

## **Minutes of the meeting of General scrutiny committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Tuesday 23 July 2019 at 2.30 pm**

**Present:** Councillor Jonathan Lester (chairperson)  
Councillor Tracy Bowes (vice-chairperson)

**Councillors:** Barry Durkin, Bernard Hunt, Paul Symonds and William Wilding

**In attendance:** Councillors John Harrington (Cabinet Member)

**Officers:** C Corfield, (Licensing, Travellers & Technical Support Service Manager); M Willimont (Acting Assistant Director for Regulatory Environment and Waste), J Coleman (Statutory Scrutiny Officer).

### **1. APOLOGIES FOR ABSENCE**

None.

### **2. NAMED SUBSTITUTES**

None.

### **3. DECLARATIONS OF INTEREST**

None.

### **4. MINUTES**

**RESOLVED:** That the minutes of the meetings held on 6 March 2019 and 29 March 2019 be approved as a correct record.

### **5. QUESTIONS FROM MEMBERS OF THE PUBLIC**

A copy of the questions and answers is appended to these minutes.

### **6. QUESTIONS FROM MEMBERS OF THE COUNCIL**

None.

### **7. GAMBLING POLICY 2019-2022 (REVIEW)**

The committee was invited to review the statement of principles (Gambling Policy) to be applied by the council when exercising licensing functions under the Gambling Act 2005 (the Act).

The Acting Assistant Director for Regulatory Environment and Waste introduced the report. He reported that the Gambling Act 2005 required the Council to have a statement of gambling licensing policy. The revised policy, as appended, was largely unchanged. However, amendments had been made to reflect the requirements of two

new codes issued by the Gambling Commission: Licensing Conditions and Code of Practice (LCCP) and the Social Responsibility Code.

In discussion the following principal points were made (references in brackets are to the policy set out in the appendix to the report:

- (para 1.1) The wording currently states 'to promote gambling in accordance with the licensing objectives'. Clarification was sought on whether this might more accurately reflect the council's role to 'enable' gambling rather than promote it. It was noted that the licensing authority is there to 'promote compliance' and not to promote gambling.
- (para 1.4) It was proposed that the word 'used' in line one should be replaced by 'inform' to read: "The Licensing Authority is required to publish a Gambling Licensing Policy that will inform it when exercising its licensing functions.". Officers agreed to this proposed wording change.
- A general point was raised about the number of technical and legal terms used in the report. It was argued that the report would be strengthened and would aid the readers understanding if a glossary of terms were to be included.
- It was asked how Herefordshire's response to the consultation on this policy compared to other local authority areas. In response it was suggested that Herefordshire tended to have a low consultation response compared to larger authority settings, where more contentious licensing decisions were taken.
- (paragraph 5.5) This referred to determining an application for a premises licence without a hearing if the authority thought that the representations were vexatious or frivolous, or would not influence the determination of the application. It was noted that this was terminology drawn directly from the legislation. Its purpose was to allow officers to determine that any objections raised, for example, were not from a competitor businesses who may have financial interests in the outcome of the licensing decision. There were strict criteria that officers would apply in determining whether objections were valid.
- A further question concerned whether the policy included reference to transfers or variation of licenses. Officers commented that transfers and variations were not stated clearly in the document; the functions in the Act provided for the determination of all applications including transfers and variations. The purpose of the policy was to show how Herefordshire Council would carry out those functions locally. The availability of information to applicants about making an application was raised. A general view emerged that it would be helpful to make this information more visible in the policy document.
- (para 15.6) In relation to operating a proof of age scheme for children and young persons, it was noted that there is nothing in the policy around 'training in child protection'. It was proposed that an additional category in the itemised list in para 15.6 be added around children's safeguarding.
- (see recommendation e below) Various changes to the wording in the policy document were suggested. Reference was made to the foreword. It was requested that in the second paragraph reference to 'list of those consulted can be found at the rear' should be amended to say 'found in the appendix'. A further point of clarification was requested in relation to the term 'purpose of the principles'. It was proposed that this should be amended to 'purpose of the policy. It was also suggested that reference to 'gambling objectives' be altered to 'the objectives regulating gambling'.

