

additional papers 2

Executive Committee

Tuesday 15th November
2011
7.00 pm

Committee Room 2
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:
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**If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact
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Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on Walter Stranz Square.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



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13. Minutes / Referrals - Overview and Scrutiny Committee, Executive Panels etc.

(Pages 155 - 172)

Chief Executive

To receive and consider outstanding minutes or referrals from the Overview and Scrutiny Committee, Executive Panels etc. since the last meeting of the Executive Committee.

- (i) The extracts from the Minutes of the Overview and Scrutiny Committee on 8th November 2011 relate to Items 6 (Gritting and Snow Clearance) and 7 (North Worcestershire Community Safety Partnership) on this Executive Committee agenda.

(Relevant Minutes attached)

- (ii) The referral from the Shared Services Board (SSB) on 10th November 2011 relates to Item 6 on the SSB agenda (Management Arrangements). (In view of the fact that information would be revealed relating to individual employees and their personal / financial details, together with employee relations matters, disclosure of which is not considered to be in the public's best interest, this matter is Not for Publication and has been circulated to Members and relevant Officers only)

(Minute / relevant report attached)

- (iii) Referral from the meeting of the Constitutional Review Working Party on 10th November 2011.

(Minutes / relevant report attached)



Overview and Scrutiny Committee

8th November 2011

MINUTES

Present:

Councillor Phil Mould (Chair), Councillor Mark Shurmer (Vice-Chair) and Councillors Peter Anderson, Andrew Brazier, Andrew Fry, Bill Hartnett, Gay Hopkins, Brenda Quinney, Alan Mason, Robin King and Luke Stephens

Also Present:

Councillors B Clayton and R Hill
M Collins (Independent Vice Chair, Standards Committee)
A Scarce

Officers:

H Broughton, K Dicks, C Felton, S Horrobin, D Kesterton and L Tompkin

Committee Services Officer:

J Bayley and M Craggs

Relevant extracts from the minutes of the meeting of the Overview and Scrutiny Committee that took place on 8th November 2011.

MINUTE 117

CRIME AND DISORDER SCRUTINY PANEL - CHAIR'S UPDATE

The Chair of the Redditch Crime and Disorder Scrutiny Panel, Councillor Bill Hartnett, delivered a presentation on the subject of the most recent meeting of the Panel that took place on Wednesday 26th October 2011.

Members were advised that during the meeting a presentation had been delivered on the subject of the performance management framework that had been adopted by Redditch Community Safety Partnership in 2011. This report confirmed that crime rates for most categories of crime were falling in Redditch and the town was a safe place in which to live. The panel had been impressed by the positive work of the partnership and would be issuing a press release to promote this work to the public.

.....
Chair

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The panel had been advised during the presentation that levels of racially aggravated offences and harassment offences had increased when compared to the same period the previous year. The new mosque in Redditch had been vandalised during this period. However, it was difficult to confirm whether this had occurred as a result of a racially aggravated offence or due to the fact that until the building works were completed the mosque was a vacant property which was more likely to be targeted by vandals.

The panel had expressed concerns, however, about the proposed introduction of a joint North Worcestershire Community Safety Partnership, which would replace the separate partnerships that currently operated in Bromsgrove, Redditch and Wyre Forest districts. In particular, Members were concerned that a joint partnership would not be able to address the particular needs and priorities of Redditch residents to the same extent as the Redditch Community Safety Partnership.

Members also expressed concerns about the implications of a joint partnership for crime and disorder scrutiny. During a recent meeting of the Worcestershire Joint Chairs and Vice Chairs Scrutiny Network representatives present at the meeting had advised that Members in the south of the county had struggled to scrutinise the performance of the joint South Worcestershire Community Safety Partnership effectively. Members concurred that there was a risk that similar problems could occur in the north of the county if the community safety partnerships in north Worcestershire were merged.

