



17 February 2020

## **ENVIRONMENT AND GROWTH OVERVIEW AND SCRUTINY COMMITTEE – 24 FEBRUARY 2020**

A meeting of the Environment and Growth Overview and Scrutiny Committee will be held at 6pm on Monday 24 February 2020 in Committee Room 1, Town Hall, Rugby.

Councillor Neil Sandison  
Chair of Environment and Growth Overview and Scrutiny Committee

### **A G E N D A**

#### **PART 1 – PUBLIC BUSINESS**

1. Minutes

To confirm the minutes of the meeting held on 9 December 2020.

2. Apologies

To receive apologies for absence from the meeting.

3. Declarations of Interest

To receive declarations of:

(a) non-pecuniary interests as defined by the Council's Code of Conduct for Councillors;

(b) pecuniary interests as defined by the Council's Code of Conduct for Councillors;

(c) notice under Section 106 Local Government Finance Act 1992 – non-payment of Community Charge or Council Tax.

***Note: Members are reminded that they should declare the existence and nature of their non-pecuniary interests at the commencement of the meeting (or as soon as the interest becomes apparent). If that interest is a pecuniary interest, the Member must withdraw from the room unless one of the exceptions applies.***

***Membership of Warwickshire County Council or any Parish Council is classed as a non-pecuniary interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.***

4. Environment and Public Realm – discussion with the Portfolio Holder on performance and future strategy.
5. Waste and Recycling.
6. Public Spaces Protection Orders Gating Orders - Draft Policy .
7. Overview and Scrutiny Work Programme 2019/20.

***Any additional papers for this meeting can be accessed via the website.***

**Membership of the Committee:**

Councillors Sandison (Chair), Bearne, Brader, Mrs Bragg, Ellis, Gillias, Mrs New, Picker and Mrs Roberts

*If you have any general queries with regard to this agenda please contact Linn Ashmore, Democratic Services Officer (01788 533522 or e-mail [linn.ashmore@rugby.gov.uk](mailto:linn.ashmore@rugby.gov.uk)). Any specific queries concerning reports should be directed to the listed contact officer.*

*If you wish to attend the meeting and have any special requirements for access please contact the Democratic Services Officer named above.*

***AGENDA MANAGEMENT SHEET***

<b>Report Title:</b>	Waste and Recycling
<b>Name of Committee:</b>	Environment and Growth Scrutiny Committee
<b>Date of Meeting:</b>	24 February 2020
<b>Contact Officer:</b>	Dan Green / Jim Perkins
<b>Summary:</b>	The report sets out progress made within the Waste and Recycling Service during 2019/20, highlighting key initiatives and annual performance data.
<b>Financial Implications:</b>	Although there are no direct financial implications as a result of the report, financial performance information is provided in section 4 of this report
<b>Risk Management Implications:</b>	
<b>Environmental Implications:</b>	Environmental implications are detailed within the body of the report.
<b>Legal Implications:</b>	None arising directly from this report
<b>Equality and Diversity:</b>	No direct equality and diversity implications arising from this report

**Environment and Growth Scrutiny Committee**

**24 February 2020**

**Waste and Recycling**

**Public Report of the Head of Environment and Public Realm**

**Summary**

The refuse and recycling services are the only service that all of our households experience on a weekly basis. Over a year, the service will empty almost 4 million bins. Due to this universal and repeated service delivery it is one of the most significant financial expenses for the Council.

The following report sets out progress made within the Waste and Recycling Service during 2019/20, highlighting key initiatives and annual performance data.

**1. INTRODUCTION**

- 1.1 The Waste and Recycling Team deliver a suite of services which aim to support residents to manage their waste arisings and ensure a clean Borough. Services delivered include:
- Waste and recycling collections
  - Garden waste collections
  - Bulky waste collections
  - Commercial waste collections
  - Street cleansing
  - Fly tipping removal
  - Litter removal
  - Graffiti removal
- 1.2 These services are by their nature, some of the most recognisable Council Services and their delivery represents a significant financial cost to the Council.
- 1.3 This report seeks to highlight some of the key initiatives within the Waste and Recycling Service, from the past 12 months, and also seeks to highlight the service's performance in relation to key performance measures.

