

Executive

Excerpt of the minutes of the meeting held remotely on Monday 24 August 2020, which was broadcast live via the Council's YouTube Channel.

Present: Councillors Day (Leader), Cooke, Falp, Grainger, Hales, and Rhead.

Also present: Councillors: Boad (Liberal Democrat Group Observer), Davison (Green Group Observer), Councillor Mangat (Labour Group Observer) Milton (Chair of Overview & Scrutiny Committee) and Nicholls (Chair of Finance & Audit Scrutiny Committee).

Apologies for absence were received from Councillor Matecki.

Part 1

(Items upon which a decision by Council was required)

25. **Minimum Energy Efficiency Standards Enforcement Process – Private Sector Housing**

The Executive considered a report from Housing bringing forward an enforcement process to enable officers to apply penalties for breaches of the Minimum Energy Efficiency Standards (M E E S) regulations.

These regulations were the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, as amended (most recently by the Energy Efficiency (Private Rented Property) (Amendment) (England and Wales) Regulations 2019).

The regulations set out that from 1 April 2020, the minimum level of energy efficiency for all private rented domestic property in England and Wales was an energy performance certificate (EPC) rating of band E. Therefore, from that date, landlords of properties with EPC ratings of F or G would no longer be able to legally let them, subject to certain exceptions that were set out in Appendix 1 to the report.

Although the powers were within the regulations, for officers to be able to use them, the Council needed to formally adopt a process to do so. The Council also had the discretion to set a schedule of penalties for the various offences.

The regulations allowed the Council to determine any level of financial penalty, for each offence, up to the maximum amounts set out in recommendation 2.2 in the report.

The proposed approach of using the maximum penalties for the various offences was arrived at following consultation with colleagues in the West Midlands. The intention was to be as consistent as possible across the region, in terms of both the level of the penalties and the process for applying them.

So that the policy could be applied quickly and efficiently, once adopted, it was proposed that the Head of Housing Services should be granted the authority to decide on the serving of compliance notices and imposing penalties.

In terms of alternative options. not adopting this process would limit the Council's options in its role as a regulator of private sector housing. It could also affect community confidence in the Council's ability and ambition to deal with poor management and to raise housing and energy efficiency standards.

The Overview & Scrutiny Committee supported the recommendations in the report and agreed it would monitor their implementation. In agreement with the Portfolio Holder for Housing & Property Services, the Committee agreed that its Chair and the Portfolio Holder would liaise with Democratic Services to review whether ongoing reporting could be done using a dashboard within the Business Intelligence Portal.

The Overview & Scrutiny Committee agreed to add a review of the process to its Work Programme after it had been operational for a minimum of 12 months.

Councillor Rhead proposed the report as laid out.

Recommended to Council that

- (1) the penalties of the Warwick District Council's MEE's scheme be as follows:
 - i. £2,000 for renting out a non-compliant property for less than 3 months;
 - ii. £4,000 and a publication penalty for renting out a non-compliant property for 3 months or more;
 - iii. £1,000 and a publication penalty for providing false or misleading information on the PRS Exemptions Register; and
 - iv. £2,000 and a publication penalty for failure to comply with a compliance notice;
- (2) the Constitution be updated to reflect the changes to the Head of Housing Services delegations as below.

Resolved that

- (1) subject to Council on 2 September agreeing the proposed penalties above, Appendix 1 to the report for the enforcement of the MEES

regulations be adopted, to come into force from 3 September 2020; and

- (2) authority be delegated to the Head of Housing Services to enforce the MEES regulations as set out within the approved penalties process.

(The Portfolio Holder for this item was Councillor Matecki)
Forward Plan Reference 1,124

29. **Park Exercise Permits**

At the beginning of this item, the Leader informed Members that, following advice from officers, this report was, in fact, a Part 1 item, due to the fees and charges proposals in recommendation 2.2.