RECOMMENDED that

Redditch Borough Council does not approve the merger of Redditch Community Safety Partnership (RCSP) with Bromsgrove Community Safety Partnership (BCSP) and Wyre Forest Community safety Partnership (WFCSP) resulting in the creation of a North Worcestershire Community Safety Partnership (NWCSP).

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MINUTE 122

GRITTING AND SNOW CLEARANCE - REDDITCH BOROUGH COUNCIL APPROACH - PRE-SCRUTINY

The Committee received the *Gritting and Snow Clearance – Redditch Borough Council's Approach* report for pre-scrutiny.

Members were advised that the report outlined existing practices at Redditch Borough Council which were implemented during periods of inclement weather. The report had been produced to provide the Council with an opportunity to formalise this approach. As part of this process the Council would continue to concentrate on providing snow clearance and gritting services at Council venues, such as the crematorium and cemeteries.

Worcestershire County Council, rather than Redditch Borough Council, had responsibility for gritting and snow clearance on the town's highways and for installing and replenishing grit bins situated on adopted highways. The two local authorities in recent years had started to work closely together during periods of inclement weather to ensure that effective use was made of available resources and particularly problematic areas could be prioritised.

Redditch Borough Council was in the process of procuring specialist equipment to assist with snow clearance and gritting in the town. This would include purchasing snow blades which could be fitted to existing vehicles used by the Council to assist with snow clearance. The Council was anticipating that the equipment could be purchased at a cost of approximately £20,500.

Members praised the work of relevant Redditch Borough Council Officers during the inclement weather in the winter 2010/11. This positive assessment of the work of Borough Officers had been endorsed by the Gritting Short, Sharp Review Group. However, Members expressed disappointment with the gritting and snow clearance services that had been provided by Worcestershire County Council. Members expressed concern that similar issues, that had been identified by the Gritting review group, did not appear to have been addressed in either the report or in a separate written submission to the Committee and it was questioned whether the problems that had been identified by the group would be acknowledged and addressed by Worcestershire County Council in future periods of inclement weather.

Officers explained that Worcestershire County Council and Redditch Borough Council both acknowledged that mistakes had been made the previous year and lessons had been learned. As

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part of this process modifications had been made to Worcestershire County Council's website to ensure that maps locating grit bins and demonstrating primary and secondary gritting routes could easily be accessed by the public. Furthermore, the two Councils had determined that whilst Redditch Borough Council could only maintain a stock of 90 tonnes of salt, additional salt stocks could be obtained from Lydiate Ash or Alvechurch in emergency circumstances in future years.

Following consideration of the Gritting review group's final report by the Executive Committee in May 2011 the Leader of the Council and Chief Executive had met with relevant representatives of Worcestershire County Council to discuss concerns raised in the report. The need for collaborative working between the two Councils had been agreed. Furthermore, constructive actions, such as the potential for County Officers to train Redditch Borough Council staff to drive snow clearance vehicles, had been discussed. It had also been agreed that Redditch Borough Council's communications team would co-ordinate communications in Redditch during periods of inclement weather to ensure that Councillors and residents were updated on action as well as ongoing risks.

In order to address the Committee's remaining concerns it was suggested that a further meeting between relevant Officers from Redditch Borough Council and Worcestershire County Council should be organised. Members suggested that this meeting should be regarded as an urgent priority and should take place as soon as possible prior to the beginning of winter.

RECOMMENDED that

- 1) the following policy be adopted with regards to gritting and snow clearance:**

Redditch Borough Council will strive to keep the following areas clear of snow and ice and safe to use:

- a) crematorium and cemeteries to allow funerals to continue;**
- b) Redditch Borough Council staff car parks to ensure that there are suitable parking areas for Council staff who are getting into work to provide essential services;**
- c) key Council sites like the Town Hall and district centres to assist local shops and businesses and enable residents to access services;**

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- d) **gritting/snow clearance at other areas including Council sheltered accommodation will only be carried out subject to available resources; gritting/snow clearance at Council owned sheltered accommodation will be to allow the home Support Service Access to residents;**

