

 Executive Committee - 17April 2013		Agenda Item No. 4
Title	Amendments to Scheme of Delegation	
For further information about this report please contact	Mark Barnes and Peter Dixon	
Wards of the District directly affected	N/A	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Minute No. 83 Executive - 14 November 2012	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	19.03.2013	Andrew Jones
Head of Service	15.03.2013	Susie Drummond, Mike Snow, Roger Dewsbury
CMT		
Section 151 Officer	19.03.2013	Mike Snow
Monitoring Officer	19.03.2013	Andrew Jones
Finance	19.03.2013	Jenny Clayton
Legal	15.03.2013	Max Howarth
Portfolio Holder(s)	24.03.2013	Cllr Moira-Ann Grainger, Councillor Coker, Councillor Doody, Councillor Mobbs
Consultation & Community Engagement		
Internal consultation with members of the GIS Team and the Head of ICT Services.		
Final Decision?		Yes/No
Suggested next steps (if not final decision please set out below) Recommendations 2.1 to 2.3, if agreed by the Executive, will need to be considered by Council on 27 March 2013		

1. SUMMARY

- 1.1 A report was submitted to the Executive on 14th November 2012 following which it was resolved to agree a new schedule of charges for the Street Naming and Numbering Service to be implemented on 1st April 2013.
- 1.2 In light of the above decision, this report seeks to implement an addition to the current scheme of delegation to include the Public Health Act 1925 (see Appendix 1). This is expected to ensure a more robust and up to date scheme of delegation for the Street Naming and Numbering Service.
- 1.3 Additionally, there are three other amendments which are felt necessary in respect of; the suspension or revoking of a private hire or hackney carriage driver's licence; the confirmation of Public Footpath, Creation, Diversion and Extinguishment Orders; and the issuing of authorisations under the Regulations of Investigatory Powers Act (RIPA) 2000.

2. RECOMMENDATIONS

- 2.1 That the Executive recommends to Council that it adopts the provisions, within the Public Health Act 1925, relating to street naming and numbering, included in Appendix 1.
- 2.2 That Members agree to remove the following delegations from the scheme of delegation:
 - DS (11) Deal with the numbering and renumbering of properties under Town Improvement Clauses Act 1847.
 - CP (27) (i) deal with the numbering and re-numbering of properties under the Town Improvement Clauses Act 1847
(ii) following consultation with the appropriate Parish or Town Council, approve the naming of streets
- 2.3 To add the following delegation to the scheme of delegation for Corporate and Community Services
 - CIS (2) act under the provisions of either the Public Health Act 1925 or Town Improvement Clauses Act 1847 to
(i) deal with the numbering and re-numbering of properties
(ii) approve the naming of streets following consultation with the appropriate Parish or Town Council
- 2.4 The Executive approves the release of not more than £1,500 from the Corporate Contingencies Budget in order to meet the cost of advertising the changes in the local paper, and notes that any costs incurred would be paid back from the Street Naming and Numbering budget through income received.
- 2.5 To amend CP(6) to read as follows
 - CP (6) following consultation with a solicitor acting for the Council and the Chair or Deputy Chair of the Regulatory Committee to exercise the power under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 (as inserted by the Road Safety Act 2006), to suspend or revoke a private hire or hackney carriage driver's licence where it appears that the interests of public safety require such suspension or revocation to have immediate effect.

- 2.6 To add “and to confirm if no objections are made” to MO (6)
- 2.7 To add to CE (5) and CE (24) the words “subject to the approval of a Justice of the Peace”.

3. REASONS FOR THE RECOMMENDATIONS

- 3.1 Currently the Council can only utilise the powers provided by the Town Improvement Clauses Act, however, that it is recognised nationally that the powers provided by the Public Health Act are more appropriate in most cases. Before the Council can utilise the powers under the Public Health Act it must first have resolved to adopt the powers in accordance with the Local Government Act 1972. Enquiries have revealed that the Council does not appear to have adopted these powers.
- 3.2 Furthermore, it is believed that the introduction of the recently agreed new schedule of charges on 1st April 2013 is best served in conjunction with the adoption of an Act that is not only more appropriate, but is also as up to date and as robust as possible. This is recognised nationally as being the Public Health Act 1925. However it is also beneficial to keep the provisions for working under the Town Improvement Clauses Act of 1847 because in some situations it may be more the appropriate authority to use.
- 3.3 An amendment to CP (6) is thought necessary to align the wording of the delegation with the wording contained in the actual legislation and to add the Chair of licensing to the discussion to ensure that any decision made is more robust in the event of an appeal. The current wording refers to “in extreme circumstances” where the legislation actually states “in the interest of public safety”. The words ‘extreme circumstances’ create a stricter test to that contained within the legislation which is that “the interests of public safety require suspension or revocation to have immediate effect”. This means that there could be a case where the interests of public safety require immediate suspension or revocation, but that the circumstances do not constitute ‘extreme circumstances’. This would result in the Head of Community Protection being unable to suspend or revoke with immediate effect despite there being grounds under S61 for taking such action.
- 3.4 It is proposed that “and to confirm if no objections are made” be added to MO (6) which relates to responding and carrying out consultations concerning the making of Public Footpath, Creation, Diversion and Extinguishment Orders. This allows for an Order to be confirmed as an unopposed order where there are no objections to that Order.
- 3.5 Amendments to CE (5) and CE (24) are necessary as all Regulations of Investigatory Powers Act (RIPA) 2000 requests now have to be approved by a Justice of the Peace following authorisation.