The Executive considered a report from Cultural Services. In 2018, the Council implemented its first test process for the use of parks, to help monitor the use of parks and open spaces. This was intended to be used to monitor the usage of parks and open spaces by organisations and individuals such as fitness groups and personal trainers. The report sought approval for a formal policy to replace the informal process which was currently in place. By introducing fees and charges within the new policy, the Council would have a more effective monitoring system, as well as being able to generate some limited income.

The policy was recommended because it would encourage more park users to enjoy a healthy, active lifestyle and use the Council's parks and open spaces to do so.

Rangers would check on exercise groups in the parks, and groups would be asked to show their pdf permit on a phone, or a paper permit if a mobile version was not possible. This would be issued by Cultural Services when the organisation applied for a permit with the Council.

The Parks Exercise Policy was based on similar policies and charges set by other Councils around the UK, to ensure Warwick District Council was in line with other areas. It allowed the Council to fully monitor the usage of its parks and open spaces, as well as making some income when issuing the permits.

Having this policy would also enable officers to monitor the activities and behaviours of groups using the parks. Any misuse of the parks or the trees, ecology or equipment within them could be more easily connected to a particular group, and the misuse stopped.

The draft policy at Appendix A to the report showed proposed prices to charge the various groups and organisations. It was intended that these charges would apply from the implementation of the policy until the annual Fees and Charges review in January 2021. Prices were set with reference to charges in similar authorities and on the Council's own view of the market for

this service. Any annual permit allocated to a group would apply for 12 months from the time of allocation.

An annual review by Cultural Services allowed the Council to update the policy and the charges when necessary. Updates would be based on market conditions and would also consider any feedback from groups using the permits. This annual review would take place as part of the wider review of charges undertaken by the Council each year.

In terms of alternative options, the Council could choose not to propose the Parks Exercise Policy and continue without a formal policy and without charging users. However, the current informal system was not effective and the lack of groups using it did not allow the Council to fully monitor the usage of the parks or generate any income from the current users.

An addendum circulated prior to the meeting advised Members that in consulting on the content of the report, it had become clear that there might be other Parks and Open Spaces that served as unofficial venues for outdoor fitness classes, apart from those listed in the proposed Policy. It was also considered possible, although unlikely, that existing classes might move from those areas covered by the Policy, in order to avoid the requirements of the Policy. It had thus been decided to propose that the Portfolio Holder for Culture and the Head of Cultural Services be delegated the authority to add other areas of the Council's Parks and Open Spaces to the Policy from time to time, if it is considered appropriate to do so.

The addendum advised Members of an additional recommendation 2.4, to read:

2.4 That Members delegate authority to the Head of Cultural Services in consultation with the Portfolio Holder for Culture the decision as to the future inclusion of new areas of the Council's Parks and Open Spaces within the remit of this policy.

Officers also provided reasons for the additional recommendation in the addendum. The Policy was currently proposed to apply to the larger Parks and Open Spaces within the Council's ownership. This was because it was believed that these were the main areas where these activities currently took place. However, if it became clear that other areas within the Council's ownership were being used for activities of the nature covered by the Policy, it might be necessary to include additional areas into the Policy at a later date.

It was also possible, although it was not considered likely, that existing groups might move from the major parks to smaller open spaces in order to deliberately evade the requirements of the Policy.

It was therefore proposed that authority should be delegated to the Portfolio Holder for Culture and the Head of Cultural Services to add additional Parks and Open Spaces to the Policy if required to maintain consistency. This could be done as part of the annual review of the Policy, or at other times if necessary.

Following the meetings of the Scrutiny Committees, a second addendum was circulated prior to the meeting, advising of the following amendments to the recommendations in the report agreed by the Portfolio Holder for Culture and Neighbourhood.

