



Cabinet Member for Policing and Equalities

Time and Date

3.00 pm on Thursday, 21st March, 2019

Place

Committee Room 3 - Council House

Public Business

1. **Apologies**

2. **Declarations of Interest**

3. **Minutes** (Pages 3 - 14)

(a) To agree the minutes of the Cabinet Member (Policing and Equalities) meeting held on 10th January, 2019

(b) Matters arising

4. **Proposal to Charge for Food Hygiene Rating Scheme Revisits** (Pages 15 - 20)

Report of the Deputy Chief Executive (Place)

5. **Mandatory Houses in Multiple Occupation Licensing and Housing Inspection Fees and Charges** (Pages 21 - 28)

Report of the Deputy Chief Executive (Place)

6. **Outstanding Issues** (Pages 29 - 32)

Report of the Deputy Chief Executive (Place)

7. **Any Other Business**

To consider any other items of business which the Cabinet Member decides to take as a matter of urgency because of the special circumstances involved.

Private Business

Nil

Martin Yardley, Deputy Chief Executive (Place), Council House Coventry

Wednesday, 13 March 2019

Note: The person to contact about the agenda and documents for this meeting is Michelle Rose Tel: 024 7683 3111; michelle.rose@coventry.gov.uk

Membership: Councillors P Akhtar (Deputy Cabinet Member) and AS Khan (Cabinet Member)

By invitation: A Andrews (Shadow Cabinet Member)

Please note: a hearing loop is available in the committee rooms

If you require a British Sign Language interpreter for this meeting OR if you would like this information in another format or language please contact us.

Michelle Rose

Telephone: (024) 7683 3111

e-mail: michelle.rose@coventry.gov.uk

Coventry City Council

Minutes of the Meeting of Cabinet Member for Policing and Equalities held at 3.00 pm on Thursday, 10 January 2019

Present:

Members: Councillor AS Khan (Cabinet Member)
Councillor P Akhtar (Deputy Cabinet Member)
Councillor A Andrews (Shadow Cabinet Member)

Other Members: Councillor N Akhtar – invited for item 36 below
Councillor P Male – invited for item 37 below
Councillor J O’Boyle – invited for item 36 below

Employees (by Directorate):

People L Millar, L Nagle

Place G Carter, G Hood, M Rose, A West

Invited: S Kimberley – Police Representative
J Haywood – invited for item 36 below
K Blakeman – invited for item 39 below

Apologies: Councillor D Welsh – invited for item 36 below
Mr Rogers - invited for Item 36 below
Orbit Housing – invited for item 36 below

Public Business

33. Declarations of Interest

There were no disclosable pecuniary interests.

34. Minutes

The minutes of the meeting held on 25th October, 2018 were agreed as a true record.

35. Petition - Reduce the number of Councillors in each ward

The Cabinet Member considered a report of the Deputy Chief Executive (Place) which responded to an e-petition bearing 24 signatures, which had been submitted to the City Council on 29th September, 2018 and closed on 23rd December, 2018. The petition entitled “Reduce the number of councillors in each ward” stated “There are 18 local wards in Coventry and 54 councillors. We want the council to reduce the number of councillors in each ward from 3 to 2 and hold elections once every 4 years instead of the current cycle. This will save money and make the council more efficient.” The petition spokesperson was invited to the meeting but was unable to attend.

With regard to reducing the numbers of councillors in each ward, the report noted that local authorities had no powers to alter the number of councillors. The Local Government Boundary Commission for England was the independent body responsible for carrying out electoral reviews. An electoral review was an examination of a council's electoral arrangements covering:

- the total number of councillors elected to the local authority;
- the number and boundaries of wards or divisions for the purposes of the election of councillors;
- the number of councillors for any ward or division of a local authority;
- the name of any ward or division.

The Commission were responsible for setting their own work programme and may consider carrying out a review of a council for two reasons:

- at the request of the local authority; or
- If the local authority meets the Commission's intervention criteria:
 - a) If one ward has an electorate of +/-30% from the average electorate for the authority
 - b) If 30% of all wards have an electorate of +/-10% from the average electorate for the authority.

The timeframe for such reviews was normally around 18 months and would involve the commitment of human and financial resources from the local authority to support the review. While a local authority was able to request a review, the decision on councillor numbers was made by the Boundary Commission which may not recommend any change. For comparison, the report detailed the population, number of councillors and ratio for all of the seven West Midlands Metropolitan Councils.

With regard to changing the pattern of elections, the report noted that Elections to Coventry City Council were by thirds; elections take place three out of every four years with each councillor being elected for a term of four years. Legislation allowed for alternative models including whole-council elections. Whole-council elections would take place every four years with every seat being up for election at the same time.

The Local Government and Public Involvement in Health Act 2007 (as amended) enabled councils to consider moving to whole-council elections from elections by thirds or halves. If a Council was considering passing a resolution for whole-council elections, it had to take reasonable steps to consult such persons as it thinks appropriate on the proposed change. The final resolution must be passed at a meeting specially convened for the purpose of deciding the resolution with notice of the object, and by a majority of at least two thirds of the members voting on it. If a Council moved from elections by thirds to whole-council elections, it could go back to election by thirds at a later date but could not move to elections by halves. The Council could pass a resolution at any point to move to whole-council elections the only restriction being that the move cannot take place in a fallow year. The next fallow year for Coventry is 2021. It was anticipated that the introduction of whole Council elections would deliver cost savings over time, although some caution needs to be applied to any estimates as the pattern of other elections to the Police and Crime Commissioner, West Midlands Combined

Authority and general elections had a significant impact on cost, and the costs of elements of elections may change over time. The approximate costs of current elections, together with an estimate of the potential savings that could be achieved should whole council elections be introduced were shown in the report. Where elections were combined with national elections the costs were shared depending on the number of polls taking place on the day. It was not an exact split as there were some costs which were needed for each election such as ballot papers. The estimated costs were based on current information, however, if the Police and Crime Commissioner (PCC) and West Midlands Combined Authority Mayor (WMCA) elections were to be combined then the costs would be more and the potential annual savings from any change reduced.

