

## The Cabinet

**21<sup>st</sup> September, 2016 at 3.30 pm**  
**at the Sandwell Council House, Oldbury**

**Present:** Councillor Eling (Chair);  
Councillors Gill, Hackett, D Hosell, Khatun,  
Marshall, Moore, Shackleton and Trow.

**Apologies:** Councillor Carmichael;  
Councillor Y Davies.

**In attendance:** Councillors Ahmed, Crompton, P Hughes, S Jones  
and Underhill.

150/16 **Minutes**

**Resolved** that the minutes of the meeting held on 31<sup>st</sup> August, 2016 be confirmed as a correct record.

### Strategic Items

151/16 **Financial Regulations and Procurement and Contract Procedure Rules 2016/2017 (Key Decision Ref. No. CCS12)**

The Cabinet Member for Core Council Services sought approval to the revised Financial Regulations and the Procurement and Contract Procedure Rules following an annual review by the Chief Finance Officer. The rules provided members and employees with procedures to follow to ensure the Council's expected standards were met in managing public assets and money.

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Following a robust review of the existing rules and procedure, the Contract Procedure Rules had been revised to reflect update regulations and provide clarity of roles and responsibilities at all levels of the Council.

Whilst the revised Rules retained the key principles and processes as set out in the previous versions, it was now proposed to make further revisions in order to align the Rules further with the Financial Regulations and Scheme of Delegations. It was therefore recommended that the Council adopt the following key changes:

- increasing the threshold at which formal tenders were required from £60,000 to £100,000 – this change aligned the process to the authority set out in the Scheme of Delegations and created a more streamlined process across the council and consistency throughout the Rules as a whole. Requirements of between £5,000 and £100,000 in total value would require a minimum of three quotations to be sought in order to comply with the Government's Transparency Agenda and to ensure value for money was achieved. Formal contracts were required where the value was £100,000 or above, however, these could be sought should the requirement be complex or business critical;
- amending the minimum award criteria split from 80% price/20% quality to 60% price/40% quality in order to encourage the focus on quality of the service provision or goods purchased and derive greater value for money from contracts. Where an existing Framework Agreement was entered into, the award criteria of that Framework must be adhered to;
- removing disposal of land and buildings from the scope of these Rules;
- creating a Sale of Land and Buildings Protocol as an appendix to the Financial Regulations.

The Sale of Land and Buildings Protocol would set out the process for governing the disposal of land and property owned by Sandwell Council. It did not apply to the sale of residential properties as these were subject to a different legal framework. The protocol set out the roles and responsibilities of members and officers and stated the process required to dispose of land and buildings that were deemed surplus to requirement, other than residential properties.

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On 18<sup>th</sup> August 2016, the Audit Committee approved the Sale of Land and Building Protocol (see Minute No. 28/16). The Council was now requested to approve and adopt the protocol as part of the revised Financial Regulations.

**Resolved that the Council be recommended to** approve and adopt the revised Council Procurement and Contract Procedure Rules and the Sale of Land and Buildings Protocol.

152/16

### **Regional Framework Agreement for the Provision of Supported Accommodation for Children (Key Decision Ref. No. CS080)**

The Cabinet Member for Children's Services reported that a Framework Agreement had been established for the provision of supported accommodation for looked after children aged 16 and 17. The Framework Agreement would operate for two years with an option to extend for a further two years.

Up to thirteen local authorities would have access to the agreement and would have the opportunity to accept individual purchased placements (call-offs) which would be under the terms and conditions of the Framework Agreement.

The Council would only place a young person in supported accommodation once all other options had been completely exhausted; this included looking at potential foster carers, supported lodgings placements and training flats should the young person have the appropriate independence skills.

Approval was now sought to the Director - Children and Families to award individual purchased placements (call-offs) contracts under the terms and conditions of the Framework.

An equality impact assessment was not required for this proposal.

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A question was raised by the Chair of the Children's Services and Education Scrutiny Board relating to what actions were in place to assess a young person's progress, who was deemed to need a placement under the agreement, to enable them to move to a more independent setting, if required. In response, the Cabinet Member for Children's Services confirmed that the Council would continue to monitor those young people and would only move them if it was felt that it was in their best interest. An assessment of the young person's needs would be continued to identify the type of resource that they required and, using the framework, to match providers to that need. The placement would be continually reviewed through planning and review processes to identify progress and interventions required.

