

# Executive

Excerpt of the minutes of the meeting held on Wednesday 14 January 2015 at the Town Hall, Royal Leamington Spa at 6.00 pm.

**Present:** Councillor Mobbs (Chairman); Councillors Caborn, Coker, Cross, Mrs Gallagher, Hammon, Shilton and Vincett.

**Also present:** Councillor Boad (Liberal Democrat Observer), Councillor Mrs Falp (Chair of Overview and Scrutiny Committee), Councillor MacKay (Representative of Finance & Audit Scrutiny Committee & Independent Group Observer), and Councillor Weber (Labour Group Observer).

## 96. **Declarations of interest**

### Minute Number 102 – 2014 National Bowls Championships - Review

Councillors Caborn declared an interest because he was a Member of the Royal Leamington Spa Bowls Club Management Committee.

### Minute Number 104 – Council’s Strategic Approach to Sustainability and Climate Change

Councillor Boad declared a pecuniary interest because he was a director of one of the companies mentioned in the report, Act On Energy.

## 97. **Minutes**

The minutes of the meeting held on 3 December 2014 were taken as read and signed by the Chairman as a correct record.

### **Part 1**

(Items on which a decision by Council is required)

## 98. **Housing Appeals and Review Panel**

The Executive considered a report from Housing and Property Services which proposed amending the powers of the Housing and Appeals Review Panel (HARP) and the Guidance Notes issued for members of the Panel.

The report had been prompted by the introduction of new legislation to address criminal behaviour and the roll-out of new ways of working for the Council, which were intended to streamline the way the Council operated.

The changes to the Guidance Notes were designed to enhance the clarity of purpose for HARP by helping Members better understand its remit, scope and the applicability of Special Responsibility Allowances for those Members who sit on HARP.

The existing powers and scope for HARP were approved by the Executive at its meeting on 2 December 2009 with further amendments being agreed on 23 June 2010. However, since then, there had been changes in national legislation to which the Council needed to respond to maintain compliance with the law.

Section 3 of the report outlined the circumstances in which the Council could apply to the County Court for absolute possession of a secure tenancy, under the Anti-Social Behaviour, Crime and Policing Act 2014. Once a notice had been served, tenants had the right to appeal that decision through HARP, who would be independent from the officers who had made the original decision to serve the notice.

At present, a number of other appeals were currently dealt with by HARP but officers felt these could be dealt with more effectively and rapidly by other means. This would help improve the service to tenants by speeding up the process for submitting an appeal, considering this and a decision being made and notified.

A list of the specific appeals that could be dealt with outside of HARP and the way these could be dealt with in the future were outlined in sections 3.5 and 3.6 of the report.

The alternative options were that the terms of reference for HARP could remain unchanged, however, legal advice received suggested that this could leave the Council in a weaker position because tenants could be denied the right of appeal under the Anti-Social Behaviour, Crime and Policing Act 2014. This in turn would mean that an application to the County Court for Possession would be dismissed by the Court, harming the Council's reputation as a competent and responsible litigant and reducing the effectiveness of the Council's approach to working alongside other agencies, such as the Police, to reduce criminal behaviour.

It was with regret that the Overview & Scrutiny Committee recognised that this met the Council's statutory requirement and that these changes had to be made because they felt there was value in retaining councillor involvement in the appeal process for those items removed from the HARP process.

The Committee welcomed the agreement from the Portfolio Holder for, and Head of, Housing & Property Services that they would ensure that the correspondence for HARPs, especially with applicants and tenants, was put into plain English.

They also welcomed that Housing & Property Services officers will ensure that the tenant will be directed to their Ward Councillor about appeal matters and that Ward Councillors will be notified about appeals regarding applicants or tenants in their Ward.

The Portfolio Holder for Housing and Property Services, Councillor Vincett, addressed Members and agreed that Member involvement with tenants

was important. He assured them that when the procedure notes were reviewed they would highlight that individuals would be encouraged to contact their Ward Councillor during the process.