The introduction of whole-council elections would be a significant change for electors and would require clear information advising them of their ability to select more than one candidate. It would also have an impact on the count process, where the selection of three candidates from the ballot paper would mean the count process would take longer.

There were no direct financial implications arising from the initial decision on how to respond to the issues raised in the petition. Should Council take the decision to hold local elections on a four year cycle, this could save the Council in the region of £100,000 on an annualised basis. The outcomes of any review carried out by the Boundary Commission may not result in a reduction in the number of councillors and in this case would not deliver a financial saving.

The Petition spokesperson was unable to attend however, he had send a response to the report to the Cabinet Member. His response questioned costs to support a review and requested that the Council ask for a review by the Boundary Commission and also consult with Council members and the public about moving to whole council elections in order to save money.

The Shadow Cabinet Member asked about the cost savings.

RESOLVED that the Cabinet Member:

- 1) Considered the detail in the report and determined what action, if any, should be taken in response to the issues raised in the petition.**
- 2) Requests that no further action be taken.**

36. Petition - Anti-Social Behaviour at Cephass Court, Hillfields

The Cabinet Member considered a report of the Deputy Chief Executive (Place) which responded to a petition bearing 15 signatures, sponsored by Councillor O'Boyle, a St Michaels Ward Councillor, which had been submitted to the City Council on 26th October, 2018. The petition reported that Anti-Social Behaviour issues associated with Cephass Court were having a detrimental impact on residents and the wider community. The petition specifically mentioned acts of alleged drug dealing, property damage, forced entry to communal areas and access doors, use of drugs and other substances. The petition spokesperson and Councillor O'Boyle were invited to the meeting and spoke on behalf of a number of residents who also attended. The Police and Orbit Housing were also invited to

attend. The Police attended and spoke to the Cabinet Member about their experience of the issues concerned. Orbit Housing sent their apologies.

The report noted that with regard to anti-social and criminal behaviour, the main issue concerned a spate of ongoing incidents during 2018, during which some local residents witnessed the main entry door being vandalised to gain entry and using the communal areas to use drugs, by unknown persons. Coventry City Council's recorded data regarding Antisocial Behaviour from 1st January 2018 to 1st December 2018 showed two reports directly related to Cephas Court logged with the City Council for various issues. One reported unsightly land / fly tipping and the other reported drug misuse which council officers passed to the Police. In response to the petition, officers from the Council had made contact with the lead petitioner on 13th December 2018.

Police data for the same period showed a total of 33 logs for Cephas Court. A large proportion of these logs related to criminal damage, reporting of drug taking, smashed windows, gaining entry to the building via breaking the fire door and main doors.

The report noted that West Midlands Police, Orbit Housing Group and the Council were monitoring the situation. Extra patrols took place as duties allowed and individuals found to be causing issues were challenged and appropriate action was taken. From a housing perspective Orbit Housing Group had responsibilities to manage the Anti-Social Behaviour in their building and land. Orbit Housing Group had written to the petition spokesperson outlining some of the remedial steps that they had taken in response to the issues raised.

The Petition spokesperson, Joan Haywood Centre Manager at St Peter's Community Centre, was invited to speak on behalf of the petitioners. She indicated that issues were regularly reported regarding the residents' concerns and she noted that the strength of feeling was reflected by the high number of people in attendance at the meeting in support of the petition. Anti-social behaviour in the area, drug related litter, lack of security and property conditions were having a real impact on the community. There was a fear for the safety of residents and their children. The following impacts were discussed:

- drug use and ambulances were witnessed
- washing cannot be put outside,
- evidence of damp in properties including clothing and a doctor's note
- vermin
- a local school were also concerned for resident children

The Petition spokesperson noted that Orbit had made some progress with remedial action but they had not discussed the matter with residents.

Councillor O'Boyle provided some background to the issues and he felt that it was not acceptable that children witness people injecting drugs outside their homes. Councillor O'Boyle discussed funding, the building and bin area not being secure, poor lighting, violence, threats, damage to property, fly tipping and also being mindful of safety when reporting crimes.

Councillor O'Boyle and Councillor N Akhtar also discussed a recent meeting with Orbit at which they had discussed solutions.

The Police confirmed they had met with all residents and had increased patrols but were currently unable to source evidence to identify people involved. They had spoken to Orbit regarding supporting the management of antisocial behaviour with Whitefriars, another Housing Association in the local area.

The Shadow Cabinet Member recognised the quality of life of the residents was affected and supported responding to their petition.

The Cabinet Member and Deputy Cabinet Member thanked the St Peter's Community Centre for supporting local residents including all those present at the meeting.

Those present felt that Orbit Housing were key partners and as they were not able to discuss concerns at the meeting the Cabinet Member agreed to contact Orbit Housing to highlight the urgent need to address some of the problems raised and to seek clarity for the residents regarding Orbit's proposed solutions and also to bring to their attention the concerns regarding damp and vermin.

The Cabinet Member requested that the Housing enforcement team visit the property and that this area be considered during discussions about the wider Public Space Protection Order.

RESOLVED that the Cabinet Member:

- 1) Encourages residents of Cephas Court to report incidents of concern to Police, Orbit Housing Group and the Council as soon as they occur.**
- 2) Requests that West Midlands Police, Orbit Housing Group and Council officers, continue their monitoring of the area and respond accordingly to residents requests for assistance.**
- 3) Agrees to write to Orbit housing to seek clarity over the details of the recommendations they agreed at the meeting with Councillors, officers and residents on November 26th 2018, with the proposition that the works be carried out as soon as possible and within this financial year. Also bringing to the attention of Orbit Housing the conditions at the property including damp and vermin.**
- 4) Refers the issues discussed to the Housing Enforcement Team to visit Cephas Court with the petition spokesperson to see what action can be taken.**

37. Petition - Measures to prevent illegal encampment at the Ponderosa, off Jardine Crescent

The Cabinet Member considered a report of the Deputy Chief Executive (Place) which responded to a petition bearing 100 signatures, sponsored by Councillor Male, a Woodlands Ward Councillor, which had been submitted to the City Council on 22nd June, 2018. The petition requested that the Council undertake all

necessary measures to ensure that the Ponderosa, otherwise known as Jardine Crescent Sports Ground, Tile Hill, was made secure in order to prevent further illegal encampments. The petition spokesperson Councillor Male was invited to the meeting and spoke on behalf of petitioners.