- 2) **the Council will not provide grit bins on any highway land but may provide grit bins on its own land to enable gritting to take place – e.g. at leisure sites;**

- 3) **further publicity is undertaken to ensure that residents are aware of how the Council will deal with gritting/snow clearance and what to do when bad weather affects their waste collection service;**

- 4) **Officers purchase appropriate snow clearance and gritting equipment from within existing budgets; and**

- 5) **relevant Officers from Redditch Borough Council arrange a meeting with relevant Officers from Worcestershire County Council in advance of winter 2011/12 to discuss additional issues raised in the Gritting Short, Sharp Review Group's final report and arrangements for gritting and snow clearance in Redditch for the winter.**

By virtue of paragraph(s) 1, 4 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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of the Local Government Act 1972.

Document is Restricted

Urgent Referrals from the
Constitutional Review Working Party - 10th November 2011

1) **MEETING CYCLES – EXECUTIVE COMMITTEE / O&S**

The Executive Committee is asked to RECOMMEND that

meetings of the Executive Committee and Overview and Scrutiny Committee be scheduled on a 4-weekly cycle, rather than the current 3-weekly cycle in future calendars of meetings.

(Members noted that this would free up a number of meeting nights for Members mid-week, and that additional meetings could always be set to meet any exceptional need. Urgent agreement is sought, in view of the fact that meeting timetables for the new municipal year are currently being constructed. This matter is for full Council decision, as part of the constitutional arrangements.)

2) **HOUSING APPEALS**

The Executive Committee is asked to RESOLVE that

- 1) **for the reasons detailed within the report, the amended Housing Appeals Procedure attached at Appendix 1 to the attached report be approved and adopted with immediate effect; but**
- 2) **Officers seek further legal advice as to possible alternative means for a Member-level involvement in appeals against Officer decisions (with regard to Homelessness and Housing Allocation cases); and**
- 3) **Employment Appeal Processes be similarly reviewed in due course, subject to any necessary further consultation, negotiation and report.**

(Report attached)

(Full Minutes of the CRWP meeting will be submitted to the next meeting of the Executive Committee.)

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**REFERRAL FROM CONSTITUTIONAL REVIEW WORKING PARTY -
HOUSING APPEALS - PROPOSED AMENDMENT
- REMOVAL OF NON-STATUTORY HEARINGS -**

Relevant Portfolio Holder	Cllr Braley, Portfolio Holder for Corporate Management; and Cllr B Clayton, PFH Housing & Health
Portfolio Holder Consulted	Yes
Relevant Heads of Service	Liz Tompkin and Teresa Kristunas
Wards Affected	All Wards (housing cases only)
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Currently, the Council's Policies for handling statutory Housing and statutory Employee Grievance appeals, include a non-statutory hearing before a panel of elected Members. The Housing Appeal Policy is currently at risk of being challenge by a Judicial Review to seek a declaration from the High Court that the Policy is invalid because this hearing is included. The proposal is to adopt amended Policies which remove this non-statutory step from the procedures would render them legally sound and prevent the considerable cost that would be involved in defending High Court proceedings.

2. RECOMMENDATIONS

The Executive Committee is asked to **RECOMMEND** that

- 1) **the amended Housing Appeals Procedure attached at Appendix 1 to the report be approved and adopted with immediate effect; and**
- 2) **the Employment (Disciplinary and Grievance) Appeal Processes be similarly reviewed, subject to any necessary further consultation and report.**

3. KEY ISSUES**Financial Implications**

- 3.1 There are no cost implications in adopting the proposed Policies but there are considerable costs implications in not doing so as set out under 'Risk Implications' below.

