the Control of Pesticides Regulations 1986, the current edition of the Control of Substances Hazardous to Health Regulations and Pesticides, Code of Practice for using plant protection products 2006 and take into account the Health and Safety Commission's Approved Code of Practice on '*The safe use of pesticides for non-agricultural purposes*'.

LCC are under a duty to make sure that they take reasonable precautions to ensure the protection of human health and the environment, this includes only treating the areas that are required to be treated and the amount and frequency of treatment should be as low as possible (Pesticide regulations SI 2012/1657, regulation 10 ). Within the highway, we currently use non-residual weed killers based on the active ingredient glyphosate. Glyphosate is only effective when in direct contact with the weeds and on contact with soil it breaks down into harmless substances. It has a low toxicity to humans, animals and insects and can be used on areas open to the public and their pets. The use of residual herbicides is deemed to present too high a risk to sanction its choice.

The application of herbicide is by controlled droplet application (CDA). Any CDA equipment which may produce drift is not allowed in our contract. The herbicide

must be applied by trained and fully NPTC (National Proficiency Tests Council) certificated operators.

However, there are on-going discussions at the European Commission which may restrict the use of glyphosate on the highway. Alternative methods, including steam treatment and foam applications are being evaluated, but all would create a significant additional budget pressure for the Council.

### Protected Verges

Lincolnshire County Council has a number of protected grassed verges, including some designated sites of special scientific interest. Particular care is taken near areas that are sensitive to the effects of pesticides and we work closely with the Lincolnshire Wildlife Trust to establish maintenance regimes in these areas.

## **2. Conclusion**

On-going weed spraying is an important highways maintenance activity for Lincolnshire Highways in order to prevent the deterioration of footways and carriageways caused by grass and weeds. It also helps to enhance the quality of place for Lincolnshire residents. However, like all maintenance activities which are not directly related to highway safety, there is a limit on the service's ability to fully meet all public expectations within budget limitations, with reduced activity due to competing priorities with other maintenance activities. Nevertheless it is also very important to respond to complaints and try to adapt the processes and resources to ensure the best service is delivered.

There is also a responsibility under the Weeds Act 1959 to prevent noxious/invasive weeds from spreading.

Following consideration of the report, the committee is requested to consider whether it wishes to make any additional comments.

## **3. Consultation**

### **a) Have Risks and Impact Analysis been carried out**

N/A

### **b) Risks and Impact Analysis**

N/A

## **4. Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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