4. POLICY FRAMEWORK

- 4.1 **Policy Framework** - No changes to Council policy.
- 4.2 **Fit for the Future** – In line with the Council’s Fit for the Future Strategy, a need to streamlinethe Street Naming and Numbering service was identified. Indeed, following a review of staffing responsibilities (see Minute No. 26,

Employment Committee - January 2012), it was agreed that the GIS Team would be able to provide a more efficient service.

- 4.3 Streamlining the service has since proved to be beneficial to the council in that additional income has been generated and turnaround times have been improved.

5. BUDGETARY FRAMEWORK

- 5.1 There will be a considerable increase in the income to the Street Naming and Numbering budget, held in ICT services, due to a more proactive approach being taken.
- 5.2 The adoption of the Act will need to be advertised on two consecutive weeks within a local paper (under the Public Notices section). If approved, all initial advertisement costs (a sum of not more than £1,500) will be paid from the Corporate Contingencies Budget and will ultimately be repaid from the additional income received.

6. ALTERNATIVE OPTION(S) CONSIDERED

- 6.1 The Council may continue to operate the Street Naming and Numbering service under the current scheme of delegation. However, this has been discounted as the current scheme is considered to be out of date and not robust enough to support the proposed new schedule of charges being implemented on 1st April 2013. This is particularly important as the new schedule of charges includes a radical change in relation to fees for new development. The new schedule of charges can be implemented without adopting the provisions, within the Public Health Act 1925, relating to street naming and numbering.

7. BACKGROUND

- 7.1 Warwick District Council has a statutory responsibility for the Street Naming and Numbering service within its administrative area, a statutory obligation that it is currently providing in accordance with the Towns Improvement Clauses Act 1847 (Sections 64 and 65).
- 7.2 In line with the Council's Fit for the Future Strategy, there is a need to provide an increasingly streamlined service. As part of this, and following a review of staffing responsibilities within the Engineering Team (see report to Employment Committee - 3rd January 2012), it was agreed that the GIS Team would be able to provide a more efficient service.
- 7.3 With this in mind, it was agreed that the service could be amended to include a new schedule of charges, most notably for applications that include large new developments.
- 7.4 The implementation of charges would cover the non-mandatory administrative and consultative processes (or discretionary services) that had previously been offered free of charge.
- 7.5 Therefore, in order to achieve this new level of service, it is essential that the Council is comfortable that the service it provides is covered by a scheme of delegation that is up to date and robust, particularly if a challenge is made to the new schedule of charges.

Appendix 1 – The Public Health Act 1925

Section 17 - Notice to urban authority before street is named.

- (1) Before any street is given a name, notice of the proposed name shall be sent to the urban authority by the person proposing to name the street.
- (2) The urban authority, within one month after the receipt of such notice, may, by notice in writing served on the person by whom notice of the proposed name of the street was sent, object to the proposed name.
- (3) It shall not be lawful to set up in any street an inscription of the name thereof—
 - (a) until the expiration of one month after notice of the proposed name has been sent to the urban authority under this section; and
 - (b) where the urban authority have objected to the proposed name, unless and until such objection has been withdrawn by the urban authority or overruled on appeal;
- (3) and any person acting in contravention of this provision shall be liable to a penalty not exceeding level 1 on the standard scale and to a daily penalty not exceeding £1.
- (4) Where the urban authority serve a notice of objection under this section, the person proposing to name the street may, within twenty-one days after the service of the notice, appeal against the objection to a petty sessional court.

Section 18 - Alteration of name of street.

- (1) The urban authority by order may alter the name of any street, or part of a street, or may assign a name to any street, or part of a street, to which a name has not been given.
- (2) Not less than one month before making an order under this section, the urban authority shall cause notice of the intended order to be posted at each end of the street, or part of the street, or in some conspicuous position in the street or part affected.
- (3) Every such notice shall contain a statement that the intended order may be made by the urban authority on or at any time after the day named in the notice, and that an appeal will lie under this Act to a petty sessional court against the intended order at the instance of any person aggrieved.
- (4) Any person aggrieved by the intended order of the local authority may, within twenty-one days after the posting of the notice, appeal to a petty sessional court.

Section 19 - Indication of name of street.

- (1) The urban authority shall cause the name of every street to be painted, or otherwise marked, in a conspicuous position on any house, building or erection in or near the street, and shall from time to time alter or renew such inscription of the name of any street, if and when the name of the street is altered or the inscription becomes illegible.
- (2) If any person, pulls down any inscription of the name of a street which has lawfully been set up, or sets up in any street any name different from the name lawfully given to the street, or places or affixes any notice or advertisement within twelve inches of any name of a street marked on a house, building, or erection in pursuance of this section, he shall be liable to a penalty not exceeding level 1 on the standard scale and to a daily penalty not exceeding £1.