

ADMINISTRATION AND REGULATION COMMITTEE

1 APRIL 2019 AT 6.00 P.M.

PRESENT: Councillors J. Taylor (Chair), Hopkins (Vice Chair), Castleman, and Rogers.

27. MINUTES (REF: 2.1)

Resolved: That the minutes of the meeting held on the 26 February 2019 be approved as a true and correct record and the Chair be authorised to sign them.

28. LOCAL GOVERNMENT ELECTION 2019 & FUTURE UNPLANNED ELECTIONS - POLLING STATIONS & POLLING PLACES (REF: 7)

The Democracy Manager presented the report regarding Local Government Election 2019 & Future Unplanned Elections - Polling Stations & Polling Places (Ref: 7), which sought approval to authorise the Returning Officer to use one or more alternative polling stations in the event of an emergency.

She explained to the Committee that with the Local Government Election taking place on 2nd May, any unforeseen circumstances had to be accounted for. Also, there was a chance of potential unplanned elections or referendums taking place in the near future. Therefore, approval was therefore sought from the Committee to ensure polling stations could be used for such purposes.

The Vice Chair emphasised the importance of having polling stations that were accessible to all, and within an acceptable distance for people to travel to. The Democracy Manager affirmed that a review of polling stations would take place over the summer, to check they are compliant and fit for purpose and easily accessible for all.

Resolved: That the Returning Officer be authorised following consultation with the Chair, to make any necessary changes to Polling Station and Polling Places required due to unforeseen circumstances for the Local Government Election 2019 and any future unplanned elections or referendums with less than 6 month notice given before day of poll.

29. REVISED CORPORATE HEALTH & SAFETY POLICY 2019-20 AND THE MODEL HEALTH & SAFETY POLICY FOR EDUCATION (REF: 8)

The Service Director Property and Construction presented the report (Ref: 8), which sought approval to adopt the revised Corporate Health and Safety Policy 2019-20

Members were informed that as part of the Corporate Health & Safety review all current health & safety policies were being reviewed, updated and re-

issued, including the Corporate Health & Safety Policy and the Health & Safety Policy for Education.

In response to a member's question, he confirmed that there were no financial implications, as this was only a restructure of the policies.

Resolved: (i) That the Council's Corporate Health & Safety Policy be approved.

(ii) That the Model Health & Safety Policy for Education be approved.

30. 2ND TIER MANAGEMENT RESTRUCTURE WITHIN HIGHWAYS SERVICES (REF: 9)

The Service Manager Highways presented the report (Ref: 9), which sought approval for the proposed changes to the management staffing structure of the Highways Services Division and the subsequent post deletions within the Highways Services Division.

Members were informed that it had been a challenge to recruit a member of staff following the resignation of the Asset and Engineering Manager. Two team leaders within the team had covered the position since April 2018. He further added that the restructure would allow the deletion of one post to be replaced with two posts in order to deliver a saving of £136,000.

The Vice Chair agreed that this was a positive and pragmatic approach.

In response to a Member's question on current officers taking on the role and how they were coping, the Service Manager Highways re-iterated that they were, and had been doing so since April 2018.

Resolved: That the implementation of the new Highways Services Management Staffing Structure within the Public Realm Service be approved:

- The following new posts be created:
 - Highways Engineering Delivery Manager, M5
 - Highways Asset Manager M5
- The following posts be deleted:
 - Asset and Engineering Manager, M5
 - Engineering Delivery Team Leader M3
 - Asset Management Team Leader, M3

31. STATEMENT OF LICENSING POLICY FOR SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES (REF: 10)

The Licensing Officer presented the report (Ref: 10) which sought approval of the changes made to the current statement of licensing policy for sex establishments.

Members were informed that the policy was last updated in November 2010. Consultations on the policy had been conducted with local authorities, existing and future potential holders of sex establishment licences in the borough, statutory responsible authorities under the Licensing Act 2003 and holders of premises licences under the Licensing Act 2003 in the Borough between 28th November 2018 and 11th January 2019. There were no financial.

