

WORCESTERSHIRE DISTRICT COUNCILS

MEETING OF THE WORCESTERSHIRE REGULATORY SERVICES BOARD

THURSDAY, 16TH NOVEMBER 2017, AT 4.30 P.M.

PRESENT: Councillors R. J. Laight, B. Behan, H. Campbell, J. Baker (Vice-Chairman, B. Clayton, J. Squires, A. Feeney, M. King (during Minute No's part of 23/17 to 27/17), E. Stokes (Chairman), J. Smith and J. Hart

Observers: Ms. A. Davey, Worcester City Council, Mr. V. Allison, Wychavon District Council, Mr. P. Merrick, Malvern Hills District Council and Mr. M. Parker, Wyre Forest District Council.

Officers: Ms. J. Pickering, Mr. S. Wilkes, Ms. C. Flanagan, Mr M. Cox, Ms. K. Lahel, Mr. D. Mellors and Mrs. P. Ross

19/17

APOLOGIES

Apologies for absence were received from Councillor P. Whittaker, Bromsgrove District Council.

20/17

DECLARATIONS OF INTEREST

No declarations of interest were received.

21/17

MINUTES

The minutes of the meeting of the Worcestershire Regulatory Services Board held on 5th October 2017 were submitted.

RESOLVED that the minutes of the Worcestershire Regulatory Services Board held on 5th October 2017 be approved as a correct record.

22/17

WORCESTERSHIRE REGULATORY SERVICES REVENUE MONITORING APRIL TO SEPTEMBER 2017

The Board considered a report which detailed the financial position for the period 1st April 2017 to 30th September 2017.

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council and Redditch Borough Council introduced the report and in doing so informed the Board that the report presented the final financial position for Worcestershire Regulatory Services (WRS) for the period 1st April 2017 to 30th September 2017.

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council and Redditch Borough Council informed the Board that the detailed revenue report, at Appendix 1 to the report, showed a projected outturn savings that would be refunded to partner authorities of £14,000, it was appreciated that this was an estimation to the year-end based on current level of expenditure.

There were a number of vacant posts within the service and these, together with savings from maternity leave, long term sick etc. had resulted in a projected savings in salaries. This was offset by the costs associated with additional agency staff used to cover the vacancies, sick leave and to support the service when staff worked on additional income generation projects. Officers would ensure that the reliance on agency cover was as minimal as possible.

However, two full time employees' (FTE's) were working within the Community Environmental Heath Team to assist with the backlog of nuisance issues and to address some of the issues raised by the Food Standards Agency. One FTE was being used in Technical Services to cover the high level of sickness reported to Members at their previous meeting.

Members were further informed that if the April to September spend on pest control continued on the same trend for the rest of the year, there would be a projected overspend of £9,000. Officers have continued to analyse the overspend and the following was the projected full year overspend to be funded from each partner, this income was in the £335,000 income projected outturn:-

Redditch	£2,000
Wychavon	£3,000
Wyre Forest	£4,000

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council and Redditch Borough Council continued and further informed Members of the actual bereavement costs 1st April to 30th September 2017 to be funded by partner, as detailed below. These costs were charged on an as and when basis. Due to the nature of the charges it was not possible to project a final outturn figure. This income had also been included in the £335,000 income projected outturn:-

Worcester City	£4,000
Redditch	£2,000
Bromsgrove	£2,000

Appendix 2 to the report detailed the income achieved by WRS during April 2017 to September 2017. £158,000 worth of income was achieved in the first half of the year against a full year budget of £284,000. This was a slight improvement on the picture from quarter 1 and the service was now predicting a slightly reduced outturn of £335,000 due to the likelihood of achieving slightly less on the Primary Authority activity.

Grant funded expenditure was shown separate to the core service costs as this was not funded by the participating Councils.

The Head of Regulatory Services, WRS, informed Members with regard to the use of agency staff that, income was used with some flexibility, in order to respond where necessary to retain services; which included the recent Food Standards Agency Audit findings with regard to food inspections and trying to reduce the level of nuisance calls to ensure that WRS delivered the required works for partner authorities.

