



THE RUGBY BOROUGH COUNCIL

You are hereby summoned to attend an ORDINARY MEETING of the Rugby Borough Council, which will be held at the TOWN HALL, RUGBY, on Tuesday 18th July 2017 at 7pm.

A G E N D A

PART 1 – PUBLIC BUSINESS

1. Apologies for absence.
2. To approve the minutes of the meeting of the Annual Meeting of Council held on 18th May 2017 and the minutes of the Special Meeting of Council held on 21st June 2017.
3. Declaration of Interests.

To receive declarations of -

(a) non-pecuniary interests as defined by the Council's Code of Conduct for Councillors;

(b) pecuniary interests as defined by the Council's Code of Conduct for Councillors; and

(c) notice under Section 106 Local Government Finance Act 1992 – non-payment of Community Charge or Council Tax.
4. To receive the Mayor's Announcements.
5. Questions pursuant to Standing Order 10.

6. To receive the reports of Cabinet and Committees which have met since the last meeting of the Council and to pass such resolutions and to make such orders thereon as may be necessary:

(a) Licensing and Safety Committee – 11 May 2017

(1) Revision of the Scheme Of Delegation in relation to the suspension or revocation of a Hackney Carriage or Private Hire Driver's licence.

(b) Cabinet – 5 June 2017

(1) Civic Honours Protocol – Report of the Civic Honours Sub-Group – Corporate Resources Portfolio Holder.

(c) Cabinet - 26 June 2017

(1) Finance and Performance Monitoring 2016/17 – Year-End – Corporate Resources Portfolio Holder.

(2) Formal Protection of Open Spaces in New Bilton – Environment and Public Realm Portfolio Holder.

(3) Public Space Protection Orders – Dog Control – Environment and Public Realm Portfolio Holder.

7. To receive and consider the Reports of Officers

(a) Progress of the West Midlands Combined Authority – report of the Executive Director.

8. Correspondence.

9. Common Seal

To order the affixing of the Common Seal to the various orders, deeds and documents to be made or entered into for carrying into effect the several decisions, matters and things approved by the Council and more particularly set out in the Committees' Reports adopted at this meeting.

PART 2 – EXEMPT INFORMATION

There is no business involving exempt information to be transacted.

DATED THIS 7th day of July 2017

Executive Director

To: The Mayor and Members of Rugby Borough Council

QUESTIONS AT COUNCIL

A Councillor may ask a Question at the meeting by giving notice in writing of the Question to the Chief Executive no later than midday on Wednesday 12th July 2017. The rules relating to Questions are set out in Standing Order 10 of Part 3a of the Constitution.

Council – 18th July 2017

Report of Licensing and Safety Committee

11 May 2017

PRESENT:

Councillors Miss Lawrence (Chairman), Mrs Avis, Mrs Bragg, Cranham, Miss Dumbleton, Mrs Garcia, Roberts (substitute for Councillor Mrs Roberts), Mrs Roodhouse, Srivastava and Dr Williams

1. REVISION OF THE SCHEME OF DELEGATION IN RELATION TO THE SUSPENSION OR REVOCATION OF A HACKNEY CARRIAGE OR PRIVATE HIRE DRIVER'S LICENCE

The Committee considered the following report.

2. INTRODUCTION

Following the case of Singh v Cardiff [2012], Councils may no longer suspend a Hackney Carriage or Private Hire Driver's Licence as an interim measure whilst awaiting the outcome of another investigation.

As a result of the Singh case such an interim suspension is now unlawful and the decision to suspend is deemed to be a final sanction in itself. Therefore a suspension cannot be used as a holding power to allow time for an investigation to be conducted.

This means that in such circumstances revocation is the necessary recourse.

An article by Prof Roy Light, taken from the Local Government Lawyer, is attached at Appendix 1 which provides a full explanation and discussion regarding the decision and its implications in more detail.

2. BACKGROUND

- 2.1 In the past it was common practice for Officers to suspend a licence for reasons of protecting the public, pending a referral to the Licensing and Safety Committee for a decision to be made to revoke the licence, or take other action.

Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 a district council may suspend, revoke or refuse to renew a Hackney Carriage / Private Hire Drivers Licence for any of the following reasons:

- (a) since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence, or
- (b) any other reasonable cause.

Under this specific section the driver has 21 days to appeal against the decision to the Magistrates Court and during the appeal period the licence holder may continue to drive hackney carriage / private hire vehicles.

