

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## JOINT PUBLIC PROTECTION COMMITTEE

### Minutes of the meeting held on Monday 28 September 2020

**Present:** Parry Batth (Chairman), Chris Bowring, Hilary Cole, James Cole, John Harrison (Vice-Chairman) and John Porter

**Also Present:** Paul Anstey (Head of Public Protection and Culture), John Ashworth (Executive Director - Place), Rosalyn Gater (Team Manager - Commercial), George Lawrence (Residential Team Leader), Sean Murphy (Public Protection Manager), Anna Smy (Strategic Manager - Response), Richard Bisset (Wokingham Borough Council), Stephen Chard (Principal Policy Officer), Kevin Gibbs (Bracknell Forest Council), Damian James (Chair of the PPP Joint Management Board), Clare Lawrence (Wokingham Borough Council) and Chris Traill (Wokingham Borough Council)

#### PART I

##### 11 Minutes

The minutes of the previous meeting held on 24 June 2020 were approved as a true and correct record and signed by the Chairman.

##### 12 Declarations of Interest

There were no declarations of interest received.

##### 13 Notice of Public Speaking and Questions

A full transcription of the public question and answer session is available from the following link: [Transcription of Q&As](#).

###### a Question submitted by Ms Jackie Whitbread to the Chairman of the Committee

The question submitted by Ms Jackie Whitbread in relation to the recovery rate for all licensed local home dog boarders served by the Public Protection Partnership would receive a written response from the Chairman of the Joint Public Protection Committee.

###### b Question submitted by Ms Karen Fleck to the Chairman of the Committee

The question submitted by Ms Karen Fleck in relation to the revised dog home boarding licence fees would receive a written response from the Chairman of the Joint Public Protection Committee.

**c Question submitted by Mr Phil Hope to the Chairman of the Committee**

The question submitted by Mr Phil Hope in relation to the legislation for the licensing of Houses in Multiple Occupation would receive a written response from the Chairman of the Joint Public Protection Committee.

**d Question submitted by Mr Phil Hope to the Chairman of the Committee**

The question submitted by Mr Phil Hope in relation to the hourly fee for the licensing of Houses in Multiple Occupation would receive a written response from the Chairman of the Joint Public Protection Committee.

**14 Future Plan**

**RESOLVED that the Future Plan be noted.**

**15 Draft Revenue Budget 2021/22**

The Committee considered the report (Agenda Item 6) which set out the draft revenue budget for 2021/22 including fees and charges. The report sought approval of:

- the draft budget, draft fees and the charges schedule prior to submission to the Councils in accordance with the Inter-Authority Agreement.
- the recommendation to revise the fees for licences issued under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- the recommendation to revise the fees for Houses in Multiple Occupation issued under the Housing Act 2004.

Councillor Parry Batth introduced the item by informing the Committee of a request from Councillor Mary Temperton of Bracknell Forest Council to address Members on the licence fee for small businesses to look after dogs from their homes. The Committee would need to suspend standing orders in order to permit this.

Councillor John Harrison proposed to suspend standing orders and this was seconded by Councillor John Porter. The Committee voted to suspend standing orders.

Councillor Temperton addressed the Committee and made the following points:

- As stated, she wanted to address the Committee in relation to the licence fee for small businesses to look after dogs from their homes.
- She started by pointing out that the licence fee for hackney carriages and for private hire was £288 for new applications and £288 for renewals. The renewal fee did not include a new application fee.
- She therefore asked why home dog boarders were required to pay, each year, an application fee of £228 and a renewal fee of £342. A total annual charge of £570. Councillor Temperton felt that the annual application fee needed to be reconsidered as she considered this to be unjust.
- She supported this by pointing out that the initial application process took more time than for a renewal. The initial application visit could take three hours and this was followed by an unannounced 30 minute visit during the year. The duration of the renewal application visit, which was more of a tick box exercise, was much shorter at 30 minutes. There was also the unannounced 30 minute visit. Councillor Temperton

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felt that the fees should reflect the time taken for the application and renewal processes.

- There was no support available to new applicants on how to comply with the requirements. Applicants would either have to look to existing licence holders for advice or undertake research online. Greater support should be provided.
- If a boarder did not comply with the requirements then the licence was not issued and they would need to reapply. A fine would be levied if a boarder operated without a licence. However, Councillor Temperton asked why enforcement costs were incorporated into the licensing application fee. Why was this the case when they had a licence? The unlicensed operators should be fined and the costs should not be passed on to the licensed boarders. They should not be penalised in this way.
- Boarders should be made aware of and consulted on any increases in fees. Proposals to increase fees needed to be publicised and this was an area to improve upon.
- Councillor Temperton closed her comments by requesting that the application fee and the renewal fee be reconsidered.

