

Licensing and Regulatory Committee

Excerpt of the Minutes of the remote meeting held on Monday 19 July 2021 at the Town Hall, Royal Leamington Spa at 4.30pm

Present: Councillors Illingworth (Chairman), Cullinan, Grey, Leigh-Hunt, Mangat, Redford, and Wright.

8. **Apologies and Substitutes**

(a) apologies for absence were received from Councillors Boad, C Gifford, Heath, Norris and Syson; and

(b) there were no substitutes.

9. **Declarations of Interest**

There were no declarations of interest.

10. **Minutes**

The minutes of the Committee meeting held on 5 May 2021 were taken as read and signed by the Chairman as a correct record.

11. **Minutes of Licensing & Regulatory Panels**

The minutes of the Licensing & Regulatory Panels held on 29 April 2021 and 3 June 2021 were taken as read and signed by the Chairman as a correct record.

12. **Statutory Review of Gambling Policy – Request for public consultation**

The Committee considered a report from Health and Community Protection which advised of the statutory requirement to review the Gambling Policy and informed of the proposed schedule for meeting legal requirements.

The report set out the new Gambling Policy/Statement of Principles to the Committee and highlighted the changes between the current policy and the proposed policy.

The Licensing Authority was required by the Gambling Act 2005 to review its Statement of Principles every three years.

The changes to the policy were minimal and were designed to reflect both the Authority's current approach to the Gambling Regime in terms of the unique character of the District and the application of generic legislation, and its desire to work more closely with Stratford-on-Avon District Council.

The current Policy was attached as Appendix 1 to the report and the changes were listed in Appendix 2 to the report.

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Resolved that the proposals to hold a public consultation on the revised policy between 23 July 2021 and 3 September 2021, be approved.

13. Street Trading Policy Review – Request for public consultation

The Committee considered a report from Health and Community Protection which presented the reviewed Street Trading Policy and requested that the document be put forward for public consultation.

The Street Trading Policy had undergone a routine review by officers. The policy required a full consultation exercise to be carried out when major changes were made to it.

Changes were proposed to the standard trading hours and to introduce a new type of consent.

The reviewed Policy was attached at Appendix 1 to the report.

Resolved that a six-week public consultation, on the revised Street Trading Policy, as set out at Appendix 1 to the report, be approved.

13. Proposed House to House Collections Policy

The Committee considered a report from Health and Community Protection which presented a new policy for House to House Collections which would be applicable to all applicants, and which requested that it be forwarded to Council for adoption.

The Licensing Authority was required to authorise house to house collections under the House to House Collections Regulations 1947.

The proposed policy had been consulted upon and was attached as Appendix 1 to the report. Appendix 2 to the report set out the public consultation responses in relation to the Policy, as well as responses from officers and any advice from legal services. Legal advice had been sought on two areas of the proposed policy, 'contactless' donations via a credit/debit card would be covered by the policy and whether Warwick District Council should ever deviate from the policy for any reason which required legal advice.

On these points the legal advice was that of supporting the officers views, with the exception of point 12 of the public responses in Appendix 2 to the report, this had been received shortly before the meeting and was "*it is clear in my view that the regulations can only reasonably be interpreted as applying to cash collections*".

In terms of alternative options, the only other option would be that no Policy was introduced.

In response to questions from Members, the Licensing Team Leader advised that:

- Many of the larger charities could not be controlled by the Council because those types of charities had national dispensation whereby

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they did not need to inform the Council that they were coming to the area. The Policy was more about local charities, particularly those who used collection bags, as opposed to those who knock on doors regularly and ask for direct debits who were also given an exemption from the Secretary of State to inform the Council they were in the area. Charities that were trying to sell at the door or collect money, for example the Poppy Appeal, would need to inform the Council that they were coming to the area.

- The Council could not control designated charities that held exemptions from the Government, and therefore the way those charities and collectors would be vetted was separate.
- If two charities asked the Council for a collection on the same day and same time, preferential treatment would be given to the local charity.
- An officer would never move away from the policy without consulting with the Head of Service and Chairman of the Licensing & Regulatory Committee.

Members felt that the collection hours should be changed from 9am – 7pm, to 9am – 8pm, as they felt 7pm was too early to finish but also wanted to protect vulnerable members of the public and minimise disturbance. A proposal to amend these hours was voted on and was carried.