It was therefore

**Recommended** to Council that

- (1) the powers of HARP be amended to hear appeals against the service of a Notice of Seeking Possession under the Anti-Social Behaviour, Crime and Policing Act 2014;
- (2) the powers of HARP be amended so that it no longer hears appeals made in connection with the following:
  - Second Stage Homelessness Decisions (for example appeals against a decision of 'intentionality')
  - Unsuitability of properties offered in discharge of homelessness duties (including cases where it is alleged that the offer was unreasonable)
  - Exclusions from the Council's Housing Register.
  - Service of Notice of Seeking Possession in respect of breaches of Tenancy Conditions (for example nuisance caused by the tenant)
- (3) an amendment is made to Section H of Part 3 of the Council's Constitution (Local Choice Functions, Council Functions and Executive Functions) to delete the powers noted above in recommendation (2) and to include the addition power noted above in recommendation (1); and
- (4) the amended Guidance Notes for the Housing Appeals and Review Panel (HARP), as Appendix A to the report, be adopted and adhered to.

(The Portfolio Holder for this item was Councillor Vincett)  
(Forward Plan reference 629)

99. **Council Procedure Rules**

The Executive considered a report from Civic and Committee Services which outlined proposals amending the Council Procedure Rules to enable easier understanding of the Order of Business, Rules for Debate and the Executive decision making process.

Members and officers had often voiced concerns about the complexities of the debating rules at Council meetings and struggled to understand the lengthy explanations in the Constitution.

It was agreed that these processes and explanations could be simplified, which should assist in a better understanding for Members and officers.

The Constitution Working Party was set up in October 2012 to look at updating and improving the existing Constitution and was made up of three of the Group Leaders; Councillors Barrott, Boad and MacKay along with Councillor Caborn, the Deputy Leader and Lead on the Local Plan.

To date, the Working Party had reassessed the Employee Code of Conduct, the Executive Leader arrangements and the petitions process.

A number of amendments to the Scheme of Delegation, the Member Code of Conduct, Member Officer Protocol and the arrangements for Housing Advice Review Panels were being worked on and would be submitted to Council in due course.

This report proposed amendments to various sections of the Council Procedure Rules including the Public Interest Debate section of the Council agenda, the Rules for Debate, questions to Committee Chairmen and Portfolio Holders.

In addition, the report explained that the Council's scheme of delegation was currently ambiguous in the area of delegation to affix the Common Seal and therefore it was proposed that this be amended to provide clarification.

An alternative option was to not make any updates or changes to the Council Procedure rules. However, this would be counterproductive because the main aim was to provide clarity and assist with the smooth running of Council meetings.

Officers were due to start a comprehensive review of the Officer Scheme of delegation in January 2015. While this change could be considered as part of this review it was felt prudent to remove this ambiguity as soon as possible.

The Overview & Scrutiny Committee asked that:

- (1) Procedure rule 9(1) be amended to reflect in the main body that questions can be directed to portfolio holders about their specific remit; and
- (2) Procedure rule 13(1) be amended to enable that any Councillors can call for the motion to be in to be writing but the chairman takes the final decision.

The Leader, Councillor Mobbs endorsed the report and supported the comments from the Overview and Scrutiny Committee with a further

amendment to the wording of Procedure rule 13(1) as proposed by Councillor Boad, to read:

**\*(1) Institution of Debate**

A motion or amendment cannot be discussed unless it has been proposed and seconded and, unless notice has already been given in accordance with Procedure Rule 6. Any Member can request that an amendment should be put in writing before it is further discussed or put to the meeting. The Chairman will make the final decision.

It was therefore resolved that the Executive

**Recommended** to Council that

- (1) the Council Procedure Rules be updated, as set out at Appendix 1 to the report, subject to the further amendments to Procedure rules 9(1) and 13(1) as detailed above;
- (2) Members note that training on the Rules for Debate will be included in the Members Training schedule, due to commence after the elections in May 2015;
- (3) the further work of the Constitution Working Party, specifically looking at the Call-in process, be noted; and
- (4) the Officer Scheme of Delegation A(2) be amended to read "Authority to affix the Common Seal where appropriate approval(s) have been given shall lie with Chief Executive, Deputy Chief Executives & Monitoring Officer (individually)".

(The Portfolio Holder for this item was Councillor Mobbs)  
(Forward Plan reference 594)

**100. Convictions and Cautions Policy for Hackney Carriage/Private Hire Drivers and Operators**

The Executive considered a report from Health and Community Protection which presented the reviewed Convictions and Cautions Policy applicable to Drivers of Hackney Carriages and Private Hire Taxi Drivers.

