

Meeting: Council

Date: 2 February 2017

Wards Affected: All Wards

Report Title: Call-in of Mayor's Decision on Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas

Is the decision a key decision? No

When does the decision need to be implemented? once a decision has been made

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1. Proposal and Introduction

1.1 On 23 November 2016 the Mayor took the following decision:

“Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas

That the Assistant Director of Community and Customer Services be requested to commission a consultation exercise with the public, partners and the voluntary sector to assess opinion with regards to what further action the Council (and partners where appropriate) should take in response to the issues of:

- introducing bylaws or Public Spaces Protection Orders (PSPOs) to address the problem of rough sleeping on the seafront and town centres;
- providing support to, and safeguarding, individuals with a genuine rough sleeping / street homelessness need; and
- the use of motor homes as permanent accommodation in residential areas/public highways.”

1.2 The Mayor's decision was called in for scrutiny and considered at the meeting of the Overview and Scrutiny Board held on 14 December 2016. An extract of their Minute is set out below:

“47. Bylaws Homeless People and Begging

The Board considered the details of a call-in by five Members of the Council of the decision of the Mayor to request the Assistant Director – Community and Customer Services to commission a consultation exercise to assess opinion on the further actions the Council could take:

- to introduce bylaws or Public Spaces Protection Orders to address the problem of rough sleeping on the seafront and in town centres; and
- to provide support to, and safeguarding of, individuals with a genuine rough sleeping/street homelessness need.

In addressing the Board, the Call-in Promoter highlighted that he believed that the Mayor’s decision was contrary to the Council’s Policy Framework. He made reference to the Corporate Plan which included the principle that the Council’s reducing resources should be used to best effect.

Members of the public who were both in favour of and against the Mayor’s decision addressed the Board. In addition a statement on behalf of Torbay PATH was read out.

The Deputy Mayor and other members of the Executive were invited to respond to the points in the call-in and to the questions raised by members of the Board.

Members of the Board indicated that they were minded to agree that the decision was contrary to the Council’s Budget and Policy Framework and, at that point, the Monitoring Officer and Chief Financial Officer provided advice to the Board.

Resolved: that, having listened to the advice of the Monitoring Officer and the Chief Financial Officer, the Board is of the view that the Mayor’s decision is contrary to the Policy Framework as it does not believe that it makes best effect of the Council’s reducing resources and therefore the matter is referred to the Council.”

1.3 Members are requested to consider this report.

2. Reason for Proposal

2.1 To consider the recommendation of the Overview and Scrutiny Board and further information detailed in the submitted report.

3. Recommendation(s) / Proposed Decision

3.1 That the Council considers the contents of this report in determining whether or not the Mayor’s decision dated 28 November 2016 in respect of Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas is contrary to the Policy Framework or contrary to (or not wholly in accordance with) the Council’s budget.

Appendices

- Appendix 1: Reasons for call-in Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas
 - Appendix 2: Record of Decision Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas
 - Appendix 3: Report to Policy Development and Decision Group (Joint Operations Team)
 - Appendix 4: Report to Policy Development and Decision Group (Joint Operations Team) - Appendix 1
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4. Background Information

- 4.1 The following advice was given to the Overview and Scrutiny Board by the Monitoring Officer and Head of Finance in respect of the Mayor's decision regarding the commissioning of a consultation exercise with the public, partners and the voluntary sector, in order to assess opinion with regards to what further action the Council (and partners where appropriate) should take;
 - 4.1.1 Policy Framework – the decision needs to be contrary to the Policy Framework. The definition of contrary by the Oxford Dictionary is 'opposite in nature, direction or meaning'. The fact that something is not explicitly mentioned within the Policy Framework does not mean it is automatically contrary to the same.
 - 4.1.2 There was nothing within the Homelessness Strategy which the Monitoring Officer considers that the decision for consultation is contrary to. Reference was made by members to one of the principles in the Corporate Plan - 'using resources to best effect'. The Corporate Plan is a policy framework document - however consideration as to whether the decision made by the Mayor to consult is contrary to this principle, is a political matter for members to decide, rather than one which is appropriate for Officers to advise upon.
 - 4.1.3 The decision (2nd bullet point) is much wider in terms of providing support to and safeguarding individuals with a genuine rough sleeping/street homelessness need. This is wholly in accordance with the Homelessness Strategy and with parts of corporate plan e.g. 'identify and protect those people and communities who are the most vulnerable and are at the greatest risk of harm' and 'homelessness prevention plan.'
 - 4.1.4 The Chief Finance Office advised that as there is a budget for staffing on consultation, the Mayor's decision was not contrary to the budget, although clearly it would impact upon their current work - but that does not make it contrary to the budget.

5. Options

- 5.1 In accordance with the Standing Orders, the Council has to firstly to determine whether or not the decision (if implemented) would be within the Budget and Policy Framework (D10.7).

- 5.2 If the Council determines that the decision would be within the Budget and Policy Framework, the subsequent action is that it may refer any decision to which it objects back to the decision maker together with the Council's views on that decision (D9.4C).
- 5.3 If the Council decides that the decision would be contrary to (or not wholly in accordance with) the Budget and/or Policy Framework, the decision shall be deemed as a recommendation to the Council and the Council itself shall take the final decision on the matter.