RESOLVED:

- (a) that the final financial position for the period 1st April 2017 to 30th September 2017, be noted; and
- (b) that partner councils be informed of their liabilities for 2017/2018 with regard to Pest Control and Bereavements, by Section 151 Officers.

23/17

WORCESTERSHIRE REGULATORY SERVICES BUDGETS 2018/19 - 2020/21

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council and Redditch Borough Council introduced a report which detailed the Worcestershire Regulatory Services Budget for 2018/2019 and 2020/2021.

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council and Redditch Borough Council drew Members' attention to Appendix 1 to the report, which showed the 2018/2019 – 2020/2021 budget breakdown for the district partnership. The income projections were included in Appendix 2 to the report.

The report highlighted the following assumptions that had been made in relation to the projections:-

- A 2% pay award across all staff for 2018/2019 – 2020/2021. This would be subject to the ongoing National Pay Negotiations. Therefore the final position would reflect any formally agreed increases. The budget also included any employee entitled to an incremental increase. This would increase the gap in funding to £163,000 by 2020/2021.
- No inflationary increases in supplies and services, premises or transport.
- The pension back-funding deficit was paid in advance by all partner authorities.

By 2020/2021 should the additional income not be met there would be a potential increase to partner funding as follows:-

Bromsgrove	£24k
Malvern	£21k
Redditch	£28k
Worcester City	£27k
Wychavon	£38k
Wyre Forest	£25k
	£163k

In response to questions from Members concerns with regard to the three year budget, the Head of Regulatory Services, WRS, indicated to the Board that WRS may struggle to hit the income target at the end of a period but it should achieve the figure for 2018/2019. Also if it proved difficult to achieve the income target the service had some reserves to mitigate the impact on partner authorities.

The Executive Director, Finance and Corporate Resources, Bromsgrove District Council and Redditch Borough Council informed the Board that the £163,000 figure was the worst case scenario. Should the additional pressure of £26,000 in 2018/2019 be delivered this would leave an additional pressure of £69,000 (£95,000 less £26,000). Similarly for 2020/2021, if all of the required income was delivered and retained during 2019/2020, only around £70,000 would have to be met in the final year. Therefore, for £163,000 to be the funding gap in 2020/2021, it would mean that no additional income was brought in above the 2017/2018 figures, hence it was the worst case scenario being presented to Members.

Further discussion followed whereby Members agreed that the Treasurers would look at individual partner budgets and that pay awards would have to be factored in. With regard to income generation and appropriate opportunities and in order to get out of a standstill position; Members asked if there was anything they could do as Board Members or as Members of each partner authority, to promote the excellent service that WRS provided in order to help increase potential income.

The Head of Regulatory Services, WRS, thanked Members for their continued and valued support. He asked if Members could be mindful to identify all potential income stream opportunities, including making people aware of pre-application advice. There were currently two good leads with regard Primary Authority. He had spoken with the Head of Community, Worcester City Council, with regard to partner authorities Chief Executive's and Leaders promoting WRS outside of Worcestershire.

Members commented that it was good to see such commitment and acknowledged that officers had worked hard to generate income. Neighbouring authorities were changing which could impact on WRS.

The Head of Regulatory Services (WRS) further commented that Gloucestershire partnerships had moved into a new delivery model,

which could in twelve months' time make them a competitor. Hence the need to promote the good services offered by WRS.

RESOLVED:

- a) that the district partners gross expenditure budget of £3,378k, as shown in Appendix 1 to the report, be approved;
- b) that the district partners income budget of £353k, as shown in Appendix 1 to the report, be approved;
- c) that the district partners revenue budget allocations for 2018/2019 and 2020/2021, as detailed below, be approved;

Bromsgrove	£439k
Malvern	£386k
Redditch	£529k
Worcester City	£507k
Wychavon	£701k
Wyre Forest	£463k
	£3,025k

- d) that, the approved level of budget allocations be advised to partner Councils through discussions with S151 Officers.