This report noted that the site was managed by the Councils Greenspace Service and contained several football pitches and an associated changing rooms. The changing rooms were leased to Mount Nod FC who use the pitches as their home ground.

Approximately 3 years ago the City Council's Streetpride & Green Space Service created a line of ditches and mounds along areas of the site's periphery as a defence to prevent unauthorised traveller incursions. The report noted that ditching and mounding was thought to be one of the most effective methods of preventing such incursions.

Despite a vehicle access gate being installed at the same time, some localised flattening of the mounds seemed to have taken place. It was found that a resident football club had been accessing the site with their vehicles over a long period of time by driving over the mounds and ditches. This had in one location flattened the defences and consequently, the travellers had the opportunity to gain unauthorised access onto the site in 2018. Subsequently the mounding was bolstered and no further such incursions had occurred. Following discussions with the football club a key was issued allowing the club to gain access to the site via a locked gate (with height barrier).

The report indicated that officers would continue to maintain and review the existing defences to ensure that as far as can practicably be achieved within the existing resources, unauthorised incursions onto the site would be restricted and or prevented in the future.

Councillor Male discussed the disruption to the local community caused by the incursion on the site. He questioned the cause of the incursion and the quality of the defences. He also discussed anti-social behaviour on the site.

The officer present discussed the cost of defences and had spoken to rangers who weren't aware that the defences had been damaged. The officer agreed to visit the site and inspect the defences along with the Ward Councillors. If they had been reduced they could be bolstered with in house resources.

Councillor Khan clarified that no illegal encampment had occurred since the defences had been bolstered in 2018 and suggested that officers be contacted as soon as possible if there were concerns about the defences.

RESOLVED that the Cabinet Member for Policing and Equalities:

- 1) Considered the content of the petition and note the concerns of the petitioners'.**
- 2) Notes that action has been taken to bolster the ditching and mounding around open space and that no further unauthorised incursions have taken place since.**

- 3) **Notes that agreement has been made with the local football club and keys supplied to allow access by the club to the site via a vehicular gate to prevent further damage to the mounding.**
- 4) **Notes that the Council's Street pride Service considers the defences adequate.**

38. **Extension of Public Space Protection Order for Edgwick Park**

The Cabinet Member considered a report of the Deputy Chief Executive (Place) which requested an extension be made to the existing Public Space Protection Order (PSPO) for Edgwick Park. A PSPO was granted for Edgwick Park in April 2016 (the Cabinet Member for Culture, Leisure Sport and Parks minute 43/15 refers). The order was created to address concerns at the park regarding Child Sexual Exploitation (CSE), exacerbated by drugs, alcohol and anti-social behaviour. Appended to the report were the proposed draft order for Edgwick Park and impact statements.

The order gave agencies powers to request groups leave the park that were felt to be acting in a manner to the detriment of other park users, if they refuse to leave they would be committing an offence and liable to enforcement, either a Fixed Penalty Notice (FPN) or a summons to court.

The PSPO was in place following an extensive consultation exercise, the renewal required consultation with key local partners and agencies. West Midlands Police, Parks and Greenspace colleagues and the adjoining primary school had been consulted and their responses were appended to the report. All consultees were in agreement that the existing PSPO had been effective in reducing instances of Anti-Social Behaviour in the park and whilst not completely solving issues, a renewal of the order was recommended by all respondents.

Whilst the order had not entirely eliminated incidents of anti-social behaviour, mainly due to the difficulty of consistently dedicating resources to patrol, having the PSPO gave officers powers to deal with issues quickly and effectively. Were the order to expire this would make enforcement at the park far harder than it currently was.

The report noted that local residents still expressed concern from time to time about gatherings of groups in the park. Primarily these groups congregate because of their living conditions outlined in the report. It was felt that the risk and incidents regarding CSE had greatly reduced however, it was not something agencies could be complacent about. It was still felt that the presence of such groups was a deterrent to others from using the park as regularly as they would otherwise.

Patrols to the park from several agencies had been increased. Whilst those patrols were not as regular as when the concerns were initially received it was still a location that Police and support workers from agencies such as Horizon (CSE) and similar attended and spoke to individuals and groups.

There had been physical alterations in and around the park to address matters. Significant amounts of vegetation and undergrowth had been cut back and a toilet block had been demolished. This had decreased the locations where it was felt there were potential for activities that would cause concern.

The report detailed the options considered were to extend the order or to let it expire, the extension option was recommended.

It was noted the use of a PSPO was intended to be an additional tool for officers to use to manage situations that could potentially escalate. The order in itself was not going to solve any particular issue on its own, that would often need a number of different methods, used jointly. The order would be valid for a period of three years and could be further extended or amended, providing due process was followed.

Once approved the draft order would be publicised at the site for up to 30 days and notification published on appropriate Council websites, following that process the order could be implemented and operational. Patrols and patrol plans were already in place for the location and would be continuing.

RESOLVED that the Cabinet Member for Policing and Equalities:

- 1) Notes the draft order attached to the report and agrees to renew the existing order for a period of three years from the date that the current order expires.**
- 2) Requests that all partner agencies continue their current actions and patrol plans and also monitor the surrounding areas for any potential displacement of the issues.**

39. Drone Policy and Police Drone Permission

The Cabinet Member considered a report of the Deputy Chief Executive (Place) which concerned the adoption by the Council of a Drone/ Unmanned Aerial Vehicle Policy ("UAV") in relation to its land and grant the West Midlands Police permission to use Council land, for the launch and landing of drones in order to prevent and detect crime and maintain public safety. Appended to the report were a UAV Policy, UAV Permission West Midlands Police and UAV Permission. The Cabinet Member had received a large number of correspondence, following the publication of the documentation for this meeting, against the proposed policy and had agreed to let Mr Kerry Blakeman speak regarding the concerns.