- Reference was made to the statement of principles where vulnerable children and other vulnerable persons were described. It was advocated that this should be all children, not just vulnerable children. It was also noted that the three licensing objectives were taken directly from statute – as a result it was difficult to deviate from this wording. A further reference was made to the term 'thriving and sustainable community'. It was suggested that should be changed to 'thriving and sustainable economy'.
- The policy noted that it would be published every three years. It seemed more accurate to say that it would be reviewed every three years. The policy also stated that it may be reviewed from 'time to time'. It was clarified that there were times when the policy would require review, if, for example, there were changes in legislation, to ensure it was compliant.
- (Para4.5) Reference to governance team should be removed
- (Para 5.2) This made reference to a deadline in connection to making representations, but did not clarify the timeframes attached to that deadline.
- Section 18 of the policy covered review of premises licenses... It was noted that a review could be initiated as a result of representations being made, but questioned whether the review provisions should also extend to organisations who failed to uphold the core principles of the policy. It was noted that officers worked with the Gambling Commission on enforcement if licensees were found to be in breach of their conditions of license. This could lead to a review of a licence or in more serious cases, revocation.
- Section 18 of the policy was silent on an organisation's right of appeal against a decision by the licensing authority.

**RESOLVED TO RECOMMEND TO THE EXECUTIVE THAT:**

- a) officers review the wording in Para 1.1 of the policy to ensure it places clear emphasis on promoting compliance with the principles set out in the Act, and make clear that it is not about promoting gambling;**
- b) officers include a glossary of terms to cover all technical and legal terms set out in the report before it goes on to cabinet and full Council;**
- c) a sentence be added to the policy document to highlight where people can be directed to apply for a licence;**
- d) a new category (i) be added to the itemised list in para 15.6 of the policy to include training in child protection and child safeguarding;**
- e) officers look at all of the suggested various changes to wording of the policy suggested in bullet point 7 above and update the policy to ensure there is clarity in the phraseology used;**
- f) the various references to children and young persons should – for consistency – be changed to children and young people throughout the policy document;**
- g) officers revise the wording to highlight that the gambling policy is 'reviewed' every three years and to add clarity to the reference of policy review from 'time to time' – with the additional context that this will happen when/if there are changes to legislation during the three year period;**
- h) officers remove the reference to 'the governance team' in para 4.5 of the policy;**
- i) officers state clearly what the deadline timeframes are in para 5.2 of the policy;**

- j) **grounds for a review of a premises license as set out at section 18 of the policy should also include any breaches to the principles that the licensing authority, upholds in overseeing the policy and any related enforcement action; and**
- k) **details on rights of appeal should be included in the policy document.**

## **8. WORK PROGRAMME**

The Committee reviewed its work programme.

The principal considerations centred on scrutiny of the budget and medium term financial strategy (MTFS). The options under consideration were to review the budget ahead of/during the formal consultation and/or after the consultation had been completed. It was also noted that the local government financial settlement (LGFS) was scheduled for late autumn (in previous years LGFS has been announced in December). It was proposed that a two stage approach to scrutinising the budget should be the preferred option. In addition, this would be conveyed to the Children and Young People and the Adults and Wellbeing Scrutiny Committees, to ensure their scrutiny could mirror this approach.

The committee agreed that the budget and MTFS would be added to the November Scrutiny meeting and then reviewed again at the proposed January meeting.

The Statutory Scrutiny Officer agreed to provide members of the committee with information on a briefing that was being planned on the question of devolution of car parking revenue to market towns.

### **RESOLVED:**

- That:**
- (a) the draft work programme as set out at appendix 1 to the report be approved as amended;**
  - (b) the Statutory Scrutiny Officer be authorised, following consultation with the chairperson and vice-chairperson, to add items to the work programme where it is necessary to ensure their timely consideration where there is no scheduled meeting to approve their inclusion; and**
  - (c) the Statutory Scrutiny Officer be authorised, following consultation with the chairperson and vice-chairperson to finalise arrangements for scrutiny of topics within the work programme.**

## **9. DATE OF NEXT MEETING**

Monday 23 September 2019 at 10.15 am.