- 2.2 The key consideration is the reliance upon the word 'or'; suspend, revoke **or** refuse to renew. There is no provision to suspend AND, at a time in the future, revoke the licence in relation to a single incident, offence or investigation.
- 2.3 In the event that further evidence comes to light during an investigation a revocation may be appropriate, however, the provision to subsequently revoke would be dependent upon the additional information and not on the initial information that lead to the suspension.
- 2.4 Prior to the decision of the High Court in Singh vs Cardiff City Council the following procedure was applied in Rugby, and generally applied throughout the UK.
 - Information was received by the Licensing Team about a Hackney Carriage / Private Hire driver which raised serious concerns regarding their suitability to hold a licence i.e. they may no longer be fit and proper.
 - Under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 the licence was suspended, with the suspension taking immediate effect, to allow time for a full investigation to take place. [In this scenario the suspension could be classed an 'interim' measure. It would not be a final decision; it would be a measure required to prevent the driver from working while further information could be gathered.]
 - Once the full investigation was complete, the matter would then be referred to a Sub-Committee which may decide, amongst other available options, to revoke the driver's licence.
- 2.5 As a result of the Singh case such an interim suspension (as set out in 2.4) is now unlawful. The decision to suspend is a final sanction in itself and cannot be used as a holding power to allow time for an investigation.
- 2.6 This means that immediate revocation, rather than suspension, is the necessary recourse.

3 APPROPRIATE USE OF SECTION 61 (2B)

- 3.1 An example of where an immediate suspension under Section 61 (2B) may take place is when a driver is no longer certified fit to Group 2 medical standards. In these circumstances the suspension could have effect until the driver is able to provide evidence to show they are once again fit to the required standard. The end of the suspension period being determined by the

re-issue of the licence or the natural expiry of the licence, whichever comes first.

- 3.2 An immediate revocation under Section 61 (2B) may take place when the licensing team have been made aware of information concerning a driver which indicates they are no longer fit and proper. This may be intelligence provided by Police advising of an allegation or investigation relating to serious crime. In this situation Section 61(2)(b) makes provision for the decision to revoke to be made without unnecessary delay, where a full investigation may not be possible until after the revocation itself.

In this situation the investigation process may reveal further evidence that either substantiates the initial decision to revoke the licence or, alternatively, evidence that exonerates the driver and indicates they are fit and proper to hold a licence.

- 3.3 In this scenario if/when a driver is once again determined to be fit and proper person, a procedure must be in place that allows them to regain the licence as quickly as possible and with minimal inconvenience. It would be unfair for the driver to be required to re-apply for a new licence in line with the current policy.
- 3.4 An appropriate remedial process would include the driver submitting a new application form to ensure information is up to date and re-sign the declaration, however no fee would be applicable and all pre-check enquiries (DBS, medical, references etc.) would remain in force until their previous expiry dates, as would as would the re-issued licence itself.

4. CONCLUSION

- 4.1 The revocation of a licence, for example following receipt of information from the police of an accusation and investigation into a serious crime, is necessary as the Council's overriding responsibility is the protection of the public.
- 4.2 Following notification by the police that a licence holder is accused of a serious crime, any unnecessary delay in the Council taking appropriate and necessary action to revoke a licence could have a serious impact on public safety.

The provision for the immediate suspension or revocation of a hackney carriage or private hire driver licence is only to be relied upon in exceptional circumstances. A secondary safeguard, ensuring the appropriate use of the provision, is that the driver's rights are protected by the licence holder's right of appeal to a Magistrates' Court if their licence is suspended or revoked.

The Human Rights Act 1998 (Article 6 – the right to a fair trial) is complied with.

Recommendation of Licensing and Safety Committee

The Committee decided that –

- (1) a procedure be adopted to re-licence any driver, whose licence has been revoked but have subsequently been found to be fit and proper; and
- (2) IT BE RECOMMENDED TO COUNCIL THAT -
 - (a) authority be given to the Regulatory Services Manager and the Head of Environment and Public Realm, in consultation with the Chairman or Vice-Chairman of the Licensing and Safety Committee, to immediately suspend or revoke a Hackney Carriage/ Private Hire vehicle driver's licence where it is considered necessary in the interest of public safety to do so; and
 - (b) the Constitution be amended accordingly.

Recommendation – the recommendation of Licensing and Safety Committee be approved.

**COUNCILLOR MISS LAWRENCE
CHAIRMAN**

REPORT OF CABINET

5 June 2017

PRESENT:

Councillors Stokes (Chairman), Mrs Crane, Mrs Parker, Ms Robbins and Mrs Timms.

Councillors Mrs A'Barrow, Mrs Bragg, Ms Edwards, Mrs Garcia, Gillias, Lewis, Roodhouse and Sandison were also in attendance.

