

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Executive Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Wednesday, 14 October 2015 commencing at
2:00 pm**

Present:

Chairman
Vice Chairman

Councillor R J E Vines
Councillor D J Waters

and Councillors:

R E Allen, Mrs K J Berry, R A Bird, Mrs G F Blackwell (Substitute for D M M Davies), M Dean,
Mrs E J MacTiernan and J R Mason

also present:

Councillors P W Awford and Mrs J Greening

EX.36 ANNOUNCEMENTS

- 36.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 36.2 The Chairman welcomed Councillors P W Awford and Mrs J Greening to the meeting. Councillor Greening was attending as an observer and Councillor Awford was in attendance, as Chairman of the Overview and Scrutiny Committee, to introduce Agenda Item 7, Performance Management Report – Quarter One 2015/16.

EX.37 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 37.1 An apology for absence had been received from Councillor D M M Davies. Councillor Mrs G F Blackwell would be acting as a substitute for the meeting.

EX.38 DECLARATIONS OF INTEREST

- 38.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 38.2 There were no declarations of interest made on this occasion.

EX.39 MINUTES

- 39.1 The Minutes of the meeting held on 2 September 2015, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

EX.40 ITEMS FROM MEMBERS OF THE PUBLIC

- 40.1 There were no items from members of the public on this occasion.

EX.41 EXECUTIVE COMMITTEE FORWARD PLAN

- 41.1 Attention was drawn to the Committee's Forward Plan, circulated at Pages No. 10-

13. Members were asked to consider the Plan.

41.2 Accordingly, it was

RESOLVED: That the Committee's Forward Plan be **NOTED**.

EX.42 PERFORMANCE MANAGEMENT REPORT - QUARTER ONE 2015/16

42.1 The report of the Chairman of the Overview and Scrutiny Committee, circulated at Pages No. 14-70, asked Members to review and, if appropriate, take action against the observations of the Overview and Scrutiny Committee following its review of the 2015/16 quarter one performance management information.

42.2 The Chairman of the Overview and Scrutiny Committee explained that, from a Chairman's perspective, he felt the report was balanced and gave a fair reflection in terms of delivery of the actions. Given the transparency of the Overview and Scrutiny Committee's report, questions from Members had been limited with the main concern in relation to customer service and the fact that, on occasions, it was difficult for Members to contact certain Officers with calls going to voicemail. The Corporate Services Group Manager had responded that everything the Council did was about good customer service and he would champion that with services where expectations were not always met. A Customer Services Strategy, which incorporated corporate customer service standards, was currently being looked at. In respect of the key performance indicators, it had been explained that a clearer picture would emerge within the quarter two data but currently the areas of interest included: the significant improvement in the average number of sick days compared to the previous year; the improvement in the average time taken to process benefit applications; the number of reported enviro-crimes which looked like they would be on the same level as the previous year; and the increase of overall crime which was shown to be 8.44% in the 12 month rolling total as at July 2015. In terms of the crime figures, the Overview and Scrutiny Committee Chairman indicated that this should be balanced by the fact that, overall, crime in Tewkesbury Borough was low. At the same meeting, the Committee had received an interesting presentation from Chief Inspector Goga who had explained the new Police operating structure and was confident that the figure would reduce as a result; although this view had not necessarily been shared by the Council's representative on the Gloucestershire Police and Crime Panel. The financial summary review had been noted except for a general question around the planning obligation reserve.

42.3 The Executive Committee Chairman thanked Councillor Awford for his update and, with there being no further questions from the Committee, it was

RESOLVED: That the Overview and Scrutiny Committee's comments on the Performance Management Report for Quarter One of 2015/16 be **NOTED**.