The report noted that over the last few years a number of concerns had been raised about the flying of drones in both residential areas and in open spaces including parks. The concerns were about the nuisance caused by the noise of drones; privacy due to drones carrying surveillance equipment and the potential danger they could cause to wildlife, animals and people particularly when landing. Advice had been supplied to residents stating that any problems with drone flying should be reported to the Police and the Council's Community Safety Team who would carry out an investigation. Council officers had asked drone flyers in parks to stop their activities.

However the Council does not have a drone policy and to date had dealt with any matters using vehicle and nuisance prohibitions contained in the Council's Byelaws for Pleasure Grounds 1962. Due to a growing number of issues with this type of activity, it now appeared appropriate to adopt a drone policy, to prohibit their general use on Council land and regulate their specific use such as, for some police and professional or commercial operations. Other Councils had adopted similar policies.

The Council was contacted by the West Midlands Police in 2018 requesting permission for Council land to be used for the launching and landing of police drones in order to prevent and detect crime and maintain public safety. The Force Drone Team for West Midlands Police had stated that the operation of drones supported the reduction in local crime, helped to reduce anti-social behaviour and assisted in evidence gathering to support prosecutions. It helped to tackle issues such as quad biking in public areas, drug dealing, vehicle crime and suspect searches. Other West Midlands councils had already granted conditional permissions to the police to carry out this activity.

An option would be to have drone activity unregulated in parks and allow hobbyists unrestricted access to Council land to fly their drones as they chose. The Council was aware that drone activity caused a nuisance to other park users and concerned residents due to potential surveillance activity. Flying drones could also cause a health and safety hazard to both people and animals. As a land owner and operator the Council was likely to be held liable for any damage caused to people or property as a result of allowing the flying of drones in its parks and open spaces.

A second option would be to leave the situation as it was with drone operators being advised by Council officers of the vehicle and nuisance prohibitions contained in the Council's Byelaws for Pleasure Grounds 1962. However, this did not present a clear position for the public about the use of drones and does not deal with any exceptions which the Council may wish to grant for example for the police or commercial activities.

The proposed option was to adopt a Drone Policy for Council owned and controlled land which would give clear guidance on the use of drones. If this was not followed the Council would be able to ask people to leave its property if they were flying unauthorised drones or UAVs. The Drone Permission for the West Midlands Police would allow the police to use drones on Council land without gaining permission from the Council each time they wished to carry out an activity. The general Drone Permission would allow professional and commercial organisations to use Council land for flying drones under strict regulation and with the appropriate public liability insurance. There would be a charge of £50.00 for the permission and an additional charge for any photography undertaken to cover administrative expenses.

Mr Blakeman spoke against the proposed policy and was concerned about the ban on leisure flights from Council land i.e. parks and open spaces and felt adoption of the policy would be detrimental to the City. Reasons that he was against the proposed Policy included:

- There had not been consultation on the policy.

- The possibility of promoting safe legal responsible flying of drones in accordance with legislation in the Drone Code.
- Technology was available such as GPS systems which could restrict flite in certain areas.
- There was to be new legislation soon regarding registration and a flight test which would reduce nuisance and unregistered flights.
- Drones produced images which promoted the city.
- The 'erosion of privacy' by drones was questioned when mobile phones with cameras were frequently used in public places.
- The Councils 'liability for damage' was questioned for example would the council be liable if a dog attached someone in the park?
- Concerns also included restricting families using drones for photos in the park and unintended consequences of the ban resulting in there being nowhere to fly drones and being used in gardens rather than parks contravening the code.

Mr Blakeman offered to assist with the creation of a policy which considered leisure flights and upheld the law and promoted the city. Consideration could be given to looking at a designated area and liability insurance.

Officers noted that the policy was intended to protect the public and the Council and to re-emphasise existing bylaws not make any changes, the bylaws prohibit the use of machinery and disturbance to users in the parks. The Council took reasonable steps to ensure safety including, dog control orders and cycling designated routes. Issues had been reported since 2016 as not all users were responsible. The Drone Code referred to ensuring they were not flown near people or property and the city's parks were frequently used. Also other motorised vehicles had been requested to use parks and had not been permitted.

The Councillors present valued the opinions presented and acknowledged that it was a complex issue demonstrated by the public interest in the policy. They felt it was worth further discussion, including benchmarking with other authorities and would like to give further consideration to balancing the responsibilities to protecting the public and the law with responsible use of drones.

RESOLVED that the Cabinet Member for Policing and Equalities:

- 1) Considered and delegates authority to the Director, Streetscene and Regulatory Services to sign the Drone and Unmanned Aerial Vehicle Permission to West Midlands Police, as set out in Appendix 2 to the report.**
- 2) With regard to the Drone and Unmanned Aerial Vehicle Policy at Appendix 1 to the report and the Drone and Unmanned Ariel Vehicle ("UAV") Permission at Appendix 3 to the report and the charge associated with this of £50.00, officers be requested to review the Drone Policy and bring back a full report having consideration of the representations made to him.**

There is no change to the current situation, the Byelaws remain in place and it continues to be the case that the flying of Drones and

Unmanned Aerial Vehicles (UAV) is not permitted in the Council's parks and open spaces.

40. **Outstanding Issues**

There were no Outstanding Issues.

41. **Any Other Business**

There were no other items of business.

(Meeting closed at 4.40 pm)

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Cabinet Member for Policing and Equalities

21st March 2019

Name of Cabinet Member:

The Cabinet Member for Policing and Equalities - Councillor A S Khan

Director Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

All

Title:

Proposal to charge for food hygiene rating scheme revisits

Is this a key decision?

No - although the proposals affect all wards, it is not anticipated that the impact will be significant.