## **2. 2019/20 KEY INITIATIVES**

### **2.1 Garden Waste Service**

- 2.1.1 The Council started collecting garden waste in 2003. The collection of garden waste is a discretionary service and not a waste stream the Council is required to collect.
- 2.1.2 In 2017, Council introduced a 'paid for' Garden Waste Service, which residents could opt into, for a fee of £40 per year.
- 2.1.3 The paid for service has now been in place for three years and has attracted approximately 22,000 subscribers in each of those years.
- 2.1.4 Over the three years of operation, the Garden Waste Service has progressed, embedding new digital technologies to support the effective management of subscriptions and collection round organisation.
- 2.1.5 A cross-departmental team meets on a monthly basis to review performance and agree measures to ensure the delivery of a smooth, customer focussed service.

### **2.2 Climate Emergency**

- 2.2.1 Since late 2018, over 280 local authorities across the country have declared a 'Climate Emergency'. Central to the majority of the declarations, has been a commitment by the local authorities to reduce carbon emissions
- 2.2.2 On 18 July 2019, Rugby Borough Council declared a Climate Emergency, and in doing so committed to:
- Establishing a cross party working group to advise on the actions and timescales required to make the Council's activities carbon neutral by 2030. The working group was asked to report initial findings and recommendations back to Cabinet within 6 months;
  - Engaging with partner councils (specifically Warwickshire County Council and Warwickshire's 5 District and Borough Councils), local businesses, environmental groups and residents to inform our future actions;
  - Where required, calling on Government to provide the powers and resources to enable Rugby Borough Council to help deliver the UK's carbon reduction targets.
- 2.2.3 The Council's response (as considered by Cabinet on 3 February 2020), is based around six key workstreams, as follows:
- Defining and Understanding the Council's Carbon Footprint.
  - Operational Activities

- Community Leadership
- The Green Economy
- Central Government
- Adaptation

2.2.4 Waste and Recycling Services have been integral to the formation of the Council's initial plans and will continue to be key to the success of the Council's work in relation to the Climate Emergency, moving forward.

## 2.3 Future Recycling Options

2.3.1 Local authorities have a duty under the Waste Regulations 2012 to separately collect four types of recyclable material (glass, metal, paper and plastic) and to ensure that collection methods pass the national legislative requirements that they are Technically, Environmental and Economically Practical (TEEP). The Waste Regulations transpose the European Union Waste Framework Directive into UK law and are enforced in England by the Environment Agency.

2.3.2 Rugby Borough Council collects dry mixed recycling at the kerbside and transports (via bulk haulage) all collected recyclate to a third-party Materials Recycling Facility (MRF), where it is sorted and processed for onward sale.

2.3.3 Escalating costs associated with the processing of dry mixed recyclate are a direct reflection of the volatility of global market prices, and the unavailability of traditional material outlets in China and South East Asia. In addition, the costs associated with the development of new technologies in the UK and an emerging market in Europe are currently being passed directly to local authorities through the pricing of existing contracts.

2.3.4 In order to try to address the uncertainty and increasingly high costs which local authorities face when contracting with MRF operators, councils across Coventry, Solihull and Warwickshire sub-region have been exploring the possibility of establishing their own, public sector owned and operated MRF.

2.3.5 The aspirations of such a project are to allow Partner Councils to:

- Take greater control of regional recyclate management;
- Benefit from any upside of the price of processed recyclate and off-set costs and risks against income generated from the Materials Recycling Facility;
- Avoid paying risk premiums to the private sector to offset market fluctuations;
- Future proof the MRF so that it is flexible and adaptable;
- Enhance recyclate quality;
- Benefit from economies of scale;
- Benefit from any future expansion and commercialisation of the plant to satisfy any private sector demand; and
- To have greater control on the end uses of the recyclate produced.