EX.43 PROSECUTION POLICY FOR THE COUNCIL TAX REDUCTION SCHEME

- 43.1 The report of the Revenues and Benefits Group Manager, circulated at Pages No. 71-86, set out the current position regarding the Prosecution Policy for the Council Tax Reduction Scheme. Members were asked to adopt the revised Prosecution Policy as attached to the report at Appendix 2.
- 43.2 The Committee was advised that the Borough Council was no longer required to investigate and prosecute Housing Benefit and Council Tax Benefit fraud; those functions were now being carried out by the Single Fraud Investigation Service and the Crown Prosecution Service. The Borough Council did, however, still have a responsibility to investigate Council Tax Reduction Scheme fraud, which was the replacement for Council Tax Benefit and, where appropriate, to prosecute. This meant that there was a need to revisit the existing Prosecution Policy to make the appropriate changes. The Council's Audit Committee had met on 30 September 2015 to review those changes and had subsequently recommended a revised Policy to the Executive Committee for adoption.
- 43.3 Referring to Paragraph 2.2 of the report, the Revenues and Benefits Group Manager explained that the main changes would remove any reference made to Housing Benefit and Council Tax Benefit and replace them with the wording 'Council Tax Reduction Scheme'; include Council Tax Reduction Scheme offences, which were similar to those for Housing Benefit and Council Tax Benefit fraud; change the title of the Revenues and Benefits Manager to read 'Revenues and Benefits Group Manager'; make changes to the section covering administrative penalties to reflect the Council Tax reduction penalty requirements and delete the section on collection of the penalty – both done via the most appropriate method; and include a section on other penalties where the Borough Council could impose a penalty of £70.00 – this was for cases where it was determined that fraud had not been committed and the person had either been negligent in making an incorrect statement, or had no reasonable excuse in failing to notify the Borough Council of a change in circumstances.
- 43.4 A Member indicated that this was a very interesting report and he questioned what the Single Fraud Investigation Service was, where it was based and whether the Council had a duty to notify it of fraud that it believed was happening. In response, the Revenues and Benefits Group Manager explained that currently the Service was based in Gloucestershire but could work from anywhere in the Country. The Single Fraud Investigation Service had taken over social security and tax benefit frauds. The Council was obliged to notify the Service whenever it believed fraud had been committed which meant it was still undertaking a lot of work on identifying fraud, even though the Single Fraud Investigation Service had taken over the responsibility for investigating it, therefore it would retain its Fraud Investigation Officer. In terms of the penalty of £70.00, a Member questioned how the Council would define 'negligent' and 'reasonable' and whether there was an appeals process when someone was found to have been negligent in making an incorrect statement or had no reasonable excuse in failing to notify the Council of a change in circumstances. In response, the Benefits and Revenues Group Manager explained that the Benefits Team was extremely careful when considering whether to impose a penalty. It certainly was not a blanket policy and each case would be considered on its merits; the Council would not normally prosecute except in extreme circumstances. There was a right of appeal and this was explained throughout the process; people that appealed could go all the way to a tribunal which offered a good checking process on the Council's powers. The caution used in these circumstances was not the same as a Police caution but was a specific one used for benefit purposes. The caution was administered by the Council and had previously been notified to the Police but the Group Manager understood that

this was no longer a requirement. A Member indicated that she thought cautions for benefit fraud were also included in the declaration that people had to make when applying for a Taxi Licence through the Licensing Policy. In response, the Revenues and Benefits Group Manager indicated that he would look into this issue; although he thought that this did not apply in the same way that it used to since the requirement to advise the Police of the cautions had been removed. In terms of cautions, Members were advised that, when it was given, it was explained that it went against a person's record in terms of benefits; the Government was potentially considering introducing a 'three strikes' requirement so this could be quite serious for claimants that were fraudulent.

- 43.5 In terms of recovering the benefits falsely claimed, the Revenues and Benefits Group Manager advised that the Council did endeavour to recover these payments. The Government had set down the levels by which the Council was allowed to reduce benefits to get money back so Officers had to be mindful of that; the idea was that the penalty system was there as a deterrent so that the Council did not find itself in the situation whereby it had to reclaim benefits made.
- 43.6 Referring to the recent Institute of Revenue and Ratings Valuation (IRRV) Awards, Members were advised that the Revenues Team and the Benefits Team had both been nominated for awards for Best Team. Unfortunately they had not won on this occasion but had been placed in the top five which was a real achievement; both Teams had been clear that they wanted to win next year which showed a great sense of teamwork and of wanting to do the best for the community. The Committee extended its congratulations to the staff involved.
- 43.7 Accordingly, it was

RESOLVED: That the revised Prosecution Policy be **ADOPTED**.

EX.44 GLOUCESTERSHIRE BUSINESS RATES POOL

- 44.1 The report of the Finance and Asset Management Group Manager, circulated at Pages No. 87-91, detailed a way forward in respect of the Council's membership of the Gloucestershire Business Rates Pool. Members were asked to approve the Council's withdrawal from the Pool for the financial year 2016/17; to delegate authority to manage, on an ongoing basis, the Council's position with regard to Pool membership; to delegate the agreement of any amendments in relation to the existing pooling agreement as a result of the Council's withdrawal; and to authorise the Borough Solicitor, in consultation with the Section 151 Officer, the Chief Executive and the Lead Member for Finance and Asset Management, to enter into revised Pooling agreements on such terms as she considered appropriate.
- 44.2 The Finance and Asset Management Group Manager explained that the Council had been a member of the Gloucestershire Business Rates Pool since the inception of the retained Business Rates Scheme in April 2013. During the 2014/15 financial year, the Council had suffered significant losses within the Scheme, mainly as a result of successful appeals by Virgin Media. This had resulted in the Pool incurring a substantial deficit which had been met by the individual Authorities of Gloucestershire including Tewkesbury. The appeals list held by Tewkesbury contained a number of outstanding appeals by Virgin Media and a request had also been made by Virgin Media to have its individual assessments across the Country combined into one single assessment; this could mean that, in future, there could be no Virgin Media business rates collected in Tewkesbury Borough or that all of them could fall within the Borough - it was just unknown at this stage. Both of those factors presented an ongoing risk to the Council and the Pool and, in order to mitigate some of that risk, it was recommended that Tewkesbury Borough Council should withdraw from the Pool until such time as the risk had been

significantly reduced.

