

DONCASTER METROPOLITAN BOROUGH COUNCIL
ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE

20TH MARCH, 2012

A meeting of the ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE was held at the MANSION HOUSE, DONCASTER on TUESDAY, 20TH MARCH, 2012 at 10.00 a.m.

PRESENT:

Chair – Councillor Kevin Rodgers
Vice-Chair Councillor Moira Hood

Councillors Patricia Bartlett, John McHale, Bill Mordue, Ray Mullis and Sue Wilkinson.

APOLOGIES:

Apologies for absence were received from Councillors Joe Blackham, Marilyn Green and Cliff Hampson.

13. DECLARATIONS OF PERSONAL OR PREJUDICIAL INTEREST, IF ANY

No declarations were made at the meeting.

14. MINUTES OF THE MEETING OF THE ELECTIONS AND DEMOCRATIC STRUCTURE COMMITTEE HELD ON 29TH NOVEMBER, 2011

RESOLVED that the minutes of the meeting of the Elections and Democratic Structures Committee held on 29th November, 2011 be approved as a correct record and signed by the Chair.

15. COMBINED LOCAL ELECTIONS AND REFERENDUM ON CHANGE IN GOVERNANCE ARRANGEMENTS – 3RD MAY 2012: PROGRESS REPORT

The Committee considered a report which outlined progress made to date in the preparation for the Local Elections and Referendum to decide whether the Council should change its governance arrangements, which were both due to be held on 3rd May 2012.

With regard to the Referendum, the Head of Electoral Services and Democratic Renewal explained that Doncaster Council had been working closely with other local authorities in the major cities which would be conducting Mayoral Referendums this year, to ensure

consistency of approach.

It was noted that the costs would be shared in the normal way (on a 50:50 basis) for combined elections where the facilities, e.g. polling stations, were used for both elections.

It was also reported that the collection of updated personal identifiers for postal voters was taking place. A reminder letter had been sent to the 4000 voters who were still to respond to the initial request. However, the requirements for the renewal of identifiers meant that any postal voter who had not responded by 12th March 2012 would have their postal vote cancelled and would need to either vote in person or make a fresh application for a postal vote.

The Assistant Director of Legal and Democratic Services explained that particular issues arose this year as a consequence of the Mayoral Referendum. He stated that the Regulations were very prescriptive in respect of the information that the Council could give out with regard to promoting the Referendum within a period of 28 calendar days of the Referendum. In practice, this meant that the Council was prohibited from any activity which proactively promoted the Referendum, including publishing material on the Council's website during that period, with the exception of the Statutory Notice. It was noted that prior to the commencement of the above period, an information leaflet on the Referendum would be distributed to every household in the Borough. Despite the above restrictions, the Council was still required to provide information about the Referendum in response to specific requests. This could be done by way of providing answers to specific questions raised or on a 'Frequently Asked Questions' section on the Council's website, but it was not permissible to send out any documentation relating to the Referendum in response to such requests.

After the Officers had answered a number of questions on the rules and restrictions surrounding the provision of information in respect of the Referendum, it was

RESOLVED to note the contents of the report.

16. PROPOSED SPITTING BYELAW

The Committee considered a report which outlined the background and recommended actions to be taken in relation to a proposal to introduce a byelaw to prohibit spitting within the Borough.

The Assistant Director of Legal and Democratic Services reported that the Mayor had expressed a wish for the introduction of a byelaw to prohibit spitting. Whilst previous Government guidance had indicated that they did not consider a prohibition on spitting to be a suitable issue for a byelaw, the Coalition Government had revised this guidance last year and was now prepared to consider applications for

such a byelaw on a case by case basis. The Assistant Director advised that the steps for making a new byelaw were very prescriptive. These included the submission of a formal application to the Secretary of State, accompanied by evidence demonstrating that the byelaw was 'necessary in the local context' and that the application was 'reasonable and that other means of addressing the situation at which the byelaws were directed were inappropriate or insufficient.'

Members noted that any breach of a byelaw was a criminal offence and enforcement of byelaws could be undertaken by both the Council's Enforcement Teams and the Police. In this instance, however, it was anticipated that the Council would take the lead in enforcement activities. At present, this would mean a prosecution in the Magistrates Court, but the Government was proposing to bring in Fixed Penalty Notices as the penalty for breaches of byelaws in the future.

The Assistant Director of Legal and Democratic Services confirmed that an initial scoping exercise involving partner agencies within the Safer Doncaster Partnership had already taken place to establish their views on the introduction of a spitting byelaw. The response from the Group was set out in Appendix A to the report. It was noted that although a varied response had been received, it was clear that this issue was not generally seen as being a major priority to most of the respondents. The Assistant Director added that Officers of the Council's Neighbourhood and Enforcement teams had also undertaken a specific exercise by logging the number of occasions when they witnessed someone spitting during one particular day. This observation day had resulted in a total of 31 incidents of spitting being recorded.

It was noted that the first stage in taking this initiative forward would be to conduct a public consultation exercise which would inform both the evidence base for the application and anticipate possible future objections in advance of the deposit stage. Such an exercise would need to attract approximately 1200 responses from amongst the Borough's population in order to be considered statistically valid.

Two options setting out possible methods of conducting the public consultation were outlined in the report. The first option used methods that would not cost any money beyond paying for staff time only. The second option was to carry out an enhanced consultation exercise, including a specific survey to 5-6000 households, newspaper advertising and a local radio campaign, with a maximum cost of £7260.

During subsequent discussion, some Members expressed the view that whilst any steps to discourage people from spitting were welcome, such a byelaw might be difficult to enforce. A Member also commented that given the tight financial constraints under which the

Council had to currently operate, there was a need to keep any costs incurred in implementing such a byelaw to a minimum.

In response to a question concerning the number of other authorities which had implemented such a byelaw, the Assistant Director of Legal and Democratic Services confirmed that Enfield Council currently had an application for a spitting byelaw lodged with the Department for Communities and Local Government.

In supporting the proposal, a Member expressed the view that such a byelaw should be introduced as soon as possible, in order to send out a clear message that the practice of spitting was unacceptable behaviour. He felt that it would be easy to add the enforcement of this byelaw to the existing duties of the Council's Neighbourhood and Enforcement Teams operating in the Borough and urged, therefore, that the Council should proceed to the public consultation stage of the process, as recommended in the report.

In answer to a query by the Chair as to the average timeframe for a prosecution to be made through the Magistrates Court compared to issuing a fixed penalty notice, the Assistant Director of Legal and Democratic Services confirmed that it was much easier to administer fixed penalty notices. He stated that a prosecution through the Magistrates Court typically took 3-4 months, but he undertook to provide Members of the Committee with further details of the time periods involved outside of the meeting.

Members then discussed the options set out in the report for carrying out the public consultation and respective costs. In the light of Members' concerns over the potential costs arising from the consultation, the Assistant Director of Legal and Democratic Services suggested that a third option could be considered, comprising an online survey/publicity, newspaper advertising and local radio campaign, but excluding a postal survey to households, which would incur a reduced cost of £2200. Members supported this suggestion.

It was then

RESOLVED to:

- (a) proceed to a public consultation exercise on the proposal to introduce a byelaw to prohibit spitting within the Borough, at a reduced cost in the region of £2200; and
- (b) receive a further report in due course on the outcome of the consultation exercise.