



Notice of a public meeting of

Decision Session - Executive Member for Housing, Planning and Safer Communities

To: Councillor Pavlovic

Date: Wednesday, 28 February 2024

Time: 10.00 am

Venue: The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by **4:00 pm on Wednesday 6 March 2024**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent, which are not subject to the call-in provisions. Any called in items will be considered by the Corporate Services, Climate Change and Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00 pm on Monday 26 February 2024**.

1. Declarations of Interest (Pages 1 - 2)

At this point in the meeting, the Executive Member is asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members].

2. Minutes (Pages 3 - 6)

To approve and sign the minutes of the Decision Session held on 20 September 2023.

3. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines have changed to 2 working days before the meeting. The deadline for registering at this meeting is at **5.00pm on Monday 26 February 2024**.

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda.

4. Review of Council Garage Licence Agreement (Pages 7 - 16)

This report sets out the current position on Garage Licences and seeks in principle approval for proposed changes to the licence agreement subject to final wording to be agreed with Legal Services, and to delegate the final version to a published officer decision by the Director of Housing, Economy & Regeneration.

5. Urgent Business

Any other business which the Executive Member considers urgent under the Local Government Act 1972.

Democracy Officer: Ben Jewitt
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For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

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Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Housing, Planning and Safer Communities
Date	20 September 2023
Present	Councillor Pavlovic
Officers in Attendance	Michael Jones, Head of Housing Delivery and Asset Management Anthony Dean, Healthy and Sustainable Homes Manager

5. Declarations of Interest (10:03)

The Executive Member was asked to declare, at this point in the meeting, any disclosable pecuniary interests, or other registerable interests he might have in the respect of business on the agenda, if he had not already done so in advance on the Register of Interests. The Executive Member did not declare any interests but mentioned that the additional House in Multiple Occupation licensing scheme was in operation in his ward.

6. Minutes (10:03)

Resolved: That the minutes of the previous meeting held on 19 July 2023 be approved and then signed as a correct record by the Executive Member.

7. Public Participation (10:04)

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme.

Gwen Swinburn spoke on the House in Multiple Occupation (HMO) register, stating that it should be on an open data spreadsheet and asked for full access to it. She explained that the Council's HMO register lacked detail and compared it to the registers of other local authorities. She concluded by asking the Executive Member why the register was not available to view at West Offices and why there was no online searchable database available.

Denise Craghill spoke on behalf of the Green Party on agenda item 4 – Justice for Tenants and Private Rented Sector Enforcement. She welcomed the proposal and explained that the arrangement would encourage and provide an incentive for tenants in HMOs to report issues to the Council. She encouraged the Executive Member to approve the

recommendation before suggesting that licencing could be extended to the wider rented sector, for example on short-term holiday lets.

8. Justice for Tenants and Private Rented Sector Enforcement (10:11)

The Executive Member considered a report which provided an update on the Additional Licensing Programme for Houses in Multiple Occupation (HMO) and outlined an opportunity to further support residents who lived in a licensable HMO through the not-for-profit organisation, Justice for Tenants (JFT).

The Healthy and Sustainable Homes Manager outlined the report stating that the Council was proposing a partnership with JFT, which provided advice and support to private sector tenants by assisting with rent repayment applications or providing a representation service. He explained that JFT would pay the Tribunal fees on behalf of those they represent and a success fee would later be recovered. He concluded by noting that this partnership will help the Council identify unlicensed premises and would provide tenants with a financial incentive to report landlords.

In response to questions from the Executive Member, the Officer noted that:

- The partnership could be implemented fairly quickly as the Council were in the process of finalising the terms.
- There have been meetings with resident and landlord associations and they expressed the desire for further enforcement. Both universities also supported the partnership.
- HMO licensing and planning applications were sent to all the relevant Officers in both departments to ensure up-to-date information.
- The Council had a legal obligation to issue a licence once an application was received and conditions could then be placed. This could mean that a property was licenced but not have planning permission, which would then fall to planning Officers to manage.
- Officers would examine how the HMO register was publicised and have been actively asking residents to report problems and identify any HMOs to the Council.

The Executive Member then asked that Officers communicate the details of the JFT scheme to residents and landlords once it was in place. It was then;

Resolved:

- i. That the creation of a partnership with Justice for Tenants (JFT), who could provide support and advice to private residential be supported, including applying for rent repayment orders, through the signing of a Service Level Agreement and Data Sharing Agreement between the Council and JFT.
- ii. That authority be delegated to the Director of Housing Economy and (and their delegated officers), in consultation with the Director of Governance (and their delegated officers), to negotiate the provisions, and conclude the entry into the proposed Service Level Agreement and Data Sharing Agreement with JFT.

Reason: The proposed partnership will assist the Council in bringing private sector properties, and in particular properties which are subject to additional HMO licensing requirements, into compliance with legislation by encouraging tenants to report properties which are non-compliant to the Healthy and Sustainable Homes team to investigate and take appropriate action to resolve.

Councillor Pavlovic, Executive Member

[The meeting started at 10.03 am and finished at 10.26 am].