In response to further questions from Members, the Licensing Team Leader advised that:

- The application form the Council asked to be filled in included a desired date for collection and alternative dates, and with details about the area. This form could be altered to ensure the permit issued had a control measure on it that stated the Charity could not collect beyond 8pm. The Council would be monitoring and reviewing via complaints received.
- The application form included an estimate of costs, and the Charities were required to provide the Council the agreement they had with the Charity collector. If there was a collector acting on behalf of the charity there would be a contract in place, and to date the Council had never failed as a licensing authority to be provided with those contracts. Application forms would be scrutinised and compared with the contracts to make they matched, and where the percentage was not matched then that charity would not be issued with a permit in future, and also if follow up statements weren't provided.
- The way they currently worked allowed charities to tell the Council they would be collecting between a beginning and end date, with a maximum of 12 months, this Policy would mean that every time you would need to complete an application form and provide background information so there would be a better monitoring process, which was designed to help the Council and residents know the charity was legitimate.
- In relation to the legal advice received around point 12 of the public responses in Appendix 2 to the report, this had been received shortly before the meeting and was *"it is clear in my view that the regulations can only reasonably be interpreted as applying to cash collections"*. Therefore, it was understood that any of the QR code or chip and pin type collections that were undertaken on a high street or outdoors, there was no way for the Council to compel them to have a permit, or file the appropriate returns. The Licensing Team Leader asked if a

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review of this in light of this legal advice could be done, and sent to Members if the words changed, and the Committee were happy with this suggestion.

The Committee therefore

Recommended to Council that the House to House Collection Policy (attached as Appendix 1 to the minutes), subject to the above changes, be adopted.

14. Proposed Street Collections Policy

The Committee considered a report from Health and Community Protection which presented a new policy for Street Collections, which would be applicable to all applicants and requested that it be forwarded to Council for adoption.

The Licensing Authority was required to authorise street collections under the Police, Factories etc. (Miscellaneous Provisions) Act 1916.

The proposed policy had been consulted upon and was attached as Appendix 1 to the report. Appendix 2 to the report set out the public consultation responses in relation to the Policy, as well as responses from officers and any advice from legal services. Legal advice had been sought on two areas of the proposed policy, 'contactless' donations via a credit/debit card would be covered by the policy and whether Warwick District Council should ever deviate from the policy for any reason which required legal advice.

On these points the legal advice was that of supporting the officer's views.

In terms of alternative options, the only other option would be that no Policy was introduced.

In response to a question from Members, the Licensing Team Leader advised that when a permit was issued or refused for a licence for a street collection or house to house collection, the Council informed the licensing officer at Warwickshire Police.

The Committee therefore

Recommended to Council that the Street Collection Policy (attached as Appendix 1 to the minutes), be adopted.

15. 2023 Review of Parliamentary Constituencies

The Committee considered a report from Democratic Services which informed Members of the proposed Parliamentary Constituencies for Warwick District as part of the first consultation and provided a suggested submission on behalf of the Council.

The 2023 Review of Parliamentary constituencies were underway, with the first proposals having been published by the Boundary Commission for

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England (BCE). The proposals were available online and open to comment from anyone by 2 August 2021.

The initial proposals for the West Midlands included revised boundaries for both the Kenilworth & Southam Constituency and the Warwick and Leamington Constituency. These would have electorates of 74,107 and 72,784 respectively, being the two largest electorates of the five in Warwickshire, however these were not the largest in the region which was over 77,000 or the smallest which was just under 70,000.

The remit of the Boundary Commission for England for this review set the UK electoral quota for the 2023 to the nearest whole number, 73,393. Accordingly, every recommended constituency (except the five 'protected' constituencies) needed to have an electorate as at 2 March 2020 that was no smaller than 69,724 and no larger than 77,062. There would be a further review of constituency boundaries but this would be for eight years after the completion of the 2023 review.

This Council had, for a significant time, received complaints regarding the current Constituency Boundaries as they were not aligned with either District or Town/Parish Boundaries. For example, in parts of Milverton Ward, a small number of properties on the same road were divided between two Constituencies. These proposals resolved those issues without significant change for the District.

There were two broad points of issue about the constituency proposals. The first was about the projected growth in size and the second was about the geography of the constituencies.

With regards to growth, officers had been looking at the growth of the electorate in South Warwickshire generally. Between the time of the report and 2028, within Warwick District, based on the current local plan proposed sites and approved developments, the electorate in the Warwick and Leamington Constituency was expected to grow by circa 4,400 electors and Kenilworth & Southam by 6,126. This growth in Kenilworth and Southam did not allow for growth within any Wards from Rugby Borough nor Stratford-on-Avon District Councils. For example, the development of the Gaydon Village site (circa 3,000 homes) was underway and the Cawston, Bilton, Dunchurch site (circa 5,000 homes) was now coming forward. As a result, there was potential for the Kenilworth & Southam constituency to become greater than 90,000 by the time of the next review, with Warwick & Leamington also being over the upper limit of 77,062.