The Chair enquired why the council did not impose any restriction on the number of licenses to be issued. The Licensing Officer explained that after taking advice from a Barrister it was agreed that anyone had the right to apply for a licence, and would leave the council open to challenge if that right was taken away. Therefore, conditions to mitigate unwanted behaviour were included within the policy in considering the characteristics of a locality and taking account of the following:

- the density and proximity of residential areas;
- schools, nurseries or any other premises substantially used by or for children under 16 years of age;
- parks or other recreational areas used by or for children under 16 years of age;
- churches or other place of religious worship;
- community buildings;
- gateways to an identifiable locality;
- alcohol or entertainment licensed premises.

The Service Director, Public Protection clarified local authorities who had chosen to limit by numbers were being challenged and there was a need to determine each application based on its merits that would be matched against tight criteria which would place the council in a better legal position.

A Member enquired how these premises were monitored to make sure no dishonest activity or sexual exploitation were taking place. The Licensing Officer responded that the policy makes reference to the sexual exploitation policy where applicants had to demonstrate that their business had a clear record in other areas where they were established and did not contravene other council policies, and the applicant would continue to be monitored throughout.

Resolved: (i) That the changes made to the current statement of licensing policy for sex establishments dated November 2010 be approved.

(ii) That the policy is intended to highlight how the authority will carefully control sex establishments and sexual entertainment venues and how the council will manage compliance and enforcement for those premises found to be in breach of their licence or legislation be noted.

32. TEMPORARY FURNITURE ON THE PUBLIC HIGHWAY POLICY 2019 (REF: 11)

The Principal Licensing Officer presented the report on Temporary Furniture on the Public Highway Policy 2019 (Ref: 11).

Members were informed that the local authority had been enforcing and ensuring compliance in this area for many years previously under highways and no formal arrangement was in place. This area now comes under Licensing where it was decided to put formal arrangements in place with the policy to acts as a main reference point for applicants and officers. The report outlined the conditions that would be formalised as part of this policy, including:

- protecting the public;
- size and layout of furniture;
- safety;
- the licensed area;
- crime and disorder;
- public nuisance.

He added that consultation took place from 13th December 2018 to 18th January 2019 and three representations had been received. In response to the Chair's question regarding these representations, the Principal Licensing Officer explained that one was regarding keeping the highway clean. Another was received regarding health and safety, which was part of another policy not related to this one. The final representation was in support of the policy.

The Service Director, Public Protection further explained that for potential applicants, it was positive to have a clear policy in order to have a reference point, to minimise restrictions, and to make sure areas can be controlled when needed.

When questioned whether this policy had strengthened enforcement, the Service Director, Public Protection said that enforcement had definitely had a positive impact and notices were issued when people breached the rules.

The Vice Chair said she was pleased that the policy was inclusive of accessibility for those with disabilities, or blindness, etc.

Resolved: That the Temporary Furniture on the Public Highway Policy 2019 as outlined in paragraphs 3 to 17 in the report (Ref: 11) be approved.

33. ARRANGEMENTS WITH CENTRAL BEDFORDSHIRE AND BEDFORD BOROUGH COUNCIL LICENSING SERVICES AND PROPOSED AMENDMENT TO PART 7 OF THE CONSTITUTION: FLEXIBLE WARRANTS (REF: 12)

The Principal Licensing Officer presented the report (Ref: 12), on the Arrangements with Central Bedfordshire and Bedford Borough Council Licensing Services and Proposed Amendment to Part 7 of the Constitution: Flexible Warrants.

The report sought the approval to adopt arrangements with Central Bedfordshire and Bedford Borough Council for the discharge of the Council's licensing functions in relation to compliance and enforcement powers under the range of Licensing Legislation. It also sought approval to make a change to Part 7 of the Constitution to give delegated authority to the Service Manager for Public Protection to enter into a flexible warranting arrangement to give effect to such arrangements.

Members were informed that neighbouring authorities Central Bedfordshire and Bedfordshire Borough Council had adopted the Flexible Warranting Scheme. At the moment, Luton Council was only able to deal with locally licensed vehicles.