Executive Summary:

On the 1st April 2012, Coventry City Council launched the Food Hygiene Rating Scheme (FHRS). The scheme helps consumers choose where to eat out or shop for food by giving information about the hygiene standards in food businesses included in the scheme. The scheme is run by Local Authorities in England, Northern Ireland and Wales and in partnership with the Food Standards Agency (FSA). Each business is given a 'hygiene rating' of 0 (urgent improvement necessary) to 5 (very good) when it is inspected by a Food Safety Officer. The rating shows how closely the business is meeting the requirements of food hygiene law. By publishing ratings on a national web site and by encouraging businesses to display a rating sticker, it is anticipated that standards of food safety in businesses will be driven up as a result of consumers making an informed choice about where to eat and 'voting with their feet'.

To ensure fairness to businesses, local authorities must have a procedure in place for undertaking re-visits at the request of the Food Business Operator (FBO) for re-assessing the food hygiene rating of their establishment.

These revisits are in addition to planned, risk rated interventions and do not form part of the Local Authorities proactive intervention programme. The revisits are merely a tool for the FBO to improve the businesses rating.

Following a trial of charging for requested FHRS revisits in England, using existing powers in the Localism Act 2011, the FSA has now confirmed a change in policy allowing the use of these

powers by Local Authorities in England to introduce cost recovery for requested revisits / re inspections.

The number of requests for re visits in Coventry has averaged at 41 per year since the FHRs was introduced. It is anticipated that the number of requests for revisits will continue at this level or will rise if the display of ratings at the premise becomes a mandatory requirement. In addition, demand could increase further with food businesses competing for the influx of customers coming to Coventry to celebrate City of Culture.

The average time taken to complete a FHRs revisit is 4 hours. This includes undertaking the inspection, travel and administration etc. With this in mind, it is proposed to charge FBOs £190 per revisit in order to recover costs.

It is for this reason that Cabinet Member approval to charge for FHRs revisits is being sought.

Recommendations:

The Cabinet Member for Policing and Equalities is recommended to:

Give approval for Coventry City Council to charge for Food Hygiene Rating Scheme (FHRs) revisits.

List of Appendices included:

None.

Background papers:

None.

Other useful documents:

Guidance on the Food Hygiene Rating Scheme: The 'Brand Standard'
<http://www.food.gov.uk/enforcement/enfcomm/fhrssteeringgroup/hygieneratingsguidance>

Food Law Code of Practice (England)
<http://www.food.gov.uk/enforcement/enforcework/food-law>

Food Standards Agency Food Hygiene Ratings
<http://ratings.food.gov.uk/>

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Proposal to charge for Food Hygiene Rating Scheme revisits

1. Context (or background)

- 1.1 The FHRS is operated by Coventry City Council. Following each food safety inspection, all food premises included in the scheme receive a food hygiene rating ranging from 0 to 5, with a rating of 3 deemed to be 'broadly compliant'. There are currently 2 334 premises included in the scheme in the city, 1 608 of which are rated 5 (very good). Those with a rating of 4 or less, some 674 businesses, are able to apply to the Authority for a revisit with the aim of improving their rating. These revisits are currently provided free of charge and are completed in addition to the planned, proactive intervention programme. Since the launch locally of the scheme, the Council has or are in the process of completing 235 revisits at the request of the FBO. The majority of revisits undertaken result in the rating of the business improving.
- 1.2 The number of requests for revisits is expected to gradually increase, however, should mandatory display of ratings come into force, the number is expected to rise significantly.
- 1.3 It is possible that should the emphasis of inspections be changed to take account of emerging public health risks, such as emphasising allergen controls, then ratings may go down which may generate more requests for revisits.

2. Options considered and recommended proposal

- 2.1 There are two options to consider in relation to this matter. Option 1 is to continue to provide revisits for rescoring purposes free of charge and option 2 is to charge the FBO a fee to recover the reasonable costs of the service provided.
- 2.2 Option 1 is no longer considered to be appropriate given the growing number of requests for revisits made by local businesses. The rating revisits are made in addition to any visits or interventions undertaken as part of the proactive intervention programme and are made based on business needs and desires rather than in response to public health risk. The Food Safety Team has limited resources and cost recovery would introduce a new income stream and generate approximately £7,790 per annum; a figure that is likely to grow as awareness of the scheme improves. In the current economic climate, it is not considered a fair use of local Council tax payers' money, to offer a service based on business need only. In addition, a change in FSA policy on cost recovery for FHRS revisits means a change in local policy is less likely to be challenged.
- 2.3 It is important to note that significant, free support for new businesses or failing businesses is provided by the Food Safety Team to ensure that food safety and public health is not put at risk and that there is no intention to charge for any such visit.
- 2.4 Option 2, charging for FHRS revisits, is the preferred option. Legal advice on the matter has been sought and is supportive of the proposal.

3. Results of consultation undertaken

- 3.1 A cost recovery trial was undertaken by the FSA and several volunteer Local Authorities for four months at the end of 2016. Following an evaluation of the trial, the FSA changed their policy on cost recovery and have since written to all Local Authorities to advise of their change of stance and to confirm that cost recovery for FHRS revisits can occur under the provisions of the Localism Act 2011.

- 3.2 Several Local Authorities in the West Midlands and Warwickshire have already introduced cost recovery for FHRS revisits which range from £149 to £175 per revisit.

4. Timetable for implementing this decision

- 4.1 It is proposed that, should cost recovery for FHRS revisits be approved, it will commence on 1st April 2019.
- 4.2 The number of revisits requested and costs recovered will be monitored on a quarterly basis.

5. Comments from the Director of Finance and Corporate Services

5.1 Financial implications

It is proposed that a cost recovery charge of £190 is made for each FHRS revisit inspection. Based on current demand, approximately £7,790 could be recovered per annum.