Councillor Batth thanked Councillor Temperton for her contribution.

The Committee then voted to reinstate standing orders.

Paul Anstey, Head of Public Protection and Culture, introduced the report. The recommendations in the report had been approved by senior officers at the Joint Management Board. The proposed draft budget, which had to be set annually, incorporated the fees and charges for 2021/22, and took account of costs and inflationary rises.

The points raised within the public questions and by Councillor Temperton meant that additional work was proposed on discretionary fees and charges. He acknowledged that it was important to be transparent on the methodology for setting fees and charges for the different services that were provided. Mr Anstey drew attention to Appendix A to the report which gave further detail on the fees and charges, how the total budget requirement of £3.876m was calculated and how that would be allocated across the three local authorities (outlined in paragraph 5.11 of the report). The allocation took account of the agreed percentages and the demand assessment of the three partner authorities to ensure the necessary service provision for the coming year. The expenditure levels of previous years were also taken into account.

It was the intention to improve transparency for businesses on the methodology for setting fees and charges. This was described in the report. Much work had been undertaken on specific hourly rates for different services.

Mr Anstey clarified that the Committee was being asked to recommend a budget for the Public Protection Partnership (PPP) to the three local authorities for approval at the three separate Council meetings. The Committee needed to form a view on the fees and charges as part of that. He added that any decision to reduce the budget requirement of £3.876m could have an impact at an operational level and could result in some service reductions.

In conclusion, Mr Anstey stated that the Joint Management Board had acknowledged that there were significant issues to resolve in the budget, in particular in light of the impact of Covid-19, and to take account of annual inflationary rises.

There had been an acknowledgement of the need to review discretionary fees and charges. It was also necessary to enhance communications, for example, it was important for the PPP to be transparent on its fees and charges, and demonstrate that

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costs had been set on a reasonable and proportionate basis. This information needed to be publicly available.

Councillor Bath gave thanks for the report and the hard work undertaken.

Councillor John Harrison raised two points of concern. Firstly, did the proposed hourly rates accurately take into account the work undertaken by officers. Secondly, was too long a period of time allocated to some inspections? Could the service be more efficient and reduce costs to users? Councillor Harrison queried if these points had been addressed in the proposals and what work had taken place as a result, i.e. consultation.

Mr Anstey explained that a methodology was followed for the setting of fees and charges. Data was analysed where possible to inform the time taken on an activity and was multiplied by the hourly rate in order to arrive at a fee. Peer local authorities were also benchmarked and if the PPP did not align then fees and charges would be reviewed. However, a cost recovery approach was taken.

Analysis had been undertaken in response to challenges on hourly rates. There were a variety of points to consider which included the number of licence types, the high number of premises and the different pay rates of officers. Mr Anstey felt that the fees and charges were reasonable and could be explained.

Guidance from the Local Government Association (LGA) stated that local authorities should not generate a budget surplus from businesses. This was adhered to. It was the aim to protect local businesses as much as possible with any budget deficiencies managed within the local authorities.

It was a very complicated process to differentiate between the different fees and hourly rates, although this was the intention and efforts had been made to ensure transparency. It was necessary for local authorities to cover their overheads in order to operate and this did perhaps raise some costs beyond what operators expected from the services they received and resulted in queries from them. There was a great deal of work behind the scenes to support the service and this contributed towards the total fee.

Mr Anstey then referred to the LGA document 'Open for Business'. This permitted local authorities to include a range of areas when setting fees and charges (both discretionary and non-discretionary). He did repeat however the aim to achieve genuine cost recovery. There was a complication however when setting fees and charges for newly established licences and requirements, i.e. for animal welfare licences, which came in as a result of new legislation. In such cases it was necessary to estimate the length of time allocated to new activities in order to set a fee.

Mr Anstey added that if it became the case that the service could not deliver a particular service, i.e. due to pressures arising from Covid-19, then a refund could be provided if the service was not delivered. This was an area for ongoing review.

The service would annually review lessons learnt and consider if greater efficiencies could be found. However, it was still necessary to cover costs, including on enforcement activity. Enforcement of unlicensed animal welfare activity was important and resource needed to be funded to conduct this work.

A lesson learnt was to improve communications, i.e. with licence holders, and achieve greater transparency.

Mr Anstey concluded his response by stating that over time the full licensing regime needed to be reviewed and all costs covered when setting fees and charges. This would need to be prioritised and future agenda items could be agreed.

