

TONBRIDGE AND MALLING BOROUGH COUNCIL

LOCAL ENVIRONMENTAL MANAGEMENT ADVISORY BOARD

Tuesday, 31st May, 2011

Present: Cllr M O Davis (Chairman), Cllr Miss A Moloney (Vice-Chairman), Cllr Mrs P Bates, Cllr C Brown, Cllr F R D Chartres, Cllr Mrs E M Holland, Cllr Mrs F A Kemp, Cllr S M King, Cllr Miss J L Sergison, Cllr C P Smith and Cllr D J Trice.

Councillors Mrs Anderson, Ms Atkinson, Baldock, Evans, Rhodes, Rogers and Worrall were also present pursuant to Council Procedure Rule No. 15.21.

Apologies for absence were received from Councillors Balcombe and Mrs Oakley.

PART 1 - PUBLIC

**LEM
11/020** **DECLARATIONS OF INTEREST.**

There were no declarations of interest made.

**LEM
11/021** **MINUTES**

RESOLVED: That the notes of the meeting of the Local Environmental Management Advisory Board held on 28 February 2011 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE CABINET

**LEM
11/022** **FIXED PENALTY NOTICES - INTRODUCTION OF AN APPEALS PROCEDURE**

Decision Notice D110072MEM

The joint report of the Director of Health and Housing, the Chief Solicitor and Monitoring Officer and the Cabinet Member for Environmental Services considered the introduction of an informal appeals procedure relating to Fixed Penalty Notices (FPNs) for littering and dog fouling offences.

Reference was made to recent experience regarding the service of a FPN which had indicated a need to consider whether it was appropriate to introduce an 'informal' appeals procedure. Having considered relevant guidance from the Department for Environment, Food and Rural Affairs (DEFRA) and Best Practice at other councils, officers were of the view that the introduction of an informal appeals procedure

would be appropriate. In addition, it was believed that the challenges provided by an appeals procedure allowed for the concerns of a member of the public to be heard and also worked as an ongoing assurance check on enforcement procedures to ensure they were fit for purpose. It was noted that an appeals procedure was not required in law but was viewed as best practice and met DEFRA guidance.

The suggested ground rules for an appeals process were outlined in the report and noted by Members.

The Advisory Board considered that it would be appropriate to allow a further discount period of 10 working days from the date of the decision if an appeal was unsuccessful, given that the cost of achieving and maintaining a clean street scene was significant. This would also be consistent with other discount policies which existed in various appeal processes throughout the country.

In conclusion, the important role that environmental enforcement played in dealing with those who littered the borough was recognised.

RECOMMENDED: That

(1) the approach detailed in the report on the introduction of an appeals procedure relating to the service of Fixed Penalty Notices in respect of littering and dog fouling offences be noted and endorsed; and

(2) the delegation to the Director of Health and Housing of the duty of conducting appeals against Fixed Penalty Notices for littering or dog fouling offences be approved.

**LEM
11/023**

ENVIRONMENTAL PROTECTION TEAM PERFORMANCE 2010-11

Decision Notice D110073MEM

The joint report of the Director of Health and Housing and the Cabinet Member for Environmental Services described the operational activities of the Borough Council in relation to its statutory function of Environmental Protection and Pollution Control for the year 1 April 2010 to 31 March 2011. In addition, proposed service improvements for 2011/12 were set out in the report.

Reference was made to issues surrounding the legal duty to carry out air quality monitoring and it was noted that air quality problems were attributable to road traffic. In addition, there were either practical difficulties or unwillingness by the responsible bodies to effect improvements.

Members voiced serious concern and disappointment regarding the monitoring of air quality given that the bodies responsible for delivering identified actions appeared reluctant to address them. It was suggested that consideration be given to the Overview and Scrutiny Committee undertaking a review of the monitoring regime and challenging DEFRA, and other responsible organisations, on the

usefulness of continuing to carry out air quality monitoring and the preparation of Air Quality Action Plans.

RECOMMENDED: That

(1) the performance information relating to activities associated with the environmental protection function in 2010/11 be noted; and

(2) the actions and service improvements for 2011/12, detailed in paragraph 1.10 of the report, be endorsed.