### **Resolved:-**

- (1) that the Director - Children and Families enter into a framework agreement for the provision of Supported Accommodation for Young People for the period 1<sup>st</sup> November 2016 to 31<sup>st</sup> October 2018, with the option to extend for a further two years, subject to satisfactory performance;
- (2) that, subject to resolution (1) above, the Council enter into and sign and seal the necessary agreements and associated documents required in order to execute the provision of Supported Accommodation for Young People.

153/116

### **Highway Services Winter Service Operational Plan 2016/17** **(Key Decision Ref. No. HE50)**

The Cabinet Member for Highways and Environment sought approval for the Council's Winter Service Plan 2016/17.

The Council had a statutory duty to ensure, so far as reasonably practicable, that safe passage along a highway was not endangered by snow or ice.

To meet this duty, winter service operations were carried out to prevent ice forming (precautionary salting), melt ice already formed (post salting) and remove snow accumulations.

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Given high service costs, it was not 'reasonably practicable' to provide the service on all parts of the network nor ensure running surfaces were kept free of ice or snow at all times.

The Council treated approximately 47% of the total carriageway and the key service standard was to complete precautionary treatment of Priority 1 and 2 roads within 4 hours from decision to treat at typical spread rates.

Resources and practicability meant that only pavements defined in Category 1(a) Prestige Areas, being major shopping streets in town and district centres, were prioritised for treatment. No other pavements received planned treatment. Prioritised pavements may receive precautionary treatment when the forecast indicated that hoarfrost or snow was likely.

As part of a budget consultation exercise, the Council asked residents to prioritise spend on different services across the Council. When faced with the requirement to make savings, respondents prioritised retaining the current level of winter gritting across the borough ahead of other services provided by the Council.

Sandwell was among 78 highway authorities which took part in the 2014 National Highways & Transport Public Satisfaction (NHT) Survey about satisfaction with councils winter gritting. Ranked against other councils, public satisfaction with both the way the Council undertook and kept residents informed, the winter service was rated excellent.

The Winter Service Plan 2016-17 sets out the Council's arrangements for delivery of the winter service to meet its legal obligations to mitigate the risk relating to third party liability claims arising from accident and injury due to snow or ice on the highway.

The Winter Service was funded from the Highways Maintenance target revenue budget at a cost of £540,000 based on an 'average' winter.

An equality impact assessment was not required for this proposal.

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The Chair of the Community Safety, Highways and Environment Scrutiny Board welcomed the Council's success in achieving high levels of satisfaction in delivering an excellent gritting service and sought assurance that the Council would not reduce this service in Sandwell. In response, the Cabinet Member for Highways and Environment thanked staff for achieving high levels of gritting in Sandwell and, provided resources were still available, confirmed that Sandwell would continue this service.

**Resolved** that the Winter Service Plan 2016/17 be approved.

154/16

### **Provision of Scientific Metrology Services (Key Decision Ref. No. PHP01)**

The Cabinet Member for Public Health and Protection reported that in accordance with Section 69 of the Weights and Measures Act 1985, the Council, as a weights and measures authority, discharged a range of statutory functions under the Act which included maintaining local standards to allow it to fulfil its statutory functions, referred to as 'legal metrology'.

Sandwell Trading Standards Service provided a 'scientific metrology' service to businesses in the form of measurement of mass and length to manufacturing and other industries. The authority ensured calibration and quality control of measurements within the borough. These services were chargeable and there was no statutory obligation upon the authority to provide this service.

In 2014, a review of the long term viability of the scientific metrology service was undertaken due to significant investment being required to replicate the scientific metrology service at alternative premises, equipment aging or becoming obsolete and the need to improve the commercial viability of the scientific metrology service.

Due to the introduction of deregulation and greater emphasis on self-verification for businesses, there was limited opportunity for the authority to increase the income of the metrology service and offset the additional costs which could arise. It was also unclear whether the Council would be able to maintain the existing level of income generated from the scientific metrology service.

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If the scientific metrology element of the service ceased there would be a requirement to reduce the staffing capacity of up to two full-time equivalents across the Trading Standards Service. Any employees affected would be subject to the authority's Job's Promise initiative.