Amended Recommendations

2.2 That the Executive recommends to Council for approval the prices shown in Appendix A to this report for the period of time between the implementation of the policy and 1st January 2021 with a delegation to the Head of Cultural Services, in consultation with the Portfolio Holder for Culture, to apply discount prices as deemed appropriate for the purpose of launching the scheme”; and

2.3 That Members instruct officers to review the Park Exercise Policy after the first 6 months of operation and then on an annual basis, with charges being included as part of the annual review of fees and charges.

Additional Recommendation

2.5 That members ask officers to update the relevant pages on the Council website to promote the new policy and to list those organisations who have registered as part of the scheme.

The Overview & Scrutiny Committee noted the recommendations in the report and agreed it would monitor their implementation.

The Head of Cultural Services and Portfolio Holder for Culture agreed to explore if a method to allow new licence holders to upgrade easily from monthly to annual payments would be feasible.

The Overview & Scrutiny Committee agreed to add a review of the permit scheme to its Work Programme after it had been operational for six months.

Councillor Boad, the Liberal Democrat Group Observer, pointed out that for consistency reasons, the word **designated** should be added at Paragraph 6, page 11 – Pricing Policy, to read: *“The following prices are for the use of all **designated** Warwick District Council parks.”*

Councillor Grainger reminded Members of the revised recommendations. In addition, she informed Members that the policy would include Mill Gardens in the list of designated parks, as detailed in Appendix A to the report, and was happy to take on board the addition of the word **designated** as suggested by Councillor Boad. She then proposed the report as laid out, subject to the amendments above and additional recommendations as laid out in the update reports.

Recommended to Council that the prices shown in Appendix A to the report be approved for the period of time between the implementation of the policy and 1st January 2021, with a delegation to the Head of Cultural Services, in consultation with the Portfolio Holder for

Culture, to apply discount prices as deemed appropriate for the purpose of launching the scheme.

Resolved that

- (1) the Park Exercise Policy shown as Appendix A to the report, be approved, and officers be instructed to implement the policy as soon as possible;
- (2) officers be instructed to review the Park Exercise Policy after the first six months of operation and then on an annual basis, with charges being included as part of the annual review of fees and charges;
- (3) delegated authority be given to the Head of Cultural Services in consultation with the Portfolio Holder for Culture, for the decision as to the future inclusion of new areas of the Council's Parks and Open Spaces within the remit of this policy; and
- (4) the relevant pages on the Council website to promote the new policy and to list those organisations who have registered as part of the scheme, be updated by officers.

(The Portfolio Holder for this item was Councillor Grainger)
Forward Plan Reference 1,145

(The meeting ended at 6.53pm)

Penalties Process

This process follows the general principles set out in the Council's Enforcement Policy and the Government guidance.

In summary where the Council believes that a property has been let in breach of the Minimum Energy Efficiency Standard Regulations (MEES) it will serve a compliance notice requesting information. If the Council are then satisfied that a breach has occurred, they can serve a notice on the landlord imposing financial penalties. The landlord may ask for the penalty notice to be reviewed. Following the outcome of the review the landlord still has the option to appeal the penalty notice to the First Tier Tribunal.

Compliance Notice

Where the Council believe that a landlord is letting a property in breach of the MEES Regulations or has registered false or misleading information on the Private Rented Sector (PRS) Exemptions Register a compliance notice will be issued.

A compliance notice requests information to help the Council decide whether a breach has occurred. The Council may serve a compliance notice up to 12 months after the suspected breach occurred.

A compliance notice may request information on:

- the Energy Performance Certificate (EPC) that was valid for the time when the property was let
- the tenancy agreement used for letting the property
- information on energy efficiency improvements made
- any Energy Advice Report in relation to the property
- any other relevant document

Penalties

If it is confirmed that a property has been let since April 2020 in breach of the regulations, and the landlord is not working with the Council to comply with the regulations, a penalty notice will be served with the maximum applicable penalty.