1. CIVIC HONOURS PROTOCOL – REPORT OF THE CIVIC HONOURS SUB-GROUP

Cabinet considered a report concerning a review of the civic honours protocol undertaken by the Civic Honours Sub-Group. The report was circulated as part of the Cabinet agenda and all Members are requested to bring their copies to the meeting. A copy of the report will be attached as part of the electronic version of this agenda on the Council's website.

Recommendation of Cabinet

Cabinet decided that the recommendations of the Civic Honours Sub-Group, as detailed above, be approved. It also recommended to Council that the Council's Constitution be amended accordingly to include the protocol for civic honours.

Recommended that - the Council's Constitution be amended accordingly to include the protocol for civic honours.

**COUNCILLOR M STOKES
CHAIRMAN**

REPORT OF CABINET

26 June 2017

PRESENT:

Councillors Stokes (Chairman), Mrs Crane, Mrs Parker, Ms Robbins and Mrs Timms.

Councillors Ms Edwards, Lewis, Mistry, Roodhouse and Sandison were also in attendance.

Note: Copies of all relevant Cabinet reports referred to will be attached as part of the electronic version of this agenda on the Council's website.

1. FINANCE AND PERFORMANCE MONITORING 2016/17 – YEAR-END

Cabinet considered a report concerning an overview of the Council's spending and performance position for 2016/17. The report was circulated as part of the Cabinet agenda and all Members are requested to bring their copies to the meeting.

Recommendation of Cabinet

Cabinet decided to recommend to Council that -

(1) the 2016/17 transfers to General Fund earmarked reserves, as detailed at Appendix 2, be approved;

(2) the 2016/17 £52,000 to the HRA sheltered accommodation reserve be approved;

(3) a 2016/17 HRA revenue budget virement of £353,810 from Supervision & Management to the HRA Savings Target be approved;

(4) a 2016/17 HRA revenue budget virement of £447,120 from Amounts Set Aside for the Repayment of Debt to the HRA Savings Target be approved;

(5) supplementary General Fund revenue expenditure budgets totalling £183,770 and income budgets of £50,900 be approved for 2017/18 as a result of budget carry forwards from 2016/17 (see section 2.2);

(6) supplementary capital budgets be approved for 2017/18 as a result of budget carry forwards from 2016/17 as follows:

- i. General Fund capital £1,196,690
- ii. Housing Revenue Account capital £435,350;

(7) a 2017/18 General Fund salary budget virement of £72,390 to Customer Support Services from Work Services Unit following a successful trial period be approved; and

(8) performance summary and performance data included in Appendix 5 be considered and noted.

Recommended that – the recommendation of Cabinet be approved.

2. FORMAL PROTECTION OF OPEN SPACES IN NEW BILTON

Cabinet considered a report concerning the formal protection of sites with a Fields in Trust designation. The report was circulated as part of the Cabinet agenda and all Members are requested to bring their copies to the meeting.

Recommendation of Cabinet

Cabinet decided to recommend to Council that the proposed sites, as detailed in the report, be protected with a Fields in Trust designation.

Recommended that – the recommendation of Cabinet be approved.

3. PUBLIC SPACE PROTECTION ORDERS – DOG CONTROL

Cabinet considered a report concerning the formal protection of sites with a Fields in Trust designation. The report was circulated as part of the Cabinet agenda and all Members are requested to bring their copies to the meeting.

Recommendation of Cabinet

Cabinet decided to recommend to Council that the existing four dog control orders be translated into public space protection orders and approved for adoption, subject to delegation to the Head of Environment and Public Realm to approve following consultation.

Recommended that - the recommendation of Cabinet be approved.

**COUNCILLOR M STOKES
CHAIRMAN**

COUNCIL – 18 JULY 2017

REPORT OF THE EXECUTIVE DIRECTOR

PROGRESS OF THE WEST MIDLANDS COMBINED AUTHORITY

1. SUMMARY

This report outlines the progress to date of the West Midlands Combined Authority (WMCA) and seeks to give Council a flavour of key activities and the potential pros and cons of our continued membership.

2. BACKGROUND

- 2.1 Council agreed to join the WMCA as a non-constituent member at its special meeting on 9th June 2016.
- 2.2 The full impact of making a decision to join the WMCA as a non-constituent member at that time was not particularly clear but Council decided that it wanted a seat at the table for Rugby with access to all meetings and voting rights on a number of key issues – all set in the context of a non-constituent membership fee of £25,000 per annum.