## **2.4 Fleet Procurement**

2.4.1 In September 2019, RBC commenced a procurement exercise for the replacement of 29 of its current fleet comprising vehicles for waste and recycling collections, parks services, regulatory services and Property repair sections of the Council.

2.4.2 The procurement was carried out via a specialist Purchasing Organisation (PO) and was split into Lots dependent on the vehicle types being procured. Submissions were received across all Lots in December 2019 and evaluated during December 2019 and January 2020 with contracts awarded in January 2020 with the exception of the Lot for the supply of 6 x new refuse collection vehicles where additional work is currently being carried out to ensure full value is being achieved for these vehicles.

2.4.3 This procurement has been delivered within approved capital funding requirements and work is underway on the creation of a rolling fleet replacement programme up to 2034.

## **2.5 Warwickshire Waste Partnership**

2.5.1 Over the past 12 months, Rugby Borough Council has played an increasing role in the work of the Warwickshire Waste Partnership.

2.5.2 The Warwickshire Waste Partnership consists of representatives of Warwickshire's five District and Borough Councils (the collection authorities) and Warwickshire County Council (the disposal authority) and seeks to ensure joined up working across the County.

2.5.3 The Waste Partnership routinely analyses performance information and develops joint strategies to improve performance.

2.5.4 Of note, in 2019, the Warwickshire Waste Partnership submitted a combined response to the government's Waste and Resources Strategy Consultation, highlighting a shift towards more joined up thinking across the County.

2.5.5 The Warwickshire Waste Partnership hosted a conference in February 2019 and will host a similar conference in March 2020.

## **2.6 Resources and Waste Strategy and Consultations**

2.6.1 The Resources & Waste Strategy was released by the UK government in December 2018. It includes bold targets for England, including a zero avoidable waste economy by 2050, phasing out avoidable plastic waste by 2042 and eliminating food waste from landfill by 2030.

2.6.2 To enable the attainment of the objectives, the strategy also outlines some key policy reforms that will be subject to public consultation. These include:

- The introduction of a deposit return scheme for disposable beverage containers to include glass, plastic and metal containers of all sizes;
- The introduction of mandatory separate collection of food waste from households;
- Standardised collection methodology across regions/the UK.
- The government's intention to invoke the 'polluter pays' principle and extended producer responsibility (EPR) for packaging to ensure producers pay the full net costs of managing packaging waste at the end of its life;
- Transposition of the 'Circular Economy Package for Waste' into national law

2.6.3 A first round of consultations was carried out and concluded in Autumn 2020 and RBC contributed to this via the joint Warwickshire Waste Partnership response A further consultation is expected to commence in March 2020 to finalise the Strategy for issue by Autumn 2020.

2.6.4 This strategy is complemented by the wider, 25 year Environment Plan and the new Environment Bill (currently at 2<sup>nd</sup> reading stage)

## 2.7 Rugby App

2.7.1 During 2019, the Waste and Recycling Service worked with the Council's IT department to procure the development of an app, which (amongst other functions) enables residents to get up to date information regarding waste collections.

2.7.2 The App provides details of collection dates, what goes in which bin, changes to routine collections and enables residents to receive notifications in advance of scheduled collections.

2.7.3 To date, there are 2,135 unique subscribers to the app.

2.7.4 Figure 1 (below) shows the number of daily subscribers using the app to look up their next collection date.



FIGURE 1



2.7.5 Figure 2 (below) shows the number of subscribers receiving push notifications each day over an example period of time.



**FIGURE 2**

## 2.8 Bulky Waste Digitalisation

2.8.1 The Bulky Waste service was revisited and further digitalisation was introduced as it became more apparent that the limitations of the previous "bookings" system was causing work, anxiety and confusion for all stakeholders.

2.8.2 Using a combination of the new Calendar integration into Office 365 and PowerBi, Waste Services now receive a simple single daily report with the days pickups, plus an evening report for future bookings as they stand; to allow WSU to resource appropriately.

2.8.3 Alongside this, a calendar in Office 365/Outlook gives the Customer Service Advisor Team Leaders a full view of appointments if there are specific inquiries or concerns. All the calendar bookings, appointment offerings, SMS confirmations and information updates are completely automated by the new system.