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Legal Implications

- 3.2 The Housing Act 1996, as amended by the Homelessness Act 2002, govern the statutory procedures for decision making by local Housing Authorities in relation to Homelessness applications and Housing Allocation schemes.
- 3.3 The Employment Act 2002 governs the statutory processes in employment matters.
- 3.4 There is no legal basis for the inclusion of an additional “step” in the appeals process for either Housing or Employee Grievance appeal procedures, whereby the matter is referred to a panel of Members for consideration.
- 3.5 The Council has a current threat of Judicial Review of the Housing Allocations policy to be declared invalid, due to the inclusion of a Member Appeal hearing within the process.
- 3.6 The Employment Tribunal in a Judgment in January 2011 described the Council’s Employee Grievance appeal procedure as extremely slow and in the verbal comment the Tribunal Judge questioned the additional “Stage 3” which took the process outside the statutory period to appeal against a dismissal.
- 3.7 In addition, this non-statutory step is perceived as a “hurdle” for individuals and risking non-compliance by the Council with statutory timeframes and a resulting failure to meet them, thereby prejudicing their position.

Service / Operational Implications

- 3.8 Owing to the criticism of the Employee Grievance appeal process by the Employment Tribunal and the current legal challenge to declare the Council’s Homelessness and Allocations decision process invalid in law due, in both cases due to the inclusion of an additional non-statutory step in the process, this report seeks Member support for the removal of that step to make our processes statutorily compliant and safe from legal challenge.
- 3.9 This would result in a change in the Procedures for dealing with statutory appeal processes.

Customer / Equalities and Diversity Implications

- 3.10 This is a procedural change which will impact equally on all persons and groups within the Borough.

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4. RISK MANAGEMENT

- 4.1 The risks relating to this report lie in any decision not to implement the proposed changes to processes: the Legal Services Manager has had a pre-action notification of an intention to seek a declaration from the High Court by way of Judicial Review, that existing procedure for Housing Appeals does not comply with the statutory framework and is invalid.
- 4.2 The cost of defending a High Court case of this kind could be up to £12,000. Removal of the basis for claim would remove the risk of having to incur such expenditure and at the same time render the Procedure compliant with the statutory requirements and safe from challenge on that point.
- 4.3 There would be a continuing risk of damages being awarded against the Council if a Claimant were found to have been prejudiced by the Council's Procedures, whether under the Employee Grievance or Housing Appeals procedures.

5. APPENDICES

Appendix 1 - Proposed amended Housing Appeal Procedure

6. BACKGROUND PAPERS

Existing Housing and Employment Appeal procedures.
Pre-action letter to the Council of Judicial Review action (exempt).

AUTHOR OF REPORT

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**APPENDIX 1 – Proposed amended Housing Appeal Procedure
(draft 'internal'/Officer version)****Right to Review / Appeals**

~~Redditch Borough Council operates a two stage review procedure.~~
Customers can request a review of any decision made under the provisions of the Housing Act 1996 Part VII (as amended 2002). The request must be made within ~~28~~ **21** days from the date of the decision letter. The Housing Options Manager will be responsible for undertaking the review. It is important that the reviewing Officer has had no involvement in the original decision therefore should this be the case the Housing Services Manager will undertake the review. The Council has 56 days to review the decision and provide the customer with the outcome of this review.

~~The 2nd stage review is a hearing by elected members of the Council who will review the case where the customer is invited to attend together with representations from a 3rd party such as Citizens' Advice Bureau, support worker, social worker.~~

Process when a request for review letter has been received:

1. The Housing Options Assistant is to send an acknowledge letter to the customer advising them of the named person who will be undertaking the review and outlining details of the process including advising the Council has 56 days to review their case and notify them of the outcome.
2. The request for a review must be logged on the customer's homelessness application on Arbitas * detailing date of receipt and put on system to "Under Review" to the Housing Options Manager.
3. The case file is to be passed to the Housing Options Manager making sure all relevant documentation / case notes are up to date.
4. Whilst the review is being carried out the Housing Options Manager may request the Housing Options Officer to seek additional information to assist with the review.
5. When the review is completed the Housing Options Manager will confirm the outcome of the review in writing to the customer including information on how to proceed with to a 2nd stage review and their rights to request an appeal at County Court on a point of law. The Housing Options Manager will notify the Housing Options Officer of any necessary updates to the status of the customer's application on Arbitas *.

= *Computer software system.*

END.