**LEM
11/024**

FOOD AND SAFETY TEAM PERFORMANCE 2010-11

Decision Notice D110074MEM

Members considered the joint report of the Director of Health and Housing and the Cabinet Member for Environmental Services, which described the operational activities of the Borough Council in relation to its statutory function of food safety and health and safety for the year 2010/11.

It was noted that during the year, the Food and Safety team had delivered on most aspects of the improvement actions previously identified and that from January 2011 administration of infectious disease had been brought back in-house from Maidstone Borough Council and was working successfully and achieving cost savings.

In addition, proposed service improvements for 2011/12 were set out in the report and noted by Members.

The Advisory Board commended the Food and Safety Team's excellent performance in getting 90% of food businesses broadly compliant, which was due to their hard work and commitment.

RECOMMENDED: That

(1) the performance information relating to activities associated with the food and safety function in 2010/11 be noted; and

(2) the service improvements for 2011/12, as detailed in paragraph 1.9 of the report, be endorsed.

MATTERS SUBMITTED FOR INFORMATION

**LEM
11/025**

WASTE AND STREET SCENE SERVICES - CONTRACT PERFORMANCE 2010-11

The report of the Director of Health and Housing considered performance across the high profile functions managed by the Waste and Street Scene Service, namely refuse collection, recycling, amenity and street cleansing, public convenience cleaning, abandoned vehicles, pest control and the dog warden service. The, as yet, unaudited key performance information was provided, together with a

comparison with the previous years' performance.

It was noted that the failure to provide effective and efficient front line and high profile services could result in criticism from residents and impinged directly on their view of the Borough Council and satisfaction with services delivered.

Members discussed minor issues regarding the bulky household waste collection service, promotion of alternative services for recycling and collection of waste, collection of missed bins and the potential for increasing recycling and doorstep collection, all of which were addressed satisfactorily by officers.

Reference was made to the reinstatement of weekly bin collections alluded to by central Government. Members were advised that there had been no formal announcement from Government and full details of the proposal were not known. It was anticipated that more information would be available by the next meeting of the Advisory Board and Members would be updated as soon as possible.

**LEM
11/026**

ANNUAL ENVIRONMENTAL MONITORING REPORT 2010-11

The Director of Health and Housing summarised the results of the environmental monitoring programme carried out by the Environmental Protection Team during 2010.

The annual report on routine monitoring activities provided detailed information on all aspects of local environmental quality and set the picture in context of relevant national and international standards. A copy of this report had been placed on the Borough Council's website and copies sent to schools, colleges and libraries in the borough.

**LEM
11/027**

WASTE REGULATIONS 2011

Members noted the report of the Director of Health and Housing which summarised new legislation relating to waste management and referred to the revised EU Waste Framework Directive, waste hierarchy, recycling and re-use targets for household waste and waste regulations and hazardous wastes.

**LEM
11/028**

WASTE, RECYCLING AND STREET SCENE UPDATE

The Director of Health and Housing provided an update on a number of waste management issues and service improvements.

Particular reference was made to weed control and grass cutting and the significant reductions in the level of service announced by Kent County Council at a recent meeting of the Street Scene Officers Study Group. It was noted that a detailed report on the proposed changes was being presented to the Joint Transportation Board on Monday 13 June 2011. Members asked that the Joint Transportation Board be urged to voice the grave concern and disappointment of the Borough Council to this proposal. It was noted that the Leader, the Cabinet

Member for Environmental Services and the Cabinet Member for Communities hoped to meet the Kent County Council Cabinet Member for Environment, Highways and Waste to request greater co-ordination and co-operation between the County and Borough Councils to address the concerns surrounding weed control and grass cutting.

**LEM
11/029**

CLEANER BOROUGH CAMPAIGN UPDATE

Details of enforcement, educational and community initiatives undertaken in 2010/11 were set out in the report of the Director of Health and Housing.

Members were reminded that the Cleaner Borough Campaign was the Borough Council's proactive approach to reducing litter, dog fouling, fly-tipping and graffiti and that a 'zero tolerance' policy had been adopted when people were seen littering or not clearing up after their dog.

It was noted that the combination of working with the community, enforcement and effective cleansing was considered to be a sustainable way of improving the quality of the environment in the borough.

**LEM
11/030**

EXTERNAL CONSULTATIONS

Members noted the consultation documents responded to since the last meeting of the Board.