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Meeting:	Decision Session - Executive Member for Housing, Planning and Safer Communities (including the Local Plan)
Meeting date:	28/02/2024
Report of:	Director of Housing, Economy and Regeneration
Portfolio of:	Cllr. M Pavlovic- Executive Member for Housing, Planning and Safer Communities (including the Local Plan)

Decision Report: Garage Licence Review

Subject of Report

1. This report sets out the current position on Garage Licences and seeks in principle approval for proposed changes to the licence agreement subject to final wording to be agreed with Legal Services, and to delegate the final version to a published officer decision by the Director of Housing, Economy & Regeneration. This is to ensure that garage licence is brought up to date, is fit for purpose and has a suitable clause to allow for an annual increase in fees subject to Full Council approval at the annual Full Council finance meeting. It also seeks to insert a new clause preventing customers with housing related rent arrears with CYC becoming garage licensees except where there are exceptional circumstances.
2. The annual licence fee increase to garages must be done manually at present, through letters being sent to all licensees advising that should they not accept to pay the fees increase the Council will end the license agreement, or to take the option to end the license themselves. A decision is required to allow updating of the Licence so that the annual licence fee increase can be done based on an appropriate clause within the license. The current licence also has no provision allowing staff to consider housing related arrears, and by adding this clause it will ensure that staff can refuse applications where there is concern over customers'

ability to pay. In addition Legal Services advise that a general update of language and terms is required.

Benefits and Challenges

3. The benefits of approving the recommendations in this report, are ensuring that the Licence is fit for purpose, allowing for licence fee increases to be applied in a timely way without intensive use of officer resources. It will allow officers to consider the eligibility of CYC housing tenants and leaseholders to rent a garage, based on their ability to pay rent or service charges whilst taking exceptional circumstances into account. The challenge to the recommendations is that some customers may consider the new terms unsatisfactory, which could risk garage licences being terminated. This would mean an increase in the number of void (vacant) garages and a reduction to the income that the CYC receives. However, we are aware that the Council's garage licence fees are competitive and many are in popular areas, so this risk is low.

Policy Basis for Decision

4. The high-level policy basis for the proposed decision relates to the effective management of the council's resources, which supports the Council plan and links specifically with the administration's manifesto pledge around affordability.

Financial Strategy Implications

5. By approving the recommendations of the report CYC can expect to save in the costs of officers' time and administration (in the Housing Revenue Account). Also, not allowing people in housing debt to the council to apply is expected to reduce the risk of arrears on garage fees.

Recommendation and Reasons

6. The most significant change to the Licence is to introduce a mechanism to allow the annual licence fee increase, which will allow for a licence fee increase.
7. Current Position

8. As there is no mechanism to allow for the licence fee increase within the current licence, Housing are required to write to each Licensee, seeking consent.
9. Licensees have the option not to grant consent by contacting Housing Services, which would then see their Licence agreement terminated. This creates a void garage, with a loss of income while an alternative occupant is found.
10. There is no clause within the current agreement that excludes customers who are currently in rent or service charge arrears, from renting a garage, this can result in further bad debt being owed to CYC.
11. Proposed Position
12. It is proposed that a new clause is inserted into the Licence Agreement (final version and wording to be agreed with Legal Services) that shows how the annual licence fee increase is calculated, which means this can be done automatically, without the need to seek consent or end the license.
13. Any increase regardless is agreed at full council finance meeting each financial year.
14. A further change to the Licence is to introduce exclusions for customers who are in rent or service charge arrears.
15. It is proposed that clauses are inserted into the licence agreement that provides the facility to exclude new customers who are currently in rent or service charge arrears, whilst allowing for exceptional circumstances for example because of protected characteristics or specific personal circumstances. Housing Services will encourage applicants to put in place repayment agreements so that they can access a garage at the earliest opportunity.

16. Customers who currently have licence fee arrears, would remain unaffected and would continue to benefit from use of the garage. Housing staff would continue to work with these customers to reduce the arrears.
17. It is recommended that Members approve the recommendation to in principle changes to the terms of the licence agreement with the final version sign off to be delegated to an officer decision by the Director for Housing, Economy and Regeneration. This will provide CYC with a garage licence that is fit for purpose, allowing for licence fee increases to be applied in a timely way in time and with minimal administration for the start of a financial year. In addition a robust eligibility criteria will ensure garages are let to those who can afford to pay the licence fee charge and will enable CYC to most effectively manage bad debt.

Background

18. CYC provides access to garages for tenants, residents and non-residents of York. There are currently approximately 800 customers renting garages on a licence agreement. There are premium garage sites, close to the city centre, which are more expensive and non-premium sites in suburban areas which are cheaper. Licence fees charged to customers increases incrementally depending on whether they are tenants, residents or non-residents.
19. Historically the licence fees for all customers is increased annually at the start of the new financial year, by Consumer Price Index (CPI) +1% and agreed by Full Council at the annual finance meeting. Customers are sent a letter advising of this increase.
20. Housing have been informed by Legal Services that the current licence agreement, has no clause present that sets out how the licence fee may be calculated/increased.
21. Proposals put forward for the HRA budget 2024/25 includes an increase in licence fee charge of 7.7%

22. With no mechanism within the garage licence to implement the increase to garage licence fees, Housing Services have undertaken a consultation process with current Licensees looking at revising the licence agreement.