24/17

STATUTORY NUISANCES - BRIEFING REPORT

The Board received a briefing report on Statutory Nuisances.

The Environmental Health and Trading Standards Manager, Worcestershire Regulatory Services, (WRS), informed the Board that, it was the statutory duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisance under Section 80 of the Environmental Protection Act 1990. A statutory nuisance was something that affected a person's health or caused disturbance to them in their property.

It was also a requirement to take such steps as were reasonably practicable to investigate complaints about issues that could be a 'statutory nuisance' made by a person living within the local authorities' area.

WRS achieved this through the use of intelligence, by responding to service requests and officers identifying nuisances during the course of their normal duties.

Members were reminded that at the WRS Board meeting on 5th October 2017, officers had highlighted the increasing expectations of members of the general public with regard to what local authorities and services like WRS could achieve in relation to complaints of nuisance by other members of the public. This level of expectation was increasingly challenging for WRS given its capacity and other demands placed on the service.

Page 28 in the report, detailed statutory nuisances as defined in Section 70 (1) (a-h) of the Environmental Protection Act 1990. Whilst these were wide ranging in many ways, there were a limited number of issues that WRS could investigate in respect of issues being a potential statutory nuisance. Pages 28 and 29 in the report provided information on what was not a statutory nuisance.

Members were further informed that the courts must be convinced that the alleged nuisance substantially interfered with a personal comfort rather than a person's land, physical possessions or the effect on such things as property values. Case law directed that the concept of nuisance was to protect public health and not to deal with irritations.

For this reason WRS officers had to consider many elements of the complaint and how it impacted on the individual's life. It was important to realise that the fact that something caused annoyance did not in itself amount to a statutory nuisance. For something to amount to an actionable statutory nuisance two conditions had to be met:-

- It must cause significant interference to the normal occupation of premises by a person of average sensitivity, and
- It must be caused by some unreasonable or unusual act or omission or behaviour.

Page 30 in the report detailed a number of factors that officers had to consider when investigating complaints.

When officers were considering the source of a nuisance they had to consider the source in isolation. A statutory nuisance was a single issue and could not be made up of a number of single sources that cumulatively added up to a nuisance.

Where a nuisance could be identified the local authority must serve notice. In theory the local authority had no discretion in this, however, WRS would often take steps to try and resolve an issue where a simple change of behaviour could facilitate this.

The legal bar for issuing an abatement notice was set high as it was the initial stage in criminalising someone's behaviour. The problem had to be assessed by an officer as the Court would deem them to be an expert witness and independent.

Where a problem was investigated and found not to be a statutory nuisance, for fairness to both parties the investigation would be terminated. There were occasions, and even the Local Government Ombudsman accepted this, that a reasonable investigation may not always gather the evidence necessary to prove a statutory nuisance. For this reason Section 82 of the Environmental Protection Act 1990 gave an individual the power to take their own action by way of complaint to the Magistrates' Court.

Page 31 in the report provided information on the current model for determining statutory nuisance.

The Environmental Health and Trading Standards Manager, WRS, highlighted that there was an increasing tendency to challenge professional opinion where notices were issued. Changes to the fines structure in the Magistrates' Court meant that there were now unlimited fines available for some nuisance offences, so some businesses would be more willing to challenge the initial notice to try to limit their risk of future prosecution.

Additional resources were regularly deployed to manage the annual spike in nuisance complaints which typically occurred through the summer months. Efficiencies had already been achieved in the provision of the service which included more cross-discipline working by officers and the move to initial self-help for non-business related complaints, compensating for a reduction in the number officers in the Community Environmental Health Team. Should the trend in increasing numbers and complexity of service requests be continued, along with the added expectation and increased challenge from recipients of notices, then additional capacity would be required to meet this demand.

Members agreed that the briefing was informative and an easy document to read and asked that officers create a version of it that they could use to inform other Members at the partner authorities.