**LEM
11/031**

SERVICE OF STATUTORY NOTICES

Members were advised of the statutory notices served since the last meeting of the Advisory Board.

MATTERS FOR CONSIDERATION IN PRIVATE

**LEM
11/032**

EXCLUSION OF PRESS AND PUBLIC

No items were considered in private.

The meeting ended at 2100 hours

TONBRIDGE & MALLING BOROUGH COUNCIL

RECORD OF DECISION

**Decision Taken By: CABINET MEMBER FOR
Environmental Services**

Decision No: D110072MEM

Date: 31st May 2011

Decision(s) and Reason(s)

Fixed Penalty Notices - Introduction of an Appeals Procedure

(Joint Report of Director of Health and Housing, Chief Solicitor and Monitoring Officer and Cabinet Member for Environmental Services)

The report considered the introduction of an informal appeals procedure relating to Fixed Penalty Notices (FPNs) for littering and dog fouling offences.

Following consideration by the Local Environmental Management Advisory Board, the Cabinet Member for Environmental Services resolved that:

- 1) the approach detailed in the report on the introduction of an appeals procedure relating to the service of Fixed Penalty Notices in respect of littering and dog fouling offences be noted and endorsed; and
- 2) the delegation to the Director of Health and Housing of the duty of conducting appeals against Fixed Penalty Notices for littering or dog fouling offences be approved.

Reasons: As set out in the report submitted to the Local Environmental Management Advisory Board of 31 May 2011.

Signed Cabinet Member for H Rogers
Environmental Services:

Signed Leader: M Worrall

Signed Chief Executive: D Hughes

Date of publication: 03 June 2011

This decision will come into force and may then be implemented on the expiry of 5 working days after publication unless it is called in.

TONBRIDGE & MALLING BOROUGH COUNCIL

RECORD OF DECISION

**Decision Taken By: CABINET MEMBER FOR
Environmental Services**

Decision No: D110073MEM

Date: 31st May 2011

Decision(s) and Reason(s)

Environmental Protection Team Performance 2010-11

**(Joint Report of Director of Health and Housing and Cabinet
Member for Environmental Services)**

(Annex 1)

(Annex 2)

**The report described the operational activities of the Council in
relation to its statutory function of Environmental Protection and
Pollution Control for the year 1 April 2010 to 31 March 2011.**

**Members voiced serious concern and disappointment regarding
the monitoring of air quality given that the bodies responsible for
delivering identified actions appeared reluctant to address them. It
was suggested that consideration be given to the Overview and
Scrutiny Committee undertaking a review of the monitoring regime
and challenge DEFRA, and other responsible organisations, on the
usefulness of continuing to identify and prepare Air Quality Action
Plans.**

Following consideration by the Local Environmental Management
Advisory Board, the Cabinet Member for Environmental Services
resolved that:

1) the performance information relating to activities associated with the
environmental protection function in 2010/11 be noted; and

2) the actions and service improvements for 2011/12, detailed in
paragraph 1.10 of the report, be endorsed.

Reasons: As set out in the report submitted to the Local Environmental
Management Advisory Board of 31 May 2011.

Signed Cabinet Member for H Rogers
Environmental Services:

Signed Leader: M Worrall

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TONBRIDGE & MALLING BOROUGH COUNCIL

RECORD OF DECISION

**Decision Taken By: CABINET MEMBER FOR
Environmental Services**

Decision No: D110074MEM

Date: 31st May 2011

Decision(s) and Reason(s)

Food and Safety Team Performance 2010-11

**(Joint Report of Director of Health and Housing and Cabinet
Member for Environmental Services)**

(Annex 1)

(Annex 2)

(Annex 3)

(Annex 4)

**The report described the operational activities of the Council in
relation to its statutory function of food safety and health and
safety for the year 2010/11.**

Following consideration by the Local Environmental Management
Advisory Board, the Cabinet Member for Environmental Services
resolved that:

- 1) the performance information relating to activities associated with the
food and safety function in 2010/11 be noted; and
- 2) the service improvements for 2011/12, as detailed in paragraph 1.9 of
the report, be endorsed.

Reasons: As set out in the report submitted to the Local Environmental
Management Advisory Board of 31 May 2011.

Signed Cabinet Member for H Rogers
Environmental Services:

Signed Leader: M Worrall

Signed Chief Executive: D Hughes

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