Consultation Analysis

23. The proposed changes have been developed with front line Housing Officers and Legal Services. As part of the development of these proposals, consultation has been carried out with current garage Licensees, who are in agreement with the proposals. The opinion of 633 customers was sought on the proposed changes, of which there were 127 responses.
24. 83% of the respondents agreed the information on how the licence fee increase would normally be calculated is clear, while 61% of the respondents agreed 4 weeks' notice of the licence fee increase is OK.
25. All customers will be written to outlining the proposed changes, along with the implications of these and given notice of these along with the licence fee increase at the end of February 2024.

Options Analysis and Evidential Basis

26. Option 1 – Retain the current licence agreement. Licence fee increases would continue to be applied 'manually' and need specific consent which, as outlined, is resource intensive in terms of officer time. It would also mean that CYC tenants and leaseholders who have a housing related debt continue to be eligible to rent a garage.
27. Option 2 – Agree the in principle proposed changes to the licence agreement, to allow an automatic licence fee increase and exclusions from the waiting list due to housing related debt. The advantage of this is annual licence fee increases can be applied under the terms of the new license, negating the need for staff to dedicate time to do this manually. It would also ensure that staff can refuse tenants and leaseholder with a housing related debt, access to the garage waiting list, where appropriate.

Organisational Impact and Implications

28.

- **Financial**, contact: Chief Finance Officer.
It is important that the garage rents can be increased each year to maintain income levels in the HRA. Unlike the house rents this is not set by statute and there needs to remain a flexibility in the level of increases to reflect different circumstances. Its therefore important to say that the rent increase will usually be CPI +1% and not state that this will always be the case. It might be worth an additional clause to make it clear that the increases could be lower or higher. The reason to monitor the rent levels is to maximise income by minimising the number of empty garages. Garage rents have been raised above CPI +1% and higher charges levied in the city centre locations without increasing the number of empty garages. The additional income raised can be used to increase the repairs budgets for these council assets as they are passed their normal expected lifespan and this will protect the income streams for further years.
- **Human Resources (HR)**, contact: Head of HR. No HR implications.
- **Legal**, contact: Head of Legal Services). *The final wording and changes to be agreed with Legal Services following initial advice of Legal Services on the fees increase clause and the overall fitness of the license.*
- **Procurement**, contact: Head of Procurement.
No implications
- **Health and Wellbeing**, contact: Director of Public Health.
Public Health agrees with the proposal to move to an automated system which is fit for purpose and reduces the risk of debt to individuals. However, reviewing the consultation, which is largely positive, many respondents request longer than a months' notice for the increase of rent, we would ask that this is considered.
- **Environment and Climate action**, contact: Director of Transport, Environment and Planning, and Head of Carbon Reduction.
No implications

- **Affordability**, contact: Director of Customer and Communities. The rent clause change may result in increases that may mean that the garage is no longer affordable to the current licence holder and could lead to arrears. This is not as a result of the clause per se but as a result of being automatically applied and the choice of being able to renew via the previous process no longer available. This needs to be mitigated by adequate prior communication on the rental increases. The clause on taking in to account existing debt with the council should prevent customers adding to existing debts and increasing their debt burden.
- **Equalities and Human Rights**, contact: No EIA needed as no changes to a service or charging regime is being done. This is simply a technical change to a contract entered into by the customer and the Council. Any exceptional circumstance around for example, protected characteristics, are taken in to account when making decisions around existing debt and whether to rent a garage to an individual.
- **Data Protection and Privacy**, contact: Information Governance and Feedback Team Manager

Data protection impact assessments (DPIAs) are an essential part of our accountability obligations and is a legal requirement for any type of processing under UK GDPR. Failure to carry out a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines. DPIAs help us to assess and demonstrate how we comply with all of our data protection obligations. It does not have to eradicate all risks but should help to minimise and determine whether the level of risk is acceptable in the circumstances, considering the benefits of what the council wants to achieve. As there is no personal data, special categories of personal data or criminal offence data being processed to inform this decision report for the proposed changes to garage licence agreement, there is no requirement to complete a DPIA. This is evidenced by completion of DPIA screening questions. However, there will need to be consideration and completion of DPIAs where required, within delivery of the of this service if approved.
- **Communications**, contact: Head of Communications.

So long as the licensees are well informed of the changes to the licence agreement, and are given as much notice as

possible of these changes and what they mean, there are no other communications implications.

- **Economy, contact:** No impact on the local economy from these changes.
- **Specialist Implications Officers,** as appropriate. Not applicable

Risks and Mitigations

29. The risk of approving the proposed changes is.

- Current licensees find the new lease unsatisfactory and end their agreement, creating empty garages and reducing rental income. The consultation conducted suggests that this risk is minimal as there is broad support for the proposals. Should this risk present itself then staff will look to the 500 current applicants on the waiting list to rent any empty garages.

Wards Impacted

30. All Wards

Contact details

For further information please contact the authors of this Decision Report.

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Background papers

None

Annexes

None

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