5.2 Legal implications

Since the introduction of the FHRS, there has been a change in legislation in England and Wales, in the form of the Localism Act 2011, which has affected Local Authorities powers; including powers to charge. Section 1 of the Act means that Local Authorities may now do anything that an individual generally could do and in certain circumstances, may charge for what is done. It is the FSA's view that the implementation of the FHRS by Local Authorities falls within the general power and that providing a re inspection upon request, in circumstances where there is no statutory requirement to provide a re inspection, falls within the general power too.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan / scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The purpose of the FHRS is to allow consumers to make informed decisions about places where they eat out or shop for food and encourage businesses to improve their hygiene standards. The overarching aim is to reduce the incidence of food-borne illness and the associated costs to the economy.

Cost recovery of FHRS re visits will provide the Food Safety Team with an additional income stream which will be used to help support the work of the team in tackling poor food safety in food businesses in the city; thus helping to drive up food safety standards and reducing the likelihood of food related illness in the city.

6.2 How is risk being managed?

The key risks associated with the proposal are:

- A possible reduction in number of requests made.
- Cost recovery may be a disincentive for local businesses to improve standards.
- That some FBOs may not be able to pay for a revisit.

The Food Safety Team undertakes regular inspections of all food businesses in the city on a risk basis, concentrating resource on poor performers and always issues a new food hygiene rating following an inspection. Those with a poor food hygiene rating will be proactively inspected more regularly (every 6 to 12 months) than those with a better risk score and officers work hard with poor performers during proactive inspections to help improve conditions and food hygiene rating. No food business in the city is allowed to operate if there is an imminent risk to health.

6.3 What is the impact on the organisation?

None.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance.

6.5 Implications for (or impact on) the environment

None.

6.6 Implications for partner organisations?

None.

Report author(s):

Name and job title: Nicola Castledine, Food and Safety Manager

Directorate: Place

Tel and email contact: T: 024 7683 1850 Nicola.castledine@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Michelle Rose	Governance Services Officer	Resource	04.02.2019	13.02.2019
Tracy Miller	Head of Planning and Regulation	Place	30.01.2019	01.02.2019
Davina Blackburn	Regulatory Services Manager	Place	18.01.2019	30.01.2019
Names of approvers for submission: (officers and members)				
Finance: Cath Crosby	Lead Accountant	Resource	04.02.2019	06.02.2019
Legal: Amy Wright	Solicitor	Place	04.02.2019	05.02.2019
HR: No HR issues	-	-	-	-
Director: Andrew Walster	Director (Streetscene and Regulatory Services)	Place	04.02.2019	04.02.2019
Martin Yardley	Deputy Chief Executive	Place	13.02.2019	19.02.2019
Members: Councillor Khan	Cabinet Member Policing and Equalities	Cabinet Member		22.02.2019 – briefing by Davina Blackburn

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The Cabinet Member for Policing and Equalities – Councillor A S Khan

21st March 2019

Name of Cabinet Member:

Cabinet Member for Policing and Equalities - Councillor A S Khan

Director Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

All

Title:

Mandatory Houses in Multiple Occupation Licensing and housing inspection fees and charges.

Is this a key decision?

No

Executive Summary:

The purpose of this report is to seek the Cabinet Member for Policing and Equalities approval, in consultation with the Cabinet Member for Housing and Communities, to adopt revised fees and charges relating to Mandatory Houses in Multiple Occupation (HMO) Licensing and housing inspections commencing April 2019.

The proposed fees for Mandatory HMO Licensing are structured to cover the costs associated with implementing and delivering the scheme as the Council is not allowed to make a profit from such schemes.

Recommendations:

The Cabinet Member for Policing and Equalities is requested to:

1. Consider and approve the fees and charges relating to Mandatory HMO Licensing and housing inspections as set out in the report.
2. Authorise the Head of Planning and Regulatory Services to implement the fees and charges structure commencing from the 1st April 2019 and to review and amend the fees and charges (as appropriate) each financial year thereafter.

List of Appendices included:

None

Background Papers:

None

Other useful documents:

Housing Act 2004.

<https://www.legislation.gov.uk/ukpga/2004/34/contents>

R (Hemming) V Westminster City Council (Case C-316/15) and the High Court decision in *R (Gaskin) v LB Richmond Upon Thames* (2018) EWHC 1996 (Admin).

Has it been or will it be considered by Scrutiny?

No.

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No.

Will this report go to Council?

No.

Report title: Mandatory HMO Licensing and housing inspections fees and charges

1. Context (or background)

- 1.1 In October 2018 the Government amended the definition of a Mandatory Licensable House in Multiple Occupation (HMO) by removing the rule relating to the property being of three storeys or more and as such requiring all HMOs occupied by 5 or more people to be licensed under the national mandatory licensing scheme.
- 1.2 The Council now estimates that, as a result of the extension of the mandatory licensing definition there will be an additional 1,200 HMOs that will require licensing under the mandatory scheme. This has increased the total number of licensable HMOs to around 2,400.
- 1.3 Current resources exist to deliver the original scheme and approval has been sought to provide additional resources to deliver the increase outputs estimated. A recruitment process is underway to secure additional resources and the fees and charges to fund these posts have been reviewed resulting in the need for fees to be amended as per this report.
- 1.4 The Housing Act 2004 permits the Council to require any application for a licence under Part 2 to be accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.
- 1.5 In developing its fee structure the Council has also had to have regard to the European Court of Justice ruling in *R (Hemming) V Westminster City Council* (Case C-316/15) and the High Court decision in *R (Gaskin) v LB Richmond Upon Thames* (2018) EWHC 1996 (Admin).
- 1.6 As a result of the Hemming case in particular, the Council is required to request payments in two stages – Stage 1 to cover the costs associated with determining the initial application and Stage 2 to cover the costs of running and enforcing the scheme.
- 1.7 As such the Council, when setting its fees, has adopted the two stage approach. All fees and charges will be reviewed on an annual basis. Table 1 below provides the proposed fees and charges for the next financial year commencing 1st April 2019.