There were risks involved in ceasing the provision of local standards, as there was a statutory requirement to provide this service. However, the service could be commissioned from a neighbouring authority, although fewer authorities were now providing this service. In addition, if the Council maintained its local standards, there was the potential for the authority to generate income from this service by offering it to other authorities. In order to continue to provide this service effectively, an investment of £20,000 would be required to update equipment.

Having considered the options, approval was now sought for the Council to cease its scientific metrology service whilst retaining its local standards function. This would allow the Council to maintain a metrology facility at minimum cost, maintain local standards and offer the service to neighbouring authorities whilst maintaining the officer skill set to deliver metrology services.

An equality impact assessment was not required for this proposal.

### **Resolved:-**

- (1) that from 1<sup>st</sup> April 2017, the Council cease to deliver a scientific metrology service to businesses within Sandwell;
- (2) that in connection with resolution (1) above, the Council retains its local standards function and the required facilities for its delivery.

155/16

### **Approval for Adoption of the Black Country Air Quality Supplementary Planning Document (Key Decision Ref. No. REI1036)**

The Cabinet Member for Regeneration and Economic Investment sought approval to the Black Country Air Quality Supplementary Planning Document.

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Air quality was not limited to local authority boundaries, rather the associated effects of development could be felt across the wider regional areas. In order to enable a consistent approach to implementation across the Black Country, joint Supplementary Planning Documents had been developed.

The documents had been subject to an eight week period of public consultation and a total of 17 representations were received. A number of comments made within these representations had been incorporated into the final document, where appropriate.

The comments received during the public consultation and the Councils' responses to them were now considered.

An equality impact assessment was not required for this proposal.

**Resolved** that the Council be recommended to approve and adopt the Black Country Air Quality Supplementary Planning Documentation.

156/16

### **Acquisition of 39 Residential Properties on Brindley 2 Redevelopment Site, Lewisham Road, Smethwick (Key Decision Ref. No. HG20)**

The Leader of the Council, in the absence of the Cabinet Member for Housing, sought approval to purchase 39 new build residential properties "off plan" from Countryside Properties Plc. Once purchased, the properties would be rented as council houses at an affordable rent. The properties were located on the Brindley 2 redevelopment site, Lewisham Road, Smethwick.

The Brindley 2 site was a former industrial estate which was subject to a Compulsory Purchase Order in 2008. The properties were subsequently demolished and the site remediated for residential development. The owner of the site was under contract to sell the site to Countryside Properties Plc subject to the receipt of planning permission.

A full planning application was submitted by Countryside in June 2016 for the erection of 155 houses and was currently under consideration.

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Planning policy HOU3 required that consideration must be given to the provision of up to 25% affordable housing on residential development sites. Countryside offered a number of Registered Providers the opportunity to purchase affordable homes on the site, but no interest had been received.

In order to fulfil the requirements of the affordable housing policy, Countryside had offered the Council the opportunity to purchase a number of units off-plan.

A full valuation of the properties was commissioned by the Council's Property Services Team and the results had shown that the properties offered good value for money.

The units on offer consisted of 23 x 2 bed houses and 16 x 3 bed houses. The projected completion date was September 2017.

The purchase of all the affordable units would assist the Council in reducing the number of people on the Council's Housing Register and generate additional income for the Council through additional Council Tax and potentially through the New Homes Bonus.

A full appraisal had been undertaken by Strategic Finance and some risks had been identified as a result of the appraisal and action points recommended to mitigate these risks.

The Chair of the Housing Scrutiny Board raised questions relating to whether the properties types being built met the demand for properties in the area and whether these properties being built constituted higher value homes in accordance with the Housing and Plan Act, if enacted, where the Government's intention was to use the receipts from these sales to fund the extension of the right to buy. In response, the Leader of the Council:-

- confirmed that housing needs had been assessed in the area and it was found that whilst there was demand for large properties, there was more demand for 2 and 3 bedroom houses. As the planning authority, the Council was specifying the need for properties and if the proposal was approved, the needs of 39 families within Sandwell would be met. The Council would continue to look to building new homes in Sandwell to meet the needs of residents;

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- expressed his concerns and dissatisfaction at the Government proposals to take money from local authorities for what they were calculating to be high value houses. The policy, when introduced, would take money away from the Housing Revenue Account for new housing development and would be given to Government to utilise in what was deemed to be a flawed policy and unfair to the citizens of Sandwell.

