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Meeting	Corporate and Scrutiny Management Committee (Calling In)
Date	27 August 2014
Present	Councillors Galvin (Chair), Burton, Horton, King, Potter, Aspden (sub for Cllr Runciman), Healey (sub for Cllr Steward), Hyman (sub for Cllr Jeffries) and Barnes (sub for Cllr Fraser)
In Attendance	Councillors Doughty, Levene, Reid, Steward, Watson, Warters and Wiseman
Apologies	Councillors Fraser and Runciman

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## 5. **Declarations of Interest**

At this point in the meeting, Members were asked to declare any personal interests not included on the register of interests, any prejudicial interests or any disclosable pecuniary interest which they might have in respect of the business on the agenda. No additional interests were declared.

## 6. **Exclusion of Press and Public**

Resolved: That it was agreed to exclude the press and public from the meeting during consideration of Appendix 1 to agenda item 5 (Lendal Bridge and Coppergate Regulation Order) on the grounds that it contained information relating to the financial or business affairs of particular persons (including the authority holding that information). Such information is considered exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

## 7. **Public Participation**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme

which had subsequently been withdrawn and that a Member of the Council had also requested to speak.

Cllr Watson spoke to question the reason for the decision taken by Cabinet in relation to the refund of fines received in connection with the Lendal Bridge Traffic Order. He questioned whether the decision taken to only refund motorists that appealed against their Penalty Charge Notices had been taken as a charge would be made for the release of the names and addresses of those involved.

Officers confirmed that the company employed to undertake this work, on behalf of the Council, did hold the records and refunds would be made to the registered keepers at the time of the issuing of the Penalty Charge Notice. This would then ensure that any repayments were correctly made to the individual who paid the fine. It was also confirmed that the costs depended on the number of applications received.

## **8. Minutes**

Resolved: That the minutes of the last meeting of the Committee held on 14 July 2014 be confirmed as a correct record and be signed by the Chair

## **9. Called-In Item: Lendal Bridge and Coppergate Traffic Regulation Orders**

Members received a report which asked them to consider the decisions made by the Cabinet at their meeting held on 5 August 2014, in relation to the Council's pursuance of its application for a review of the decision to the Traffic Penalty Tribunal Adjudicator in respect of appeals against fines for breach of the Lendal Bridge Traffic Regulation Order.

Details of the Cabinet's decision were attached as Annex A to the report and the original report to the Cabinet meeting attached as Annex B. The decision had firstly been called in by Cllrs Aspden, Cuthbertson and Reid on the grounds that:

- The report and the recommendations put the onus on the motorist fined to contact the council and 'appeal' against their Penalty Charges Notices (PCN's) in order to claim a refund.

- Instead, we believe that the onus should be on the council to contact each motorist who has been fined. Many of them will live outside York (or even the UK) so will not have heard that they are entitled to their money back. So every one of them should automatically be contacted by the council and refunded in full without question.
- The fine income, which has been ring-fenced in reserves, should be used to repay the motorists. The repayment should also come with a formal apology from the council.
- If the fines are not repaid automatically, this risks doing further reputational damage to York through an unclear individual repayment process, where some get their money back but others don't. It will also create the impression that the council is trying to hang on to as much of the fine money as possible to spend elsewhere.

Councillor Reid addressed the meeting on behalf of the Calling In Members. She expanded on the four reasons given for the call in confirming that, whilst having no problem with the Lendal Bridge trial, in accordance with the principles of natural justice all fines should be repaid without the onus being on motorists to appeal. She went on to question a number of points including the number of outstanding PCN's and the use of any outstanding monies.

Subsequently the decision had been called in by Cllrs Steward, Doughty and Wiseman for the following reasons:

The council's decision to refund Lendal Bridge Penalty Charge Notice's only to motorists who make an application for a refund is flawed because not re-paying all of the fines now:

- will increase administration costs;
- will continue the uncertainty over CYC's ultimate financial outlay regarding PCN payments;
- compounds the reputational damage done to York's image as a welcoming tourist destination by selectively favouring local motorists over visitors from other parts

of the country, who are not regular consumers of local media or readers of the council's website and who therefore will not be aware of the council's refund policy;

- is, despite the administration's creation of a 'Fairness Commission', neither honest, professional nor fair.

Councillor Steward spoke on behalf of the second group of calling in members reiterating their reasons for call in, in particular the reputational damage caused to the city and the need for a formal apology. He questioned the time allowed for payment of claims and the administration costs for those motorists that would receive a refund.

Councillor Levene, as Cabinet Member for Transport went through the reasons given for the call in, pointing out that the authority were not obliged to repay motorists. However, in view of the length of time for determination of the outcome of the Adjudicator's review it was not considered in the public interest to continue with the claim and in order to draw a line under the matter to repay all motorists who appealed against their fines. He pointed out that the number of fines had only affected a small percentage of the city's annual visitor numbers and that since the end of the Lendal Bridge trial visitor footfall, measured by the camera in Parliament Street, had increased. He also pointed out that this issue was preventing discussions to address the growing issue of traffic congestion on the city.

Members reiterated the effect they felt the Lendal Bridge trial had had on the city's reputation and for the need to accept the repayment of all fines. They also questioned if the administration costs of repayment could be greater than the fines received and why the Adjudicators ruling was not being pursued.

In answer to questions the Assistant Director, Transport, Highways and Waste confirmed that administration costs in relation to repayment of fines would vary depending on whether all motorists were contacted and that a time limit had not yet been determined for repayments.

The Deputy Head of Legal Services reiterated that legal advice had been received from a QC who had confirmed that the process proposed by the Council was entirely fair and lawful. He

also confirmed that, as the traffic order had been valid, legally any repayments made would be as compromise 'settlement payments' rather than refunds.

Members were then asked to decide whether to confirm the decision made by the Cabinet (Option a) or to refer it back to the Cabinet for re-consideration (Option b).

After a full debate, Cllr Horton moved and Cllr Potter seconded that Option a. be confirmed and the Cabinet decision be confirmed.

Other Members continued to express their concerns around the implementation of the Lendal Bridge trial and requested reconsideration of the proposed repayment scheme, in view of the administration costs.

On being put to the vote five Members voted for Option a to confirm the decision and four voted against and it was

Resolved: That Option a. be approved and that the decision of the Cabinet be confirmed.

Reason: In accordance with the requirements of the Council's Constitution.

Cllr J Galvin, Chair

[The meeting started at 5.00 pm and finished at 6.30 pm].