### **Appendix - Questions from members of the public and answers**

The meeting ended at 3.14 pm

**Chairperson**

**PUBLIC QUESTIONS TO GENERAL SCRUTINY COMMITTEE – 23 July 2019**

Question 1

**Mr P McKay– Leominster**

Those cared for at home require visits by carers, service providers, family, etc., not in control of who and when, with HC scheme only permitting one visitor permit, for display before leaving car, yet visitor would not have it, so would have to park, walk to resident to ask for it, back to car to display, and if absent minded drove off with it could be lost, and is not replaceable till would have expired, or if second visitor arrived they could not have permit as first visitor would have it, and would have to depart, nor could resident have any family visits of more than one person, and I suggest this be subject of scrutiny ? Some other councils provide packs of single use visitor vouchers to be marked with date enabling 2 or 3 to be displayed.

**Response**

This request will be considered as part of the overall work programme prioritisation and you will be informed of the committee's conclusion.

Question 2

**Mrs E Morawiecka – Breinton**

“At the March 2019 meeting of the General scrutiny meeting a number of public questions on the Hereford Transport Package were not permitted to be asked on the basis the meeting “will not be considering matters that do not relate to the grounds for call-in.” The public were told that under the circumstances the question would normally be redirected to cabinet. However, as there was no cabinet meeting scheduled until after the elections it was intended the public would receive an officer response in due course. When the issue of the Hereford Transport Package is of such high importance to all parties why have officers been unable to provide written responses to these public questions prior to the local elections or since?”

**Response**

Written answers were provided to the questions accepted for the Committee's meeting on 29 March. Regrettably the provision of answers to the other questions has been overlooked. Answers are being prepared and will be sent to those who submitted questions. We apologise for that.

Question 3

**Mr A Morawiecki - Brienton**

In July 2018 the Cabinet was advised by WSP & Balfour Beatty on progressing the further development of a bypass route at a cost of £2.54million. These companies were then employed to undertake the additional contract work without any public tender process. Likewise the HTP work costing £3.65million was apparently treated as an extension of the Herefordshire Council contract with Balfour Beatty and did not go through a competitive tender process. To ensure that expert advisors employed by private contractors cannot

speak at length at Council meetings and then leave a meeting with a new multi million contract, will the Scrutiny Committee look at the way in which professional advisors have been appointed, provided evidence and how contracts have then been awarded to parties related to them ?”

### **Response**

BBLP and their sub-consultants WSP professional services costs associated with the preparation of this project are procured through the council's Public Realm contract and form part of the council's annual plan and is not an extension as suggested in the question. This public realm contract was awarded to BBLP following a competitive OJEU procurement process in 2012/2013 and design professional services are within the scope of this contract. BBLP and WSP provide professional design resource to deliver this project and provide a fee proposal for delivery of the project which is scrutinised and challenged as part of the annual plan commissioning process. Annual fee proposals are reviewed and monitored prior to work commencing and are subjected to robust change control mechanisms.

### Question 4

#### **Dr N Geeson – Hereford**

The Hereford Transport Package was discussed at the General Scrutiny meeting of 29 March 2019. The Walking/cycling/bus public consultation related to that had closed on 11th March 2019, but we have not yet seen the results. If the future Scrutiny Committee work programme is to consider sustainable transport, when will the results of this public consultation be available, so that it can inform future transport plans and decisions?

### **Response**

The HTP consultation feedback is being analysed and a report summarising this feedback will be presented to the new administration cabinet later this summer and will be published on the council's website at that time.

### Question 5

#### **Mrs J Tonge - Hereford**

Hereford has generated much interest from transport specialists with high regulations at national and international levels.

With sustainable transport on the Scrutiny Committee work plan, will the council or this committee be asking such experts as Prof. John Whitelegg and or Brian Deegan to speak to councillors regarding sustainable transport, not just for Hereford city but across the County as a whole ?

Remembering as recently as April 2019 Herefordshire Council declared a 'climate emergency', for which we are grateful, but actions need to go further than words.

### **Response**

This request will be considered as part of the overall work programme prioritisation and you will be informed of the committee's conclusion.