Table 1 – Proposed Fees and Charges

Licence or Charge	Type	Licence Duration	Actual	Proposed		
			2018-19 £	2019-20 Stage 1 £	2019-20 Stage 2 £	2019-20 TOTAL £
Licence	New Application	Annual (New)	829.12	600	455	1,055
Licence	New Application	Annual (Unlicensed)	0	600	650	1,250
Licence	New Application	Two Year	0	415	290	705
Licence	New Application	Five Year	0	450	190	640
Licence	Renewal	All types	0	255	290	545
Charge	Housing Inspection	N/A	0	N/A	N/A	102
Charge	HMO Pre-app	N/A	0	N/A	N/A	196

- 1.8 The Council also provides a number of inspection services for landlords who are proposing to use their property as a HMO and to provide their property to the Council for homelessness purposes. The Council currently delivers these services free of charge and it is proposed that costs are recovered through fees to provide these services, which will reduce the burden on the Council's budget and the public purse.

2. Options considered and recommended proposal

- 2.1 Do nothing. This option is not recommended because the Council does not have sufficient resources to deliver the increased levels of licence applications for mandatory licensable HMOs.
- 2.2 Approve the revised fees and charges. The Council has a duty to licence all mandatory HMOs and as such requires additional resources to deliver this scheme. The fees and charges will provide a self-financing option to deliver these requirements and cover the costs of the additional resources required. Therefore, the Cabinet Member for Policing and Equalities is requested to approve the fees and charges as set out in Table 1.
- 2.3 Pre-application advice already exists within the planning department and the Council is proposing to offer a similar service for landlords who are considering using their property as a HMO. The lowering of the criteria for a mandatory licensable HMO has seen an increase in advisory visits being carried out by the Council, which is placing additional pressure on already limited resources. The Cabinet Member for Policing and Equalities is requested to approve the fees and charges relating to HMO Pre-Licensing Advice which will assist with reducing the burden on the Council's budget and public purse.
- 2.4 Landlords who provide their property for temporary accommodation for homelessness purposes are required to ensure that the property meets the minimum standard for housing. In all cases the Council is carrying out an inspection to ensure that these standards are met. Currently this is a service provided by the Council free of charge. The proposal to charge a fee to cover the cost of the time taken to complete such inspections is therefore being considered. The Cabinet Member for Policing and Equalities is requested to approve the fees and charges relating to Housing Options inspections which will assist with reducing the burden on the Council's budget and public purse.

3. Results of consultation undertaken

- 3.1 The fees and charges are required to self-finance the delivery of the national mandatory HMO licensing scheme and have been developed in accordance with the changes to this scheme. The extension of the scheme has already been subject to national consultation by the Ministry for Housing, Communities and Local Government and the results of this have been taken in to consideration by Government when developing guidance provided to Local Authorities for implementing these powers. There is no statutory requirement to consult further on the fees and charges set out in this report.

4. Timetable for implementing this decision

- 4.1 The fees and charges are proposed to be introduced from the 1st April 2019 and reviewed annually.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

5.1.1 The financial implications associated with the recommendation are limited to the employee costs associated with implementing the extension of the national mandatory HMO licensing scheme in accordance with the case referred to in paragraph 1.5 of the report.

5.1.2 All income received from mandatory HMO licences will be used to self-finance the scheme.

5.1.3 Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 to be accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.

5.1.4 When setting the fees and charges structure for the licensing scheme the Council has to take account of the staff costs, training, administration and publicity and that it is not allowed to use licensing fees to raise revenue for other projects or areas of work.

5.1.5 The proposed fees and charges structure is cost neutral: the financial modelling of the scheme estimates income and expenditure cash flows as below. This shows that the scheme is modelled to break even over a 5-year cycle.

	2019-20 £ million	2020-21 £ million	2021-22 £ million	2022-23 £ million	2023-24 £ million	Total £ million
Expenditure	0.5	0.5	0.5	0.6	0.6	2.7
Income	(0.2)	(0.3)	(0.6)	(0.7)	(0.9)	(2.7)
Net Total	0.3	0.2	(0.1)	(0.1)	(0.3)	0.0

5.1.6 The modelled activity suggests that additional staff would be required to administer the scheme. There is therefore a financial risk that the number and type of licences issued in real life differ from the model and the amount of income received does not cover the costs of operating the scheme. In order to mitigate this risk:

- The financial position of the scheme will have to be carefully monitored and action taken to control costs if necessary.
- The fees and charges structure will be reviewed on an annual basis and if there is a need to increase fees to cover any potential shortfall then this will be recommended and reported through the budget setting process.

5.2. Legal implications

5.2.1 Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 to be accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.

5.2.2 Section 63 of the Act is drafted in broad terms. It does not prohibit creative fee structures. Therefore, differential fees for compliant and non-compliant landlords may be charged provided the Council is able to evidence:-

- How landlord behaviour is linked to the purposes of the Act in overcoming problems;
- How and why the cost of Parts A and B differ for each class of landlord;
- That the different fees are not discriminatory;

- That in each case they are reasonable – they must not be so high as to dissuade the provision of a service
- That the fees are reasonable and proportionate.

5.2.3 *R (Hemming) V Westminster City Council* (Case C-316/15) and the High Court decision in *R (Gaskin) v LB Richmond Upon Thames* held that the EU's Provision of Services Directive, which is enshrined in UK law as the Provision of Services Regulations 2009 should apply to property licensing fees and the processes involved in implementing and delivering such schemes.

5.2.4 The legal cases of Hemming and Gaskin, held that the Services Directive, in particular should be interpreted as precluding charging in advance for costs other than those directly related to the authorisation process of the scheme. In other words, the Council is not permitted to demand fees in advance for anything other than the costs of administering the application for a licence even if it makes it clear that unsuccessful applicants are provided with a refund of the remaining part of the fee. The Council may legitimately recover its wider costs, over and above those relating to the administration of applications, but this should be at the point at which the Council has determined that a licence is to be granted.

5.2.5 The judgements in *Hemming* and *Gaskin*, which require the overall licence fee to be paid in two stages, has therefore had the effect that the fee for a Mandatory HMO Licence under Part 2 of the 2004 Act must be levied in two separate parts.