2.8.4 The new integration has also allowed the system to present appointments earlier in the process so customers can make a decision on whether the availability is appropriate before investing more time in the booking.

2.8.5 Moving forward, the Bulky Waste Process is now ready for release on to the Customer Portal, bringing further efficiencies.

## 3. WASTE AND RECYCLING POLICY DOCUMENTS

3.1 The Council has a statutory duty to collect household waste from all domestic properties in the Borough. The Council discharges this duty through its Waste and Recycling Service and in doing so promotes the waste hierarchy of (in order of priority) prevention, re-use, recycling, recovery and disposal.

- 3.2 In delivering waste collection services, the Council has specific powers to stipulate various factors including:
- The size and type of the collection receptacle(s);
  - Where and when the receptacle(s) must be placed for the purpose of collecting and emptying;
  - The materials or items which may or may not be placed within the receptacle(s).
- 3.3. Such arrangements have recently been reviewed to ensure that they are up to date, reflect current legislation and support residents to minimise their waste.
- 3.4. The Council has a statutory duty to ensure that relevant land in its area is, so far as is practicable, kept clear of litter and refuse. 'Relevant land' broadly relates to open land to which the public are entitled or permitted to have access with or without payment.
- 3.5. The Council discharges this duty through its Street Cleansing Service and in doing so recognises that maintaining clean, high quality public spaces is an important issue and contributes towards numerous agendas including health and wellbeing, economic prosperity and anti-social behaviour.
- 3.6. Arrangements relating to these services have recently been reviewed to ensure that they are up to date, reflect current legislation and support residents to keep the Borough clean.
- 3.7. The Waste, Recycling and Street Cleansing Policy Statements have been produced to specify how these services will be delivered and to provide additional clarity for residents, Councillors and Officers.
- 3.8. The Policy Statements were considered by Cabinet on 6 January 2020 and subsequently have been recommended to Council for adoption.

## 4. PERFORMANCE DATA

4.1 Table 1 shows recycling performance data for Rugby Borough Council, over the past 6 years.

4.2 Key issues arising from this data show that:

- As with the majority of the LA's in the UK, that recycling performance has plateaued.
- As further evidenced in Table 2, there is a direct correlation that a low kg/hh/yr creates a higher recycling performance.
- Dry recycling tonnage has increased each year since 2015 (but so has household waste)
- The 'total residual waste' figure includes 2500 tonnes that was rejected from our recycling stream. (this tonnage, if recycled would've meant we achieved our 50% statutory target)
- The introduction of a subscription service for green waste created a reduction in recycling tonnage of 4500 tonnes. (Again, this tonnage would have meant that RBC statutory recycling targets would've been exceeded).

Year	Recycling %	Kg per household per year	Dry Recycling Tonnage (t)	Compostable Tonnage (t)	Total Recyclable Tonnage (t)	Total Residual Tonnage (t)	Total Household Tonnage (t)
2013 - 14	46.90%	502kg	9297.7	10277.9	19575.6	22165.4	41,741
2014 - 15	46.00%	535kg	9039.7	11046.3	20086.0	23594.0	43,680
2015 - 16	47.70%	503kg	8645.4	11880.2	20525.6	22537.4	43,063
2016 - 17	50.10%	471kg	9777.0	11645.0	21422.0	21318.0	42,740
2017 - 18	44.60%	484kg	10288.0	7573.0	17861.0	22164.0	40,025
2018 - 19	44.20%	490kg	10398.0	7561.0	17959.0	22709.0	40,668

**TABLE 1. WASTE & RECYCLING PERFORMANCE DATA, RUGBY BOROUGH COUNCIL**

4.3 Table 2 shows a comparable trend in recycling performance as demonstrated in Rugby's data in Table 1 with decreasing or plateauing recycling performance since 2016. Of note:

- The correlation between a low kg/hh/yr for residual (black bag) waste evidences a higher recycling performance.
- Conversely, many of our neighbouring Authorities are showing annual decreases in the tonnage of waste being recycled