Due to Luton's popularity with the Airport and other areas of interest and income, many taxi and private hire vehicles licensed with different authorities came into Luton. As different authorities imposed different conditions and policies, it was important that the Committee note there was no consistency nationally in this regard. Therefore, whilst a vehicle licensed by Luton Council could be dealt with if causing disruption within the town, a vehicle licensed by another authority would not be sanctioned the same way as the council did not have the authority to do so. The Flexible Warranting Scheme would allow a more consistent approach of enforcement, to treat all taxi and private hire vehicles fairly.

A Member enquired whether the recommendations should be for the Executive to determine and consultation of members, as the report proposed amendments to the constitution. In response the Officers explained that as this arrangement was not an Executive Functions, the decision was for the Administration and Regulation Committee to determine with delegated authority under Part 7 of the Constitution Scheme of Delegation to Officers for the Monitoring Officer to make the necessary changes to the Constitution.

A Member enquired whether this would affect hackney carriages and was advised that the Department for Transport as well as other national Working Groups had put forward some recommendations regarding this, but nothing had been confirmed as of yet.

The Chair enquired whether Uber would fall within the Flexible Warranty Scheme arrangements and was advised that Uber was not licensed in any of the neighbouring authorities. Therefore they would not fall within the remit of the Flexible Warranty Scheme in the county.

A vote was taken the recommendations moved by the Chair in which, three Members voted in favour and one voted against.

Resolved: (i) That the Committee authorise, under Section 101(1) of the Local Government Act 1972 ("the 1972 Act"), the making of arrangements for the discharge of the Council's functions under Licensing Legislation in so far as they were not functions which were the responsibility of the Council's Executive ("the relevant functions"), but without prejudice to the discharge of the relevant functions by the Council, by the following local authorities (subsequently referred to as "the relevant local authorities"): Bedford Borough Council, & Central Bedfordshire Council.

(ii) That under the Scheme of Delegation to Officers (Non-Executive Functions) set out in Part 7 of the Council's Constitution to authorise the Service Director for Public Protection to exercise the Council's powers under the relevant legislation for the purposes of all or any of the relevant functions within the Borough of Luton and/ or within the area or areas of any or all of the relevant local authorities be amended.

(iii) That the Council's powers and duties under legislation for the time being in force relating to Licensing and, in particular to enforce the following licensing legislation (or any amendment or re-enactment of or under any Regulations made under such legislation) where the local authority has an imposed statutory duty be exercised:

- Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- Dangerous Wild Animals Act 1976
- Gambling Act 2005
- House to House Collections Act 1939 and 1947
- Licensing Act 2003
- Local Government (Miscellaneous Provisions) Act 1976 (Part II)
- Local Government (Miscellaneous Provisions) Act 1982
- Police, Factories, etc (Miscellaneous Provisions) Act 1916 (Section 5 only)
- Scrap Metal Dealers Act 2013
- Town Police Clauses Act 1847
- Zoo Licensing Act 1981

(iv) That the Council's Monitoring Officer be authorised to make any necessary changes to Part 7 of the Council's Constitution to give effect to the above.

(v) That the Service Director for Public Protection be authorised, on behalf of the Council, to adopt and sign the Memorandum of Understanding relating to the flexible warrant scheme in the form appended to this report subject to any amendments consistent with the aims of the scheme as may be approved by her.

34. GUARANTEED INTERVIEW SCHEME – LUTON CARE LEAVERS (REF: 13)

The Service Director HR & Monitoring Officer presented the report (Ref: 13) regarding the Guaranteed Interview Scheme for Luton Care Leavers which sought approval to amend the Council's Recruitment Policy in relation to guaranteed interviews for Luton Care Leavers.

She explained that the current Recruitment Policy only gave provision for guaranteed interviews where the applicant had indicated they had a disability, or if they were an existing apprentice within the council.

The Service Director HR & Monitoring Officer emphasised the importance of being "job ready" which was outlined in the report.

Members agreed that this was a positive move, and just the experience of having an interview would have a positive impact on Luton Care Leavers' future careers.

Resolved: (i) That Council's Recruitment & Selection Procedure, providing guaranteed interviews for Luton Council care leavers, aged 16 to 25, when applying for Luton Council vacancies graded L1a through to L3 be amended and approved.

(ii) That the progress made to support care leavers become "job ready" for employment opportunities both within the Council and with other local employers be noted.