5.2.6 The Council is not allowed to demand fees in the Stage 1 process for anything other than the costs of administering and processing the application for a licence. Furthermore, this element of the fee is non-refundable should the application be unsuccessful.

5.2.7 Once the application has been determined as successful the Stage 2 payment can be requested and charged to cover the costs of running and enforcing the scheme.

5.2.8 In terms of the Housing Inspection and Pre-HMO licensing fees these are discretionary services and a charge can be made as a result of Section 1 of the Localism Act 2011.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

6.1.1 The Council Plan takes forward the main themes agreed by the Council in recent years. It reaffirms the Council's ambition – developed with the Strategic Partnership and partners to make Coventry: A Top Ten City.

6.1.2 This ambition is driven through three corporate priorities which directly address the needs of the City and include, in particular:

- 1) Promoting the growth of a sustainable Coventry economy by:
 - Increasing the supply, choice and quality of housing; and
- 2) Improving the quality of life for Coventry people by:
 - Improving the health and wellbeing of local residents
 - Protecting our most vulnerable people
 - Reducing health inequalities;

6.1.3 The Health and Wellbeing Strategy 2016-19 recognises that creating health, wealth and happiness requires more than simply managing people's health problems.

6.1.4 The health and wealth being of people can be improved if people have jobs, good housing, and are connected to families and communities.

6.1.5 The Council's Housing Strategy 2013-2018 affirms the Council's view that housing plays a crucial role in the economic growth of the City. The ambition for Coventry is "*to ensure decent homes, housing choice and support for Coventry citizens*" through various themes including:

- Increase the supply, choice and quality of new housing;
- Prevent and tackle homelessness;
- Strive for a healthier and more sustainable City by improving the quality and use of stock; and
- Encourage balanced, stable and sustainable communities.

6.1.6 The Housing Strategy links into the Council Plan and the Health and Wellbeing Strategy by contributing to the delivery of the key corporate priorities but also in supporting the local economy through ensuring communities have stable and safe places to live.

6.2. How is risk being managed?

6.2.1 If the fees and charges are not approved, the City Council will not be able to deliver its regulatory duties of implementing the national mandatory HMO licensing scheme.

6.2.2 The fees and charges will inform decisions taken by regulatory services that will have an impact on the interests of private landlords, agents and tenants.

6.2.3 Decisions of regulatory services are open to challenge through the First Tier Property Tribunal and in certain cases the Magistrates Court and beyond. The fees and charges are designed to ensure our compliance with legislation and the case law mentioned thereby, minimising the risk of legal challenge.

6.3. What is the impact on the organisation?

6.3.1 The adoption of the proposed fees and charges will enable the Council to secure additional resources to effectively deliver the increased work-stream resulting from the changes to the HMO definition. Implementing and charging for Pre licensing advice visits and housing option inspections will also contribute to reducing the financial burden on Council budgets.

6.4 Equalities/EIA

None.

6.5 Implications for (or impact on) the environment

None.

6.6. Implications for partner organisations?

6.6.1 The effective implementation of the Mandatory HMO licensing scheme has an impact on the quality and management of larger HMOs in the PRS and on the co-existence of rented properties with local residents and communities.

Report author(s): Adrian Chowns

Name and job title: Property Licensing Manager

Directorate: Place

Tel and email contact: adrian.chowns@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Davina Blackburn	Regulatory Services Manager	Place	30 th January 2019	8 th February 2019
Michelle Rose	Governance Services Co-ordinator	Resources	8 th February 2019	13 th February 2019
Tracy Miller	Head of Planning and Regulatory Services	Place	31 st January 2019	15 February 2019
Names of approvers for submission: (officers and members)				
Councillor A Khan	Cabinet Member for Policing & Equalities	Cabinet Member	21 st Feb	21 st February, 2019
Councillor Ruane	Cabinet Member for Housing and Communities	Cabinet Member	11 th February 2019	13 th February 2019
Graham Clarke/ Cathy Crosby	Finance	Resources	31 st January 2019	4 th February 2019
Gillian Carter	Legal	Resources	31 st January 2019	11 th February 2019 and 22 nd February 2019
HR	Rebecca Stewart	Resources	31 st January 2019	13 th February 2019
Martin Yardley	Deputy Chief Executive	Place	14 th February 2019	19 th February 2019
Andrew Walster	Director	Place	8 th February 2019	14 th February 2019

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Cabinet Member for Policing and Equalities

21st March, 2019

Name of Cabinet Member:

Cabinet Member for Policing and Equalities – Councillor A S Khan

Director Approving Submission of the Report

Deputy Chief Executive (Place)

Ward(s) affected:

None

Title:

Outstanding Issues Report

Is this a key decision?

No

Executive Summary:

In May 2004 the City Council adopted an Outstanding Minutes System, linked to the Forward Plan, to ensure that follow up reports can be monitored and reported to Members. The attached appendix sets out a table detailing the issues on which further reports have been requested by the Cabinet Member for Policing and Equalities so he is aware of them and can monitor progress.

Recommendations:

The Cabinet Member for Policing and Equalities is requested to consider the list of outstanding issues and to ask the Member of the Management Board or appropriate officer to explain the current position on those which should have been discharged at this meeting or an earlier meeting.

List of Appendices included:

Table of Outstanding Issues.

Other useful background papers:

None

Has it or will it be considered by Scrutiny?

No

Has it, or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report author(s): Michelle Rose

Name and job title: Governance Services Officer

Directorate: Place

Tel and email contact: 024 7683 3111
michelle.rosel@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Other members	Not applicable			
Names of approvers: (officers and members)				
Finance: Name	Not applicable			
Legal: Name	Not applicable			

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	Subject	Date for Further Consideration	Responsible Officer	Proposed Amendment to Date for Consideration	Reason for Request to Delay Submission of Report
1	<p>Drone Policy and Police Drone Permission</p> <p>Review Policy and bring back a report</p> <p>CM(PE) 10th January, 2019 (Minute 39/18 refers)</p>		<p>Executive Director of Place</p> <p>Gill Carter</p>		

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