To help mitigate the implications of some of this growth it was suggested that the Budbrooke Ward was retained within the Warwick and Leamington Constituency. It would enable by 2028, an electorate in Warwick & Leamington of over 82,000 and Kenilworth and Southam of over 81,000, which was a far more balanced outcome.

This said, by law, the Boundary Commission for England was not permitted to consider future growth, however it could consider special geographical considerations, including in particular the size, shape and accessibility of a constituency, and any local ties that would be broken by changes in constituencies. Therefore, any proposal to move Budbrooke Ward would need to provide clear evidence on these points.

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In terms of Geography, the Committee noted that the Constituency of Warwick and Leamington would be completely surrounded by the Constituency of Kenilworth & Southam. From inspection of the proposed constituencies in England, this only occurred in one other situation where York Central Constituency was surrounded by York Outer Constituency. No guidance on such an arrangement was provided by the BCE, however the LGBCE made the following reference on what they called "Doughnut Wards" - *"we occasionally receive proposals for a pattern of wards which propose an 'inner' ward and an 'outer' ward for a town or village. We will not normally recommend this kind of pattern because the communication links between the north and south of the outer ward are usually poor and we also often find that people in the northern part of the outer ward share higher levels of community identity with residents in the north of the inner ward than with residents in the south of the outer ward. Where we need to split a town or village to achieve electoral equality, we will usually seek an alternative to this pattern."*

Officers had considered this point and had consulted with its Budbrooke Ward Councillors, who supported Budbrooke remaining with Warwick & Leamington Constituency. The view of officers and Budbrooke Ward Councillors was due to the proximity of the Budbrooke Ward to Warwick and its relationship with its infrastructure being aligned with that of its nearest major town as well as Bishop's Tachbrook, this Ward should remain part of the Warwick & Leamington Constituency. Further the increased development in and around the east of this Ward would have greater community relationship with Warwick and Leamington and this would need to be fostered to help build a stronger and more cohesive community.

This change would recognise the concerns that the Local Government Boundary Commission raised generally about community and identity, which, while harder to achieve for large constituencies, officers considered that every effort should be made to follow them, especially when these communities were being built.

Currently, there was a Ward Boundary review being undertaken of Stratford-on-Avon District Council Wards, which would be concluded prior to the review of the Parliamentary Constituency review. While this might or might not come into effect dependent on the outcome of the potential merger with Warwick District Council, this Council should champion the need for coterminous boundaries. This was especially important when the changes could impact upon one of the Constituencies which represented Warwick District.

In terms of alternative options, within the guidelines for such reviews no alternative options had been considered, however the Committee could choose to provide a different submission to the Boundary Commission for England.

In response to questions from Members, the Democratic Services Manager and Deputy Monitoring Officer advised that the Boundary Commission for England would be repeating this process every eight years and Warwick District Council were consultees. The proposed figures from the Commission was that Kenilworth and Southam would be on the limit of electors but including the expected growth it would be significantly out of

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tolerance. The Boundary Commission for England could not look at growth so the report had come forward with the suggested approach to try and mitigate this by arguing on community grounds.

In response to a further question from Members, the Democratic Services Manager and Deputy Monitoring Officer clarified that Budbrooke was still in the Warwick and Leamington Constituency, but the Boundary Commission were proposing to remove it from the new Warwick and Leamington Constituency.

The Committee expressed that they were delighted that Warwick, Leamington and Whitnash were kept together as a single Constituency and asked that this be reflected in the comments from the Council.

The Committee therefore

Resolved that

- (1) the two proposed Parliamentary Constituencies covering Warwick District, of Kenilworth & Southam and Warwick and Leamington, as set out on the Plans at Appendix 1 and Appendix 2 to the report, be noted; and
- (2) the Boundary Commission for England be asked to consider the following points when setting the boundaries:
 - (i) the Council welcomes the retention of Warwick, Leamington & Whitnash in a single constituency and broadly supports the wider proposed Boundaries as they will address some long-standing issues within the District;
 - (ii) the Council objects to the creation of an island constituency for Warwick & Leamington for the reasons set out above;
 - (iii) the Warwick District Ward of Budbrooke should be moved into the Constituency of Warwick and Leamington for the reasons set out above;
 - (iv) the significant expected growth in the electorate for the Kenilworth & Southam Constituency be noted; and that this could be mitigated by moving the Budbrooke District Council Ward to Leamington & Warwick Constituency for the reasons set out above; without the need for the Commission to recognise growth;
 - (v) the Commission ensures their final proposals follow the final proposed wards

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of the current LGCBE boundary review for Stratford-on-Avon District Council to avoid the current issues of non-aligned boundaries for some Wards in South Warwickshire.

(The meeting ended at 5:38pm)

CHAIRMAN
21 March 2021