RESOLVED that the Statutory Nuisances briefing be noted.

25/17

**WORCESTERSHIRE FOOD AND DRINK ASSOCIATION -
INFORMATION REPORT**

The Board received an information report on the Worcestershire Food and Drink Association (WF& DA).

The Business and Relationships Manager, Worcestershire Regulatory Services (WRS) informed the Board that in 2012 the Worcestershire Local Enterprise Partnership's (WLEP) Strategic Economic Plan (SEP) to the Government, set out its ambitions for business growth and job creation in the County. In particular, the WLEP had identified the Agri-Food, Agri Tech, Horticulture and Forestry Sector as a top priority for accelerated growth.

The SEP had requested that the WLEP local and national regulators worked in partnership to address regulatory barriers to growth and to develop innovative solutions for a national Agri-Food Sector Exemplar Pilot with the potential for a national roll-out across England.

In 2013, WLEP and WRS formed a strategic partnership through its Joint Regulators and Business Charter Action Plan. The partnership was a pioneering and an established national champion of Regulatory

Delivery's (RD), part of the Department for Business, Energy and Industrial Strategy (BEIS), Better Business for All (BBfA) programme.

The report provided details on Phase 1 and 2 of the scheme and highlighted that Phase 3 would look at how to engage with the catering sector to understand their needs and requirements, in order to design a category of membership that would meet their needs, and to encourage their membership into the WF&DA.

There were clear and tangible benefits to WRS for the sustainability of WF&DA. Businesses would find they were growing in confidence in complying with regulations and would reduce unnecessary business costs and reap business growth dividends. WRS as the regulator would improve service co-ordination and efficiency, by working pro-actively with businesses and would be recognised as a key part of the business support packages available through WF&DA.

By working together, WRS and WF&DA would be able to show how the improved business-regulator relationship would enhance compliance, mutual trust and confidence and would inevitably help Worcestershire attract more business and inward investment.

The Head of Regulatory Services, WRS, stated that this was a really excellent project and a piece of work that enabled WRS to support businesses in the best way that the service could. As regulators WRS had more contact with businesses than any other officers in local authorities and WRS would continue to work with the WF&DA once it had come into being as an independent entity so that the two organisations could work together to support growth of food businesses in the County.

The Board were further informed that the work up to this point had been funded by WLEP and the Head of Regulatory Services, WRS thanked them for their ongoing support in this which meant there had been no financial implications for partners up to this point. Future funding for WF&DA would be based on membership contributions and grants secured for activities, so again it would not present a financial burden to partners.

The Chairman expressed her thanks to officers and commented that it was good to see a proactive report of this nature demonstrating the positive role of the regulatory service in supporting local businesses and the economy.

RESOLVED that the information report on the Worcestershire Food and Drink Association, be noted.

The Board considered a report that detailed Worcestershire Regulatory Services Activity and Performance Data for Quarter 2, 2017/2018. The report focused on Quarter 2 but the data enabled a comparison with previous years.

The Head of Regulatory Services, Worcestershire Regulatory Services (WRS) introduced the report and in doing highlighted that the level of work had been dealt with really well with additional agency staff brought in to help deal with the increased workload.

The Head of Regulatory Services, WRS then drew Members' attention to some of the key points in the report, as detailed below:-

- The good weather during late May and June had created an early summer spike in nuisance issues leading to an increased workload, which continued to peak through July. The July peak exceeded the highest point in the previous two years.
- In the nuisance related area called public health a similar pattern was seen with a dip in June at the end of quarter 1, followed by a spike during July that again exceeded the high numbers in the previous two years.

Having those peaks in demand, combined with a number of complex issues that staff were dealing with from the previous year, had required additional resources. So temporary agency staff were brought in towards the end of the quarter in order to help maintain the service's performance.