### **Resolved:-**

- (1) that the Council acquire 39 properties on the site of Brindley 2, Lewisham Road, Smethwick from Countryside Properties Plc as shown for identification purposes on Drawing No.SK482 – PL -01;
- (2) that in connection with resolution (1) above, the Council enter into or execute under seal, if necessary, any other related documentation in connection with the acquisition of the properties on terms and conditions to be agreed by the Director - Regeneration and Economy;
- (3) that in connection with resolution (1) and (2) above, the Chief Finance Officer allocate £4,237,629.00 from the Housing Revenue Account capital investment programme to facilitate the acquisition of 39 Residential Properties on Brindley 2 Redevelopment site, Lewisham Road, Smethwick;
- (4) that following practical completion of each property, the Director – Neighbourhoods manage and let the premises in accordance with the Council's Housing Allocation Policy;
- (5) that in connection with resolution (1) and (2) above, the following action points identified within the Strategic Finance appraisal be implemented to reduce any risk to the Council:-
  - the Council does not enter into an unconditional contract for the purchase of the units until Countryside Properties Ltd takes ownership of the freehold of land and all other conditions that could affect the purchase are satisfied;

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- review the Risk Register to ensure all areas of risk are identified and can be adequately mitigated;
- ensure that legal advice is sought and followed in relation to mitigating the risk of non-delivery against payments made by the Council and ensuring the completion of the development to the Council's satisfaction within the required timescales;
- determine how proposed outcomes will be measured and reported.

157/16

### **Recommendations arising from Land and Asset Management Committee at its meeting on 15<sup>th</sup> September 2016 (Key Decision Ref. No. LAM02, LAM021 and LAM023)**

The Leader of the Council, in the absence of the Chair of the Land and Asset Management Committee, presented the recommendations of the Land and Asset Management Committee from its meeting held on 15<sup>th</sup> September, 2016 relating to the following matters:-

- disposal of the Crocketts Lane Development Site, Smethwick;
- land at Mafeking Road, Smethwick;
- land at Junction 2 – exchange of lands at Swallowfield Court, off Wolverhampton Road, Oldbury.

In relation to the proposal for Mafeking Road, Smethwick, the Leader reported that discussions regarding the future of the site had been ongoing for some time with potential for a Council house build being considered. A request had, however, been received from Countryside Limited, the developer and owner of the adjoining site, to residentially redevelop the site in conjunction with its adjoining land known as Brindley II. It was now recommended that the land off Mafeking Road should be made available for disposal to Countryside Limited. The Committee had also requested that in the event that there was a variance to the independent valuation of the land, the Director – Regeneration and Economy would submit a further report for consideration by the Land and Asset Management Committee.

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In relation to the proposal to exchange lands off Wolverhampton Road, Oldbury, the Committee requested that a covenant be included so that in the event that in future years the land was sold yielding a higher value, a covenant and charge would be placed on the piece of land used for car parking in order to protect the Council's long term interests and to maximise the value of the land based on its restrictive use.

The Leader of the Council now sought approval to the proposals.

### **Resolved:-**

- (1) that in respect of the disposal of the freehold interest of the site of the former Crocketts Lane, Smethwick:-
  - (a) the site of the former Crocketts Lane Junior and Infant School, Crocketts Lane, Smethwick be declared surplus to the Council's requirements;
  - (b) subject to (a) above, the Council dispose of the freehold interest of the site of the former Crockett's Lane Junior and Infant School, Crocketts Lane, Smethwick, shown hatched black and Marked A on Plan No SAM/13240/016 to ESRG Crocketts Lane Ltd on terms and conditions to be agreed by the Director – Regeneration and Economy;
  - (c) in the event that ESRG Crocketts Lane Ltd fails to complete acquisition of the land referred to in (b) above, or if terms of disposal cannot be agreed, the Council dispose of the land on the open market on terms and conditions to be agreed by the Director - Regeneration and Economy;
  - (d) that, subject to (a) and (b) above the Council enter into or execute under seal, if necessary any other related documentation in connection with the disposal of land on terms to be agreed by the Director - Regeneration and Economy;
- (2) that, in respect of the disposal of land at Mafeking Road, Smethwick:-