- All WCC boroughs and districts are stating a sharp increase in the number of fly-tipping instances in 2018-19 including RBC whose figures are detailed in Table 3.

	kg/hh/yr	Total Recycling %	Household Waste Tonnage	Total Recycling Tonnage	Flytipping Incidents
<b>Stratford on Avon</b>					
2016-17	387.7kg	61.30%	56393	34545	291
2017-18	385.7kg	60.30%	55661	33547	328
2018-19	389.2kg	59.60%	55905	33339	364
<b>Nun &amp; Bed</b>					
2016-17	494.8kg	43.80%	49037	21464	1045
2017-18	491.4kg	42.90%	48340	20754	714
2018-19	481.0kg	43.40%	48070	20885	743
<b>Warwick</b>					
2016-17	386.7kg	54.70%	52684	28808	835
2017-18	394.9kg	52.30%	51735	27035	1014
2018-19	370.1kg	53.70%	50916	27454	1670
<b>North Warwick</b>					
2016-17	556.7kg	46.20%	28466	13152	900
2017-18	550.2kg	45.40%	28059	12751	972
2018-19	515.3kg	45.60%	26612	12137	1114

**TABLE 2. COMPARISON WITH WARWICKSHIRE BOROUGH AND DISTRICTS.**

Year	Total	High way	Footpath / Bridleway	Back Alley	Council Land	Agri-cultural	Private / Residential	Industrial/ Commercial	Green	White Goods	Other Elec.	Tyres	Asbestos
13-14	750	189	246	37	222	2	22	11	45	20	7	28	15
14-15	849	350	196	23	243	3	15	5	35	62	12	41	28
15-16	865	326	273	22	221	3	11	2	28	106	9	32	9
16-17	1073	306	439	62	215	1	24	14	50	108	7	14	20
17-18	1068	291	538	44	144	3	28	2	61	85	5	25	21
18-19	1348	848	186	46	154	14	42	15	89	106	10	21	27

**TABLE 3. FLY TIPPING INCIDENTS, RUGBY BOROUGH COUNCIL.**

4.4 On a quarterly basis the financial performance of the waste and recycling service is presented to Cabinet as part of the Finance and Performance Monitoring Report. Table 4 shows a summary of the figures reported to Cabinet on 3 February 2020

Cost Centre Description	2019/20 Original Budget £000s	Supplementary Budgets / Use of Reserves £000s	Revised Budget as at Q3 £000s	2019/20 Q3 forecast £000s	2019/20 variance (Forecast - Budget) £ 000s	Comments
Domestic Waste Collection / Recycling	2,426	602	3,028	3,112	84	<p><b>Variance</b> £0.091m Running cost variance due to additional expenditure for Gate fees and haulage of waste and contract hire due to aging fleet. (£0.007m) net minor savings across income and staffing</p> <p><b>Supplementary budgets</b> £0.105m - The original budget included a saving in relation to Kerbside Collections Following consultation together with analysis of narrow vehicle rounds, it was identified that this saving would not be realised. This was funded £0.382m - Development costs anticipated as part of the MRF scheme. This was funded through general fund balances. £0.115m - Funding of consultancy costs due to staff vacancies and sickness. This was funded through the WSU reserve</p>
Trade Waste Collection	49	150	199	195	(4)	<p><b>Variance</b> Minor variances across the service</p> <p><b>Supplementary budgets</b> £0.150m - increased landfill tax costs, which has been funded from the WSU reserve</p>
<b>Total</b>	<b>2,475</b>	<b>752</b>	<b>3,227</b>	<b>3,307</b>	<b>79</b>	

**TABLE 4. SUMMARY OF FINANCIAL DATA REPORTED TO CABINET ON 3 FEBRUARY 2020**

## 5. Conclusions

- 5.1 The Council's Waste and Recycling Service continues to provide high profile front-line services which are accessed by residents of Rugby on a daily basis.
- 5.2 The Service faces many challenges including changing legislation, customer expectation, financial pressures and its impact on broader agendas, such as the Climate Emergency.
- 5.3 The Service has shown that it can work with partner organisations, and by embracing technology, to overcome such challenges and meet performance expectations.
- 5.4 The Service is well placed to progress over the coming years and play a significant role in the delivery of Council priorities.