- The top 25 wards for noise showed a typical distribution with the majority being across Redditch, Wyre Forest and Worcester City.
- A spike had occurred in food safety complaints during August and this, along with the volume of work with regard to nuisance, had resulted in the service only able to undertake a limited volume of routine food hygiene inspections during quarter 2. Retaining the services of temporary agency staff for the period beyond the end of quarter 2 would enable some of the team to catch up with the routine food hygiene inspection visits.
- Air quality work continued as the service looked towards working with Worcester City Council (WCC) Members, who were appointed to the Task and Finish Group to consider how WCC could improve air quality.

The team who covered Environmental Permitting had been in dialogue with OFGEM in order to obtain details of all of the sites in Worcestershire that were being supported by the Non-domestic Renewable Heating Initiative, where biomass (wood fired) boilers were installed to provide heat, with the cost of installation and fuel being subsidised by the Government. Boilers taking funding from the

scheme had been at the centre of a number of complaints in Bromsgrove and Wychavon. The team now had a list of premises and intended to review this, with a view to targeted visits to see whether a site should be operating with a permit.

- Licensing work volumes remained high. Officers had continued to engage with external partners on a range of issues. Further visits had been undertaken with the Gambling Commission. A number of spot check exercises were completed. Officers had started working with Worcester City Council (WCC), Licensing Committee Members who had been appointed to the Task and Finish Group, to develop the Council's vision for its taxi fleet going forward.

The Licensing Team has also commenced preparations for training on Child Sexual Exploitation (CSE) for the taxi trade. Firm plans were in place to pilot the training in Redditch and Worcester City, followed by a wider roll out across the county. The training would be delivered in partnership with West Mercia Police and the Police and Crime Commissioner's preferred training provider.

- Business satisfaction remained excellent at 97.7%, satisfaction for non-business customers was slightly up at 75.6%, but still slightly below last year's out-turn figure of 78.9%. This still reflected some of the difficult cases that the team had dealt with and were not always able to resolve.

People who found they felt better equipped to deal with their own problems in the future was slightly up on quarter 1 at 73.3%. Staff sickness for quarter 2 was up to 3.77 days per full time equivalent (FTE). Managers were seeking to address this where possible, but as highlighted in quarter 1, a number of officers had required surgery and therefore required recovery time.

- There were only three corporate complaints during quarter 1 but officers had expected to see this increase in quarters 2 and 3 due to the increased volume of work and the pressure that had created. Quarter 2 saw a further six corporate complaints which related to dog issues, delays in answering phone calls or not keeping complainants informed. Where possible steps had been taken to address some of the issues.

There were 32 compliments in quarter 1. This figure increased to 75 at the end of quarter 2, which demonstrated that staff continued to deliver good outcomes for the public.

- Income for the first six months of the year was £158,000. This was close to the target to achieve the required income for the year and equal to 5.2% of the monies paid into the service on an annual basis by partner authorities.

The Technical Services Manager, WRS, responded to specific questions with regard to; the levels of Nitrogen Dioxide which remained consistently high in the Worcester Road and Lickey End Air Quality Management Areas (AQMA's). Members were informed that with regard to the Bromsgrove AQMA's, a review was currently being undertaken, which would include looking at re-invigorating the Air Quality Management Group.

RESOLVED:

- a) that the Activity and Performance Data report for Quarter 2, 2017/2018, as detailed at Appendices A and B to the report, be noted; and
- b) that Members use the contents of the Activity and Performance Data report for Quarter 2, 2017/2018, to report the relevant information to Members at each partner authority.

27/17

CHAIRMAN'S UPDATE

The Chairman took the opportunity to inform the Board that she had attended the Chartered Institute of Environmental Health, Excellence Awards Ceremony, on 2nd November 2017 where, although they were not overall winners, Worcestershire Regulatory Services were highly commended as an outstanding Environmental Health Team.

She offered her commiserations to Chris Poole, Senior Technical Officer, WRS, who was nominated for but sadly did not win the Environmental Hero (Air Quality) award.

The Chairman further informed the Board that she had been invited to attend the Worcester City Christmas Food Festival on the 2nd December 2017.

The meeting closed at 5.45 p.m.

Chairman