35. PROPOSED RESTRUCTURE – BUILDING CONTROL (REF: 14)

The Service Director Property and Construction presented the report regarding the Proposed Restructure – Building Control (Ref: 14), which sought approval to implement the proposals to make changes to the organisation of the Council's Building Control Service to improve the management, performance and leadership of the service.

He explained that it would be a minor restructure, cost neutral with no risks of redundancies. The main change that would be taking place was the introduction of one service manager from having two managers in the service.

Resolved: That the proposed restructure of the Building Control Service be approved as follows:

- The new posts created:
 - Apprentice Building Control Officer (L3) (fixed term position for duration of apprenticeship)
 - Service Manager Building Control (M6)
 - Area Building Control Surveyor (M3)
- The following posts be deleted:
 - Building Control Team Leader (M5) x 2 – (1 x VACANT)

36. DISCIPLINARY AND DISMISSAL PROCEDURE FOR STATUTORY OFFICERS (REF: 15)

The HR Business Manager (Strategy) presented the report (Ref: 15) which sought approval to implement the proposal to the council's new Disciplinary and Dismissal Procedure for Statutory Officers.

Members were informed that the council had three statutory officers: the Chief Executive, the Service Director Finance and Audit who was also the Section 151 Officer, and the Service Director Human Resources and Monitoring Officer.

The changes were made in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, which require specific arrangements to be in place for the these roles that were statutory appointments. She added that the decision to dismiss a Statutory Officer could only be made by Full Council.

She stated that this was a very rarely used procedure, and was different from the normal disciplinary procedure.

She also stated that whilst the JNC Handbook recommends that an elected member should hold the delegated power to suspend a Chief Executive in

an emergency, under section 101 of the Local Government Act 1972, the council may only delegate its non-executive functions to a committee, sub-committee or officer of the council. Personnel matters are a non-executive function under the Local Authorities (Responsibilities and Functions) (England) Regulations 2000, so cannot be delegated to an elected member. She said that in order to comply with the law and to follow the spirit of the model procedure, it had been agreed that the responsibility for suspending the Chief Executive would be delegated to an officer, in consultation with the Leader.

A member could not issue suspension solely; that could only be made by the Leader of the Council who would delegate this authority to an officer.

Consultation had been conducted with ALACE and UNISON, which were the trade unions for Statutory Officers.

A Member enquired why the policy had been delayed three years after the regulations were introduced in 2015. The HR Business Manager (Strategy) said that this project had been passed down to her from her predecessor. Furthermore, the Senior Solicitor, Legal Services at the time who played an instrumental role in the preparation of this policy retired. The additional guidance supporting the 2015 regulation was introduced in 2016 – 2017 and the council had other policies that affected a higher number of officers to restructure. As the Disciplinary and Dismissal Procedure for Statutory Officers only affected three officers and was very rarely used, it was given a lower priority which had extended the timeline to bringing it to committee.

The Chair asked whether best practice of other authorities' policy were used as support to formulate this policy. The HR Manager (Strategy) stated that she had looked at the City of Manchester's policy to compare.

Resolved: (i) That the Disciplinary and Dismissal Procedure for Statutory Officers be approved.

(ii) That Full Council be invited to amend the constitution to establish, in pursuance of the procedure, an Investigation and Disciplinary Committee, a Disciplinary Appeals Committee and an Independent Review Panel be noted.

37. ADMINISTRATION AND REGULATION WORK PROGRAMME 2018-19 (REF: 16)

Members received and reviewed the Committee's work programme for the calendar year 2019.

The following standing items be included in the work programme:

- a) Pay Policy Statement,
- b) Equality Impacts of Redundancies,
- c) Review of Polling Places/Stations.

Resolved: (i) That the work programme for the calendar year 2019, be noted.

(ii) That items marked a) to c) above be included in the work programme for future meetings of the Committee.

(Note: (i) Cllr Hopkins declared a non-pecuniary interest in relation to agenda item 11, as she knew some pub and café owners and remained at the meeting and participated in the discussions.

(ii) The Service Director HR and Monitoring Officer declared a pecuniary interest in relation to agenda item 15 as one of the Council's Statutory Officers mentioned in the report and left the room during deliberation of that item.)

(The meeting ended at 18.50)