**Name of Meeting:** Environment and Growth Scrutiny Committee

**Date of Meeting:** 24 February 2020

**Subject Matter:** Waste and Recycling

**Originating Department:** Please select

**DO ANY BACKGROUND PAPERS APPLY**  YES  NO

**LIST OF BACKGROUND PAPERS**

<b>Doc No</b>	<b>Title of Document and Hyperlink</b>

***AGENDA MANAGEMENT SHEET***

<b>Report Title:</b>	Public Spaces Protection Orders Gating Orders - Draft Policy
<b>Name of Committee:</b>	Environment and Growth Scrutiny Committee
<b>Date of Meeting:</b>	24 February 2020
<b>Contact Officer:</b>	David Burrows, Regulatory Services Manager Tel 01788 533806
<b>Summary:</b>	Cabinet asked Committee to consider the issue of public space protection orders (PSPOs) to manage highways (alleyways) associated with anti-social behaviour. Following a review of the draft policy by a Task Group, Committee is asked to consider the final draft version and agree its submission to Cabinet.
<b>Financial Implications:</b>	There are no financial implications arising from this report. However, there may be future funding implications relating to the installation of gates.
<b>Risk Management Implications:</b>	There are no risk management implications arising from this report.
<b>Environmental Implications:</b>	There are no environmental implications arising from this report.
<b>Legal Implications:</b>	There are no legal implications arising from this report. However, the final report to Cabinet will consider a number of legal issues in the proposed policy.
<b>Equality and Diversity:</b>	No new or existing policy or procedure has been recommended. The draft policy does recommend consideration of disability issues when determining if it is appropriate to gate a highway.

**Environment and Growth Scrutiny Committee**

**24 February 2020**

**Public Spaces Protection Orders Gating Orders - Draft Policy**

**Public Report of the Head of Environment and Public Realm**

**Summary**

Cabinet asked Committee to consider the issue of Public Space Protection Orders (PSPOs) to manage highways (alleyways) associated with anti-social behaviour. Following a review of the draft policy by a task group, Committee is asked to consider the final draft version and agree its submission to Cabinet.

**1. BACKGROUND**

At its last meeting on 9 December 2019, the Committee considered a report concerning the issue of using Public Spaces Protection Orders (PSPOs) to manage highways (alleyways) associated with anti-social behaviour.

The Committee identified a number of factors to consider and decided to set up a task group, made up of committee members and any other interested councillors who had previously volunteered to take part in the review. It was agreed the group would meet on a date to be agreed and carry out a focussed piece of work to review the draft policy. This allowed time for further evidence gathered from an issue relating to antisocial behaviour linked to an alleyway in the Paddox area to be considered as part of the policy review.

**2. REVIEW OF THE DRAFT POLICY**

The Task Group met on 22 January 2020 and carried out a detailed review of the draft policy. The agenda and minutes for the Task Group can be found via the following link [Gating Orders Task Group](#). The findings will be presented by the Chair of the Task Group, Councillor Picker.

During the review Members considered the following:

- A page by page review of the draft policy
- Responsibility for repair and maintenance should the gates be damaged by accidental or deliberate means
- Requests from the Police for PSPOs
- Who should be consulted?
- Whether commercial premises should be excluded.



- The historic Alley Gating Scheme
- Funding
- Impact on elderly, infirm or people with disabilities
- Case study evidence
- Appropriate conditions

The following recommendations were made:

*The draft policy be amended and circulated to members.*

*The revised draft policy be sent to the agreed list of consultees for feedback.*

*The final draft policy be submitted to the Environment and Growth Overview and Scrutiny Committee on 24 February for consideration for submission to Cabinet on 30 March.*

*Applications for proposed PSPO Gating Orders be considered by officers using the adopted policy and, if appropriate, submitted to Cabinet for consideration.*

The draft policy was subsequently updated to reflect the agreed changes made by the Task Group and it was circulated to key officers and identified external stakeholders including the emergency services, Warwickshire County Council and Rugby Disability Forum.