3. SUBSEQUENT DEVELOPMENTS

- 3.1 Over the last year things have developed quickly. The Executive Director and Leader have been attending a variety of WMCA meetings, more or less on a fortnightly basis, discussing and influencing a range of issues affecting the whole of the West Midlands.
- 3.2 One of the requests of Council when it chose to join the WMCA last June was that a meeting should be held in Rugby. In actual fact Rugby was chosen as the first venue outside of Birmingham to hold a meeting of the WMCA Board. This took place in the Council Chamber on 30th September 2016.
- 3.3 Rugby was initially granted observer status while awaiting formal confirmation of its non-constituent membership. This has only been formally confirmed through legislation relatively recently in May 2017.
- 3.4 In addition, mayoral elections took place on 4th May 2017 within the constituent member areas of the WMCA. Andy Street was elected Mayor. The new mayoral arrangements do not have any direct impact on non-constituent member areas, such as ours, but in practice the election of the WMCA mayor is almost certain to change the dynamic of how the combined authority operates.

Priorities for the first 100 days of the Mayor's term are to:

- Develop action plans on housing, jobs and transport;
- Launch quick congestion-busting measures, including reviewing traffic light timings and roadwork plans on the M6 and other key routes;
- Find Mayor's Mentors for 1,000 young people in the West Midlands;
- Meet the Prime Minister at 10 Downing Street to discuss how Government can help deliver our priorities in the West Midlands;
- Lead West Midlands businesses on a trade mission to a fast growing market, such as Silicon Valley;
- Invite Brexit Cabinet Ministers to the region to meet businesses and the public for a Brexit summit;
- Hold the first Mayoral 'Ask Andy' sessions where members of the public can ask any questions they have;
- Set the date of the first Mayor's Community Day of region-wide charity activities;
- Convene a Faith Leaders' Summit to agree priorities for the Mayor in community relations and integration; and
- Build the Mayoral leadership team by appointing key executive roles (now completed).

3.5 The membership of the WMCA has grown substantially since its launch in July 2015.

The current list of **constituent members** is:

Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton

The current list of **non-constituent members** is:

Cannock Chase, North Warwickshire, Nuneaton and Bedworth, Redditch, Rugby, Shropshire County, Stratford-on-Avon, Tamworth, Telford and Wrekin, Warwickshire County, Black Country LEP, Coventry and Warwickshire LEP and Greater Birmingham and Solihull LEP.

The current list of **observers awaiting membership** is:

Herefordshire County and the Marches LEP.

The current list of **observers** is:

the West Midlands Police and Crime Commissioner and West Midlands Fire and Rescue Authority.

The Midlands Trades Union Congress is a **co-opted member**.

3.6 Significant progress has also begun to be made on actual delivery:

- Devolution Deal 1 (see following link <https://www.wmca.org.uk/media/1375/westmidlandsdealdocument.pdf>) has been agreed and discussions with Government are well advanced regarding a second deal;
- the WMCA is managing £8 billion of infrastructure development and looking at training a new generation of local labour to meet the demand;
- the WMCA has created an HS2 Delivery Board with responsibility for delivering contracts worth several billion pounds;
- the WMCA has a key role in managing Further Education funding for those parts of the LEP areas that are in the WMCA footprint;
- a new regeneration scheme/zone has been opened in Dudley with the aim of boosting the local economy by almost £600m;
- a number of extensions to the Midlands Metro tram network are planned and the West Midlands smart ticketing programme known as Swift (akin to the Oyster card in London) has now been extended to rail travellers in non-constituent areas and will be available at Rugby station; and
- a new WMCA Growth Company has been launched to attract investment, jobs, visitors and businesses to the West Midlands.

4. KEY POTENTIAL PROS AND CONS OF RUGBY'S MEMBERSHIP OF THE WMCA

4.1 Pros

- Direct say in many decisions made by the WMCA, particularly around planning and economic development to deliver the WMCA's Strategic Economic Plan
- Direct input into the strategy for Public Service Reform (PSR) - an integral element of the WMCA's Strategic Economic Plan - the overriding goal being to bridge and eliminate the gap between the cost of local public services and the tax generated by the local economy to improve the quality of life of everybody in the WMCA.

4.2 Cons

- Potential increasing commitment of finance and other resources (the £25,000 non-constituent membership fee has been kept constant for 2016/17 and 2017/18 and indeed a 10% prompt payment discount of £2,500 has been received, reducing the actual fee paid to £22,500);
- The WMCA is resource-hungry and there is likely to be significant ongoing Member and officer involvement in the WMCA and developing Devolution arrangements;

5. CONCLUSIONS

- 5.1 There will always be a certain lack of clarity around many of the potential benefits and risks associated with the WMCA as it has been made clear from the outset that, while all members will see benefits from their membership of the WMCA beyond the fee paid, those benefits cannot possibly flow equally nor at the same time.

6. RECOMMENDATION

- 6.1 Council notes the progress of the WMCA and continues to engage fully in its operation.