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- (a) Minute No. 6/11 taken by the former Asset Management Land Disposal Cabinet Committee on 27<sup>th</sup> October 2011 be not proceeded with in so far as it relates to the disposal of the freehold interest of land at Mafeking Road, Smethwick as 10 Individual Building Plots and/or disposal of the site on the open market;
  - (b) the Council dispose of the freehold interest in approximately 3056 m2 of land off Mafeking Road, Smethwick shown edged black on Plan No SAM/30960/003 to Countryside Ltd on terms and conditions to be agreed by the Director - Regeneration and Economy;
  - (c) that, in the event that the capital receipt for the disposal of land off Mafeking Road, Smethwick, is lower than the independent valuation of the site, the Director – Regeneration and Economy submits a further report to the Land and Asset Management Committee for consideration;
  - (d) in the event that Countryside Ltd fail to complete acquisition of the land as outlined in (b) above or if terms of disposal cannot be agreed, the Council dispose of the land on the open market on terms and conditions to be agreed by the Director - Regeneration and Economy;
  - (e) the Council enter into or execute under seal, if necessary, any other related documentation in connection with the disposal of the site on terms and conditions to be agreed by the Director - Regeneration and Economy;
- (3) that in respect of the exchange of lands off Wolverhampton Road, Oldbury:-

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- (a) the Council dispose of the freehold interest in the land off Wolverhampton Road, Oldbury shown, for identification purposes only, edged black and Marked A on Plan No SAM/53980/023, to Deutsche Bank for construction of a car park and otherwise on terms and conditions to be agreed by the Director – Regeneration and Economy;
- (b) the Council acquire, from Deutsche Bank, land off Wolverhampton Road, Oldbury, shown for identification purposes only, hatched black (Marked B) and shaded grey (Marked C) on Plan No SAM/53980/023 on terms and conditions to be agreed by the Director – Regeneration and Economy;
- (c) the Council enter into or execute under seal, if necessary, any other related documentation in connection with the exchange of the lands referred to in (a) and (b), including a restrictive covenant and charge on the land marked A on Plan No. SAM/53980/023, on terms to be agreed by the Director – Regeneration and Economy.

### **Business Items**

158/16

#### **Unauthorised Encampments Policy**

The Cabinet Member for Regeneration and Economic Investment sought approval to revise the Council's corporate policy on unauthorised encampments and to undertake public consultation on the proposals. The policy sought to protect the Council against third party claims and to enable all agencies to act in a timely, co-ordinated and appropriate manner.

The Council was also required to satisfy the Courts that the welfare needs of the transgressors had been investigated and that proper procedures had been followed to secure possession of the land that was the subject to unauthorised occupation.

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The Council was required to consider identifying 'acceptable' temporary stopping places for those wishing to camp and by adopting this policy, the Council could demonstrate to partner agencies, the settled community and the travelling community, that officers were acting in line with policy. This should address calls for action to remove mobile groups as soon as they formed on Council owned land within the borough until the Council had discharged its duties.

In following the proposed processes, issues that could arise from mobile groups such as noise, fly tipping or damage to the site could be, subject to Police support, be resolved more efficiently to the benefit of nearby local residents.

When evicting unauthorised campers, local authorities should, where appropriate, follow a route which required a court order. However, the main changes within the proposed document were to allow, in exceptional circumstance, the use of bailiffs using common law powers and for consideration of injunctions to be served against identified problematic groups.

The Chair of the Housing Scrutiny Board raised a number of questions as follows:-

- where travellers had caused criminal damage to gain entry to a site, the Police did not appear to have taken any legal action. Was there any validity to this;
- when the Council became aware of problematic families descending on the Borough, whether injunctions should be carried out for any major sites;
- the clearing up of sites when travellers had left and the Council picking up the cost of this at a time of drastically reducing budgets. Was there anything being done to mitigate this;
- designing a leaflet for local residents in close proximity of identified sites to inform them of reporting processes and procedures of unauthorised encampments.

In addition, the Cabinet Member for Children's Services reported that travellers had recently moved into a playing field in Friar Park for 72 hours and with the help of the Planning Enforcement Team, officers and local members were able to drop leaflets to local residents and help to move the travellers.