Councillor Harrison noted that a reason for cost increases came as a result of a heightened inspection regime to ensure animal welfare. This would help to raise

standards, but this increased costs of the service which had a cost impact on businesses. Councillor Harrison also pointed out that the cost subsidy of previous years provided by the service could be removed by the proposed cost increases.

Mr Anstey advised that he was in regular contact with members of the trade and there remained issues to resolve between how business interpreted the law in terms of charging and how this was interpreted by the service. For animal home boarding, there were different grades of compliance. Businesses able to achieve a higher standard of compliance could benefit from a reduced inspection regime and/or reduced service costs. It was however recognised that animal boarding businesses were often operated from people's homes and greater compliance could only be achieved by installing certain adaptations which incurred costs and therefore made it difficult to reach the highest levels of compliance.

The legislation was clear in stating that animal boarders were regulated businesses. While this contrasted with the views of the trade who felt that they operated a more informal business, animal boarders needed to be defined as regulated businesses and they therefore incurred the costs associated with that. Mr Anstey remained of the view that fees and charges were reasonable and proportionate.

Councillor Chris Bowring sought clarification on enforcement. A Court of Appeal ruling stated that licensing fees should not be used to pursue unlicensed businesses. He therefore queried if this was accounted for separately.

In response, Mr Anstey explained that he was aware of the view amongst the trade that enforcement costs should not be included in licensing fees and that enforcement costs incurred by the service should be recouped via the award of court costs. However, and Mr Anstey would double check this point, the LGA guidance stated that enforcement costs of unlicensed operators could be met from fees and charges. The scope of the legislation extended to the entire licensing cost and therefore the service applied a per licence cost which included enforcement of unlicensed operators.

**RESOLVED:**

- **That the Committee had considered the draft revenue budget including the fees and charges set out in the report.**
- **To recommend to the Councils the contributions set out at 5.11 of the report (total budget of £3.876M) along with the fees and charges set out in Appendix B.**
- **That the proposed revisions to the 2019/20 fees for licences issued under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and the fees for the licences issued under the Housing Act 2004 be approved as set out at Appendix C.**
- **That with respect to any monies received under the Asset Recovery Incentivisation Scheme, the Committee approved that the policy position approved at its meeting on the 14 March 2017 remained the policy to be applied to the spend or allocation of any such monies. In 2019/20, the total money received under the terms of the scheme was £36.7K.**

**16 PPP Private Sector Housing Policy**

The Committee considered the report (Agenda Item 7) which provided an update on the work of the PPP within Private Sector Housing and which highlighted the high level priorities which would be undertaken over the next two years.

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Rosalynd Gater, Commercial Team Manager, presented the report. She explained that the areas of priority over the next two years would include work with houses in multiple occupation (HMOs). The first phase of this work had already been undertaken with visits to approximately 450 licensed HMOs in the past year.

The second phase would cover those premises without a licence. Action would be taken to ensure that these licensing applications were processed and premises inspected to ensure compliance.

A survey would be conducted to inform the third phase of activity to identify HMOs that the service was unaware of and needed a licence.

The current capacity to undertake this extensive work was limited and three new officers had been recruited who would all take up their posts very soon. The recruitment of this additional resource showed the high priority given to this area of work.

Rosalynd Gater then explained that inspection work of caravan and park home sites was another key feature of the forthcoming work programme. The work included programmed visits to licensed sites (approximately 50 sites) and work to ensure that unlicensed sites applied for a licence and met the required standards. It was also the hope that the reactive work undertaken for caravan sites could be reduced by regularising sites.

It was also the intention to increase joint working with local authority housing services. Landlord forums would be established and condition surveys undertaken. A landlord accreditation scheme would be introduced.

Approval was sought from the Committee to issue civil penalty notices as an additional tool for the prosecution of relevant offences under the Housing act. There was a strong commitment to ensuring compliance within private sector housing.

Rosalynd Gater then drew Members attention to some revisions and additions to the report that had originally been circulated with the agenda. This revised version had been circulated but Rosalyn described where the changes had been made. This included greater information in some areas, i.e. cost recovery, and a simplification of information in some cases.

Councillor Parry Batth gave thanks for the excellent report.

Councillor James Cole queried the use of 2017 figures in relation to modern day slavery and whether this should be updated. Rosalyn Gater confirmed that she would double check this information to ensure it was accurate.

Councillor James Cole then asked if the rogue landlord database was in existence and if so the numbers on the database. Rosalyn Gater advised that the national database was in place. The numbers were extremely low for the Public Protection Partnership. The database was established on a national level as landlords often covered different local authority areas.