The maximum penalty amounts that apply per property and per breach of the regulations are:

- £2,000 for renting out a non-compliant property for less than 3 months
- £4,000 and a publication penalty for renting out a non-compliant property for 3 months or more.
- £1,000 and a publication penalty for providing false or misleading information on the PRS Exemptions Register
- £2,000 and a publication penalty for failure to comply with a compliance notice

In total the maximum amount a landlord can be fined per property is £5,000.

A publication penalty means that the Council will publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register.

Right of Appeal

The landlord can ask for the decision to serve a penalty to be reviewed by writing to Head of Housing Services within 28 days of the penalty notice being served, giving their reasons for the review request.

The Council must withdraw the penalty notice if:

- new evidence shows a breach has not occurred.
- a breach has occurred, but the evidence shows that the landlord took all reasonable steps to avoid the breach.
- It is decided that because of the circumstances of the case, it was not appropriate to issue a penalty.

The Council can also decide to vary the level of penalties following representations from the landlord.

If a local authority decides to uphold the penalty notice, a landlord may appeal to the First-tier Tribunal. The landlord has 28 days to submit an appeal from the date of the local authority's decision.

The First-Tier Tribunal may quash the penalty notice or confirm the penalty notice in its original form. If the penalty notice is quashed, the Local Authority must repay any amount paid by the landlord in carrying out the notice.

If a landlord does not pay a financial penalty imposed on them, the Local Authority may take the landlord to court to recover the money.

Exemptions

If a property meets the criteria below the landlord, or an agent for the landlord, will be able to let it once they have registered an exemption in the Government's PRS Exemptions Register:

- **All relevant improvements have been made exemption (valid for 5 years)**

Where a property is still below an EPC rating of E after improvements have been made up to the cost cap (£3,500 incl VAT) or where no relevant improvements can be made

- **High cost exemption (valid for 5 years)**

Where no improvement can be made because the cost of installing even the cheapest recommended measure would exceed £3,500 (including VAT).

After the exemption expires the landlord must try again to improve the property's rating to meet the minimum level of energy efficiency. If this still cannot be achieved, then a further exemption may be registered.

- **Third-party consent exemption (valid for 5 years)**

Where the relevant improvements for the property need consent from another party, and the landlord can evidence that despite their best efforts consent cannot be obtained, or is given subject to conditions that they could not reasonably comply with.

- **Property devaluation exemption (valid for 5 years)**

Where the landlord can evidence that making energy efficiency improvements to the property would devalue it by more than 5%.

- **Temporary exemption due to recently becoming a landlord (valid for 6 months)**

Where a person recently becomes a landlord, under certain circumstances they will not be expected to take immediate action to improve your property to an EPC rating of E. They may claim a 6 months' exemption from the date that they became the landlord for the property.

Any exemptions which are registered on the Private Rented Sector Exemptions Register may not pass over to a new owner or landlord of a property upon sale, or other transfer. If a property is sold or otherwise transferred with an exemption registered, the exemption will cease to be effective and the new owner will either need to improve the property to the minimum standard at that point, or register an exemption where one applies, if they intend to continue to let the property.



Parks Exercise Permits Usage & Charging Policy for Warwick District Council Parks & Open Spaces



Written by:

Meg Smith, Cultural Services – Warwick District Council

Please contact the Business Support Team on culturebst@warwickdc.gov.uk or 01926 456207 if you wish to discuss the policy any further.

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1. Introduction

This policy has been introduced in order to ensure that the parks and open spaces within Warwick District are accessible to everyone. Increasingly, businesses are choosing our parks and open spaces to host various activities, which need regulating and should be in some cases chargeable.

In order to ensure everyone gets to enjoy our parks and open spaces it is important that we achieve a balance between the various users.

Over the last few years there has been a change in the usage of some of our parks and open spaces which has seen them used not only for informal recreation such as dog walking and more formal sports such as football, but for a wider range of group fitness activities – Boot Camps, Park Run, Buggy Fit, Circuit Training, Personal Training and Running Groups etc.