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However, at the time, residents had reported that they had been threatened and felt intimidated by the travellers. There had also been a spate of robberies at local shops which had led to many shops closing early.

When residents had contacted the Police, they had been advised to contact their local ward member. Concern was subsequently raised at the Police response.

In response to the questions and concerns raised, the Cabinet Member for Regeneration and Economic Investment reported that:-

- where there were repeated instances, the Council would look to introduce measures to secure high risk sites in order to minimise/reduce disruption to residents and local businesses;
- the Council had ongoing co-operation with the Police on the issue of travellers and unlawful encampment and the proposed policy to address unauthorised encampments would be a joint policy for the Council and the Police;
- where there was evidence of criminal damage/activity undertaken by travellers, this would be taken up with the Police;
- the authority had recently encountered a number of problems with one particular family relating to flytipping and criminal activity. The Council, in conjunction with the Police, was currently preparing to take legal action against these individuals, and, although it was acknowledged that this was not a quick process, the Council was going to take action;
- the Council, through Neighbourhood Offices, had prioritised the creation of a leaflet to notify residents on how to report unauthorised encampments and to consult local ward members;
- it was acknowledged that not all travellers created damage or flytipping. Many travelling groups created minimal rubbish. However, the Council was taking action against a group that had caused significant flytipping in Sandwell;
- the Council was preparing a case, in conjunction with the Police, to seek compensation for criminal damage and flytipping in Sandwell.



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### **Resolved:-**

- (1) that the Director – Regeneration and Economy undertake public consultation on the revised Unauthorised Encampments policy and protocols document;
- (2) that in connection with resolution (1) above, a further report be submitted to the Cabinet, following the public consultation, to approve the revised Unauthorised Encampments policy and protocols document.

159/16

### **Personal Relationships at Work Policy**

The Cabinet Member for Core Council Services reported that the Council recognised that close personal relationships between employees, job applicants, elected members, contractors, clients, customers and/or suppliers would exist or develop during the course of the everyday functioning of the Council, however, where the public's trust and confidence could be weakened as a result of these close personal relationships, the Council would not allow such a situation to occur or continue.

There had been a requirement for Sandwell employees to declare any personal "interests" to the Council for many years. There had also been HR guidance available for managers to how to deal with such situations on a day-to-day basis, however, a formal policy on personal relationships at work was currently in place.

Approval was therefore sought to adopt a Personal Relationships at Work Policy which would now make the Council's expectations on employees, managers and job applicants clear when working with someone from within the Council with whom they had a close personal relationship.

It was proposed that this new policy would apply to all non-school-based employees of the Council. Schools that were maintained by the local authority would be encouraged to adopt its provisions.

On 20<sup>th</sup> September 2016, the Joint Consultative Panel met to consider the policy. The Panel agreed that the Policy should be revised so as to include:-

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- consistency as to ‘Close Personal Relationship’ wording;
- for managers to offer the right of representation;
- for the manager to notify the redeployment teams so the redeployee would have the full support of the same.

The Cabinet Member for Core Council Services now sought approval to the revised policy.

In response to a question from the Chair of the Housing Scrutiny Board relating to what constituted a close personal relationship, the Cabinet Member clarified that it could include:

- marriage, civil partnership;
- immediate family member, friends or extended family;
- close associates or relationships where a perceived or actual conflict of interest existed between an employee’s job or the Council and the public’s interests of the employee’s interests. In the event that such a relationship existed, both members and employees would need to declare this.

**Resolved** that the Personal Relationships at Work Policy be approved and adopted with immediate effect.

160/16

### Minutes of the Meeting of the Cabinet Petitions Committee held on 24<sup>th</sup> August, 2016

The minutes of the meeting of the Cabinet Petitions Committee held on 24<sup>th</sup> August, 2016 were received.

A question was raised by the Chair of the Housing Scrutiny Board relating to a petition received on street busking in Wednesbury and seeking clarity on the Council’s process on how to deal with a counter petition that may have been signed by other local ward member.

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In response, the Leader of the Council was of the view that where ward members from a different ward were representing a counter petition, the Cabinet Petitions Committee would make a judgement and may be minded to take greater regard to the petition from the ward that it related to as it was right and proper for local ward members to represent the views of their local constituents. All petitions, however, would be considered on their merits.

(Meeting ended at 4.37 pm)

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