- 44.3 The Pool had been impacted as it was responsible for the safety net payment in the event it was required. This also meant that Tewkesbury Borough, as a member of the Pool, was liable for part of the safety net payment. As an individual Authority the Borough Council would not have to make any of the safety net payment as the whole of it would have been met by the Government. The safety net payment met from the Gloucestershire Pool had totalled £3.95million and the impact of that payment had been to eliminate the growth generated in other Districts; the utilisation of the Pool's small reserve; and contributions of £2.1million of revenue balances from across all Gloucestershire Authorities. Currently, it was suggested that the Council withdraw from the Pool for 2016/17 and that the position continue to be reassessed to understand whether it was possible to go back into the Pool in future or whether the Council should come out of it completely.
- 44.4 The Finance and Asset Management Group Manager advised that the recommendations within the report had been discussed with Gloucestershire colleagues and they had indicated support for them. If the Committee agreed with the recommendations, the Finance and Asset Management Group Manager would make the necessary declaration to the Department for Communities and Local Government (DCLG) by the end of the month as required. A Member indicated that he had attended Leadership Gloucestershire's last meeting and the members there had also been supportive of Tewkesbury leaving the Pool. They had seen Tewkesbury Borough as being a benefit to the Pool with the growth that was likely to happen in the Borough but, unfortunately, given the Virgin Media appeals, it was felt that the Borough Council should leave. In terms of the appeals, the Finance and Asset Management Group Manager explained that currently Virgin Media had put in a request for review and had been asked to provide a lot of evidence to support its case. The Valuation Office had indicated that it would be at least 12 months until the issue was resolved but further than that the timescale was unknown.
- 44.5 Accordingly, it was

RESOLVED:

1. That Tewkesbury Borough Council withdraw from the Gloucestershire Business Rates Pool for the financial year 2016/2017.
2. That authority be delegated to the S151 Officer, in consultation with the Chief Executive and Lead Member for Finance and Asset Management, to manage, on an ongoing basis, the Council's position with regard to Pool membership.
3. That authority be delegated to the S151 Officer, in consultation with the Chief Executive and Lead Member for Finance and Asset Management, to agree any amendments in relation to the existing pooling agreement as a result of the Council's withdrawal.
4. That the Borough Solicitor be authorised to enter into revised pooling agreements, on such terms as she considers appropriate, in consultation with the S151 Officer, Chief Executive and Lead Member for Finance and Asset Management.

EX.45 TEWKESBURY RUGBY CLUB LEASE

- 45.1 The report of the Finance and Asset Management Group Manager, circulated at Pages No. 92-97, asked Members to agree to grant a lease to Tewkesbury Rugby Club for an additional parcel of land off Despenser Road, as hatched on the Plan appended to the report. The purpose of the addition would be to provide a pitch for the Under 12 section of the Rugby Club.
- 45.2 The land requested was currently public open space and was large enough to accommodate one full size rugby pitch, running parallel with Despenser Road, between the road and the dead ball line of the Club's first team pitch. It would allow two junior games to be played at the same time within the safe confines of the Club grounds. Youth rugby games involved no kicking and offered the opportunity for young players to develop their passing, catching and handling skills. Members were advised that the Council had recently supported improvements at the Rugby Club with a £70,000 grant, as part of a wider capital grant project application, to support the provision of a new self-contained changing facility. This had allowed the Club to extend its activities and use of facilities for its own range of sports and age groups in addition to supporting other local community events and sports clubs.
- 45.3 In terms of other uses for the land, the Council had considered whether it might be suitable for future development. However, since the land was located within Flood Zone Two, potential development opportunities were restricted and, by agreeing to include the additional land parcel within a lease to the Rugby Club, the Council was increasing the benefit of outdoor sporting activities to the young community. Officers had spoken to the Club about other sites for its junior provision and it had stated that, whilst it had considered land at the Vineyards, this had raised a safeguarding issue regarding the safety of the children accessing the facilities as they were off-site. If the land off Despenser Road was leased to the Club, young players would be able to access and use the Club facilities within the safe confines of the grounds and under the guidance of two coaches.
- 45.4 Given that the land in question was public open space, the Council had a statutory duty to advertise its intention to dispose of it in the local press on two occasions for two consecutive weeks. Tewkesbury Town Council had also received a copy of the Intention Notice. A letter of objection, accompanied by 37 signatures, had been received from a Despenser Road resident along with an email of reservations and suggestions from another. The objections were summarised in Paragraph 3.2 of the report and included: the financial effect on property and road; damage to cars from flying balls; possible unsightly fencing; excessive noise on training days and match days; the volume of Club cars parked on Despenser Road when the Vineyards entrance was flooded; an accessible pitch already being available on the Vineyards; disposal of the land by the Council was being suggested to avoid the upkeep of grass cutting; lack of publicity on Club's entrance gates; problems with Club Members allegedly urinating in the area; parking needs of the 13 Despenser Road houses facing the land needed to be considered e.g. painting house numbers on permanently allocated spaces or a drop down bollard system; suitable and safe fencing that was not an eye-sore should be provided; and a request had been made for a meeting with residents as no notices of the proposed disposal had been displayed at the Rugby Club. A summary of the Council's responses were set out at Paragraph 3.3 of the report and indicated that the use of the land would be for junior rugby games only which involved no ball kicking, only passing and handling skills – this would negate any concerns regarding damage to cars from flying balls; if, in the event it was considered fencing would be required, the terms of the lease would stipulate that the correct planning, design and safety processes were followed; the Council did not own the existing parking spaces on