It had come to the attention of Officers that the Convictions and Cautions Policy against which all new applicants and renewal applicants for a Hackney Carriage and Private Hire Driver's License were assessed, was set at a level below the requirements outlined by all of the neighbouring authorities' policies.

The draft policy had been consulted upon and the comments received reviewed against the proposed policy. The resulting policy was attached as appendix 1 to the report.

The changes to the policy were wide ranging and designed to ensure the safety of the general public by ensuring that the applicants and renewing drivers were fit and proper. Many of the standards laid down in the revised policy were the same or similar to the current policy which Members were able to access on request.

A report was submitted to the Licensing and Regulatory Committee in December 2014 and, following robust discussion and questioning, they supported the recommendations to the Executive.

The alternative options were that the proposed policy could be refreshed and the current policy could continue to be used. However, it was considered that the policy was out of step with those of neighbouring authorities. This had the potential for lower standards of behaviour and competence of drivers in our District.

The Overview & Scrutiny Committee welcomed the report, but asked that officers include the normal enforcement steps (gentle reminder, warning letter etc) underneath the table of offences.

The Portfolio Holder for Health and Community Protection, Councillor Coker, endorsed the report and reminded Members of the importance of taxi drivers working responsibly in the District. He felt that although the wearing of an identification badge may seem a small matter, it was imperative that visitors and residents using the taxi service were satisfied their driver had been licensed according to the Council's high standards.

The Executive agreed the recommendations in the report and agreed that the normal enforcement steps would be detailed in the policy.

It was therefore

**Recommended** to Council that

- (1) the proposed policy, which will be used for the assessment of all new and renewing drivers, is approved;
- (2) the methodology for dealing with existing drivers who fall outside of the standards identified in the policy, is approved; and
- (3) the taxi driver licence application form is amended to reflect the new policy.

(The Portfolio Holder for this item was Councillor Coker)  
(Forward Plan reference 675a)

101. **Changes to Anti-Social Behaviour Legislation**

The Executive considered a report from Health and Community Protection which advised on new powers and responsibilities which came into force in October 2014 relating to the Anti-Social Behaviour, Crime and Policing Act (2014).

There were duties on the authority, in partnership, to respond to concerns about anti-social behaviour and support victims.

The report outlined the new powers and responsibilities, advised of Community Remedies and the threshold for the Community Trigger, notified Members of the Anti-Social Behaviour officer as the single point of contact for the community trigger and requested that authority be delegated to the Head of Health and Community Protection to use these powers.

Warwick District Council had a statutory duty to work in partnership to reduce crime, disorder and substance misuse and the authority was the lead agency in tackling anti-social behaviour as part of the South Warwickshire Community Safety Partnership Plan.

The Police & Crime Commissioner had a duty to consult on these remedies and, whilst these were not controversial, the Council had a duty to respond.

The report explained that as significant crimes reduced, tolerance of lower level disorder and anti-social behaviour appeared to be reducing. The new powers were timely in this regard and would allow the Council to address these concerns quickly whilst supporting victims better.

There was also an opportunity to set out what was felt to be unacceptable in our public spaces and, together with Police, the Council would produce some generic conditions and some site specific conditions based on evidence in those areas.

The advent of the Ranger Service would also provide additional authorised officers supporting Police Officers and PCSO's in the enforcement of these conditions.

The alternative options were limited because there was little leeway in the legislation and the proposals were in line with the pilot project for Warwick District's most similar authority area, Avon & Somerset.

The Portfolio Holder for Health and Community Protection, Councillor Coker, endorsed the report and proposed the recommendations as laid out.

It was therefore

**Recommended** to Council that

- (1) the new powers and responsibilities, as set out in Appendix 1 to the report, are noted;
- (2) the Community Remedies, as set out in Appendix 2 to the report, are agreed;
- (3) the threshold for the Community Trigger, as set out in Appendix 3 to the report, is agreed;
- (4) the Anti-Social Behaviour Officer as the Single Point of Contact for the Community Trigger, is agreed; and
- (5) authority is delegated to the Head of Health & Community Protection for the above powers.

(The Portfolio Holder for this item was Councillor Coker)

(The meeting ended at 6.45 pm)