2. Aims and Objectives

This Policy aims to ensure the following:

- That our Parks and Open Spaces can be used by a wide range of clubs, organisations and individuals for formal and informal recreation
- To encourage and support activities which align with Warwick District Council's Fit for the Future Strategy

The key objectives of the Policy are:

- To support local community groups and charitable organisations in delivering healthy activities for our residents
- To promote a varied programme of activities and events
- To ensure the health and safety of activities, attendees and the wider public
- To encourage activities which promote local community participation and have strong community benefit
- To continue to maintain the parks and open spaces to a high standard ensuring their long term sustainability

3. Parks and Open Spaces

The following Parks and Open Spaces are covered by this policy:

- Harbury Lane Recreation Ground
- Newbold Comyn
- Castle Farm Recreation Ground
- St Mary's Lands
- St Nicholas Park
- Victoria Park
- Jephson Gardens
- Mill Gardens
- Pump Room Gardens

- Abbey Fields
- Priory Park

4. Organisations and Individuals covered by this Policy

Organisations that utilise the areas in section 3 to conduct their business activities will be subject to paying a hirers fee, these organisations include:

- A Company Limited by Guarantee
- Sole Traders
- Self Employed coaches/trainers
- Any individual or company seeking to make commercial gain from the use of the above open spaces

5. Exemptions

If you or your organisation meets one of the following criteria, then it will be exempt from charges and issued with a permit stating that the organisation is exempt:

- A Registered Charity
- A fully constituted Not for Profit Organisation where any surplus is reinvested directly into the organisation
- School/Educational Establishment

The above list is not exhaustive and the Council will consider each request for use of the parks on its merits and reserves the right to waive charges for certain events that address key Council priorities.

6. Pricing Policy

The following prices are for the use of all Warwick District Council parks. Annual permits are available and should be paid as one payment at the beginning of the permit year. Monthly permits can be paid by direct debit.

This policy does not limit the amount of sessions per week.

1-3 Sessions Per Week	Monthly	Annual
Groups up to 5	£30.00	£310.00
Groups of 6 or more	£75.00	£760.00
4 or More Sessions Per Week	Monthly	Annual
Groups up to 5	£50.00	£510.00
Groups of 6 or more	£125.00	£1260.00

**Numbers in table exclude the trainer themselves any staff member of the organisation. Warwick District Council has established that these charges are exempt from VAT.*

The Council reserves the right to undertake head counts at activities without prior notice. If circumstances change and the initial permit is deemed incorrect by either party, then this can be amended through discussion with Warwick District Council. One calendar months' notice will be required for permit changes.

The booking entitles an organisation to non-exclusive use of parks and open spaces and does not include access to buildings.

Before being issued with a permit the individual or organisation will need to provide a risk assessment for the activity taking place and a copy of their £5m public liability insurance, although Warwick District Council reserves the right to request a higher level of cover. Once a booking has been confirmed the organisation will be issued with a confirmation email and an attached pdf permit, this must be available for inspection by Council staff when the activity is taking place. In situations where an email is not possible a permit card will be issued to the organisation.

7. Activities in Parks and Open Spaces

Warwick District Council wishes to encourage a wide range of uses and activities within our parks.

However, we reserve the right to reject any applications on the grounds of the activity being damaging to the parks directly or the environment, mis-use of equipment, spoiling the enjoyment for other park users or in direct conflict with other businesses.

All organisations using the parks and open spaces will be subject to the usual booking terms and conditions.

Note: Sports clubs such as football and cricket clubs hiring the pitches and pavilions, do not form part of this policy as they are required to book the facilities to guarantee the pitches and changing facilities along with appropriate equipment.

Please contact the Business Support Team on culturebst@warwickdc.gov.uk or 01926 456207 if you have any queries regarding the policy

Implementation Date – This policy will be implemented on 1st October 2020.

Review Date (Annually) – This policy will be reviewed as part of the Council’s annual Fees and Charges review