Dispenser Road so had no control over the marking or placing of bollards on them; any additional parking created would be accommodated within the Club's main car park and access arrangements would be controlled by the terms of the lease to avoid local concerns about flooding at Gander Lane; and the use of pitches at the Vineyards had been considered by the Club but had raised safeguarding issues for the young players. The Club had undertaken to arrange a meeting to listen to concerns from local residents which Officers felt would be extremely helpful. On balance, Officers were of the view that the request to extend the current lease was acceptable.

45.5 In terms of the length of lease and revenue to be expected, the Finance and Asset Management Group Manager indicated that there would be a 10% revenue increase and the new lease would run in line with the term of the current lease. A Member expressed the view that he fully supported the request from the Rugby Club and felt that this was exactly the kind of thing that the Council should be doing. The Club wanted to invest in the future and this should be encouraged; he hoped it would stop anti-social behaviour, promote healthy lifestyles and encourage activity in the young people involved.

45.6 Having considered the information provided, it was

RESOLVED:

1. That the parcel of land, hatched on the plan appended to the report, be included within an additional lease to Tewkesbury Rugby Club, at market rent and for a term expiring no later than the expiry date of the Club's existing lease.
2. That the Finance and Asset Management Group Manager be authorised, in consultation with the Lead Member for Finance and Asset Management, to negotiate the remainder of the heads of terms at market rent.
3. That the Borough Solicitor be authorised to complete the lease upon the heads of terms set out in the report, and additionally negotiated by the Finance and Asset Management Group Manager, and on such other terms as she considers necessary or advisable, in consultation with the Finance and Asset Management Group Manager.

EX.46 ESTABLISHMENT OF BOUNDARY REVIEW WORKING GROUP

46.1 The report of the Democratic Services Group Manager, circulated at Pages No. 98-101, asked the Committee to approve the setting up of a Boundary Review Working Group, in line with the Terms of Reference attached to the report at Appendix 1, which would allow the Council to formulate its expectations in terms of the review of the Council's electoral arrangements.

46.2 The Borough Solicitor indicated that the Council had originally been programmed into the Local Government Boundary Commission for England's Work Programme for 2014/15. However, upon consideration by the Executive Committee, a response had been sent to the Commission suggesting that the Council would prefer to be included in the 2015/16 Work Programme so that the new Council had the opportunity to play a major part in the review; to allow the position in relation to electoral imbalances to be clearer; to assess the impact of Individual Electoral Registration; and to allow for more certainty on the impact of current and future development. In response, the Commission had originally stated that the review would still take place in 2014/15. However, subsequently it had reviewed its Work

Programme and decided that, given the next available election at which the electoral review could be implemented was 2019, it would be reasonable to postpone the start of the review until after the General Election in May 2015. The Council had now been advised that its review was scheduled to commence in August 2016 with completion towards the end of 2017.

46.3 Members had previously discussed the need for the Council to be proactive and not wait until the review commenced to start work on its electoral arrangements. Members had been advised that there would be a six month lead in to the review but were keen to establish a Working Group to examine what was required. Bearing in mind the Commission would base its work around the electorate contained within the revised Electoral Register to be published on 1 December 2015, and five year Ward projections, it was likely to want to meet the Council in March/April 2016; it was therefore suggested that the Working Group should begin to meet in the New Year.

46.4 Accordingly, it was

RESOLVED: That a Boundary Review Working Group, comprising nine Members of the Council, be established in accordance with the Terms of Reference set out at Appendix 1 to the report, with the political composition being determined by the Leader and Deputy Leader of the Council and Group Leaders being invited to make nominations to the Group as appropriate.

The meeting closed at 2:40 pm