### **RESOLVED that:**

- **the PPP role in relation to Private Sector Housing be noted.**
- **the direction the PPP was taking in Private Sector Housing be approved.**
- **the issue of civil penalty notices as an additional tool to prosecution for relevant offences under the Housing Act 2004 be approved.**
- **the development and sign off of an internal appeals process with respect to civil penalty notices would be delegated to the Joint Management Board.**

**17 PPP Covid-19 Response and Recovery Update**

The Committee considered the report (Agenda Item 8) which provided an update on the service response to Covid-19 and recovery work, and on the challenge of balancing Covid-19 related work with business as usual.

The report also provided an update on interim service delivery arrangements. The interim restructure commenced as planned on 1 August 2020 with the teams structured to undertake the wide range of services delivered by the Public Protection Partnership (PPP). The report highlighted this wide range of service delivery.

Sean Murphy, Public Protection Manager, explained that the report detailed areas of increased demand, such as an increase in bonfire enquiries, licensing enquiries, noise complaints and reports of fly tipping. However, there was a reduced requirement in some areas, i.e. for food standard inspections while the hospitality sector had been closed for a period of time.

A further section of the report described the PPP's involvement in Covid-19 outbreak planning and investigation. The Service had been involved in the response to outbreaks in care homes and work places.

Work in relation to organised events had also increased with more events needing an assessment, with Covid-19 requirements to meet, than had been the case in previous years.

The PPP would continue its work with local businesses to support them and the economy. Online sessions had been made available to support businesses. In response to requests from businesses, premises had been visited to assist them either immediately prior to or post reopening. It was important to support businesses which in turn would improve consumer confidence.

Further detail was provided in the two Member updates and in the communications update appended to the report.

An ongoing challenge was the balancing of additional Covid-19 work with business as usual. This could result in difficult decisions needing to be taken in future based on the resources available.

Moving forward, there were also potential implications arising from Brexit. Regulatory services currently followed European legislation and this was clearly an area of change.

Councillor Chris Bowring queried the impact of Covid-19 on activity relating to the Licensing Act. For example, could the licence of a public house be called in if there was not adherence to requirements. Mr Murphy advised that legal action could be taken as outlined in the Coronavirus No. 3 Regulations. He was aware of some local authorities that had taken action against premises that had breached Covid-19 safety requirements.

Councillor John Porter queried if information could be provided, perhaps by the next meeting, on the number of Covid compliance tests that had been undertaken alongside conducting business as usual. Mr Murphy agreed to circulate this information.

Councillor Porter felt that it was important for premises to clearly understand that breaches of Covid-19 regulations would be taken very seriously. He felt this would support officers in conducting their work.

Councillor James Cole made a request for the next meeting for more information on case management work. The hours taken on the work and the costs incurred. Mr Murphy agreed to provide this information.

**RESOLVED that:**

- **the role the PPP was playing across the Councils with respect to the Covid-19 response be noted.**
- **the status of ongoing service recovery/delivery arrangements be noted.**
- **the effect of additional Covid related workload on the ability to perform certain functions be noted.**
- **a further progress update would be received at the December 2020 meeting.**

## **18 Air Quality Status Reports**

The Committee considered the report (Agenda Item 9) which informed Members of the submission and results of the annual air quality reports for the three local authorities. These reports were the monitoring data and action plan progress for the calendar year 2019. The annual status reports were available in full on the Partnership's website.

Anna Smy, the Strategic Manager for Response, described the extensive work undertaken across the three local authorities in particular with transport policy, highways, public health and climate emergency colleagues, to seek improvements to air quality. This had involved discussions at existing meetings and internal working groups had been set up where necessary.

The annual status reports had been submitted to Defra and much positive feedback had been received from Defra.

Anna Smy explained that air quality had continued to be monitored throughout this calendar year. There had been an impact on traffic flows during Covid-19 and there had been a significant reduction in pollution during the lockdown period in comparison to the same period in previous years. There had been greater pedestrianisation during lockdown. Traffic flow information had been analysed with highway services to identify areas of learning.

It was also the case however that there had been reductions in the use of public transport and reduced car sharing arrangements and these were factors that could impact on air quality moving forward.

### **RESOLVED that:**

- **the contents of the report and the three separate Air Quality Annual Status reports be noted.**
- **the feedback from Defra on the reports be noted.**
- **the progress on the measures to improve air quality set out in each report be noted.**
- **the ongoing and planned future measures to improve air quality set out in each report be approved.**

## **19 Any other items the Chairman considers to be urgent**

No urgent items were raised.

*(The meeting commenced at 6.30pm and closed at 7.50pm)*

**CHAIRMAN** .....

**Date of Signature** .....