A copy of the final draft is attached at appendix 1 for consideration by the Committee prior to submission to Cabinet on 30 March 2020. A spreadsheet designed for use as an *aide memoire* has been created to ensure that all options will be considered when a specific PSPO Gating Order is being proposed for submission to Cabinet.

Responses from consultees will be presented at the meeting due to the limited timescale for the consultation and to meet report publishing deadlines.

### **3. NEXT STEPS**

The Committee is asked to:

- Consider the final draft version of the policy; and
- Agree the draft PSPO Gating Orders Policy be submitted to Cabinet on 30 March 2020 for approval.

**Name of Meeting:** Environment and Growth Scrutiny Committee

**Date of Meeting:** 24 February 2020

**Subject Matter:** Public Spaces Protection Orders Gating Orders - Draft Policy

**Originating Department:** Environment and Public Realm

**DO ANY BACKGROUND PAPERS APPLY**       **YES**       **NO**

**LIST OF BACKGROUND PAPERS**

<b>Doc No</b>	<b>Title of Document and Hyperlink</b>

# **PSPO Gating Orders for Rugby Borough Council**

A Policy for Rugby Borough Council

Created 22/1/2020

# Contents

1. Introduction .....	3
2. Conditions for PSPO.....	4
3. The Rugby Borough Council approach.....	5
4. The PSPO Process.....	7
5. Stage 1- initial investigation.....	8
6. Stage 2-Formal consultation.....	9
7. Stage 3- Approval of the PSPO Gating Order.....	10
8. Stage 4-Making and implementation of PSPO Gating Order.....	11
9. Stage 5-Review.....	12
10. Appealing a decision.....	12

# 1. Introduction

## Public Spaces Protection Orders (PSPOs)

Changes in the way that police, councils and other agencies deal with Anti-Social behaviour came into force on Monday 20 October 2014. The changes, under the Anti-Social Behaviour Crime and Policing Act 2014, streamline the powers available to public bodies to deal with anti-social behaviour.

The definition of anti-social behaviour (ASB) according to the Crime and Disorder Act 1998 and section 129G of the Highways Act 1980 is:

“Behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as themselves”

Public Spaces Protection Orders replace Designated Public Place Orders, Gating Orders and Dog Control Orders.

PSPOs specify an area where activities are taking place that are or may be likely to be detrimental to the local community's quality of life. PSPOs impose conditions or restrictions on people using that area such as alcohol bans or putting up gates.

Rugby Borough Council can make a PSPO Order where possible, if it believes the activities are detrimental to the local community's life and that the negative impact is such as to make the restrictions reasonable.

Breach of a PSPO may be a criminal offence punishable by a fixed penalty notice or prosecution. Rugby Borough Council would be the regulator, mainly the Community Wardens and the Neighbourhoods Team, both within Regulatory Services.

The maximum duration of a PSPO is three years but they can last for shorter periods of time where appropriate. At any point before expiry, the Council can extend a PSPO by up to three years if they consider that it is necessary to prevent the original behaviour from occurring or recurring

**Please note** – throughout this document where it refers to “gates” it means a PSPO gating order which allows restriction using a gate or any other suitable barrier

## **2. Conditions for PSPO Gating order**

- Premises adjoining or adjacent to the highway are affected by crime or Anti-social behaviour.
- The existence of the highway is facilitating the persistent commission of criminal or anti-social behaviour.
- It is, in all the circumstances, expedient to make the PSPO order for the purpose of reducing crime or anti-social behaviour.
- A PSPO gating order should not be made in cases where a barrier would prevent any resident or business (during normal working hours) from accessing their main entrance.
- Rugby Borough Council (RBC) as the authority who would implement any PSPO gating order, must be satisfied that a gating order would be effective in reducing crime or anti-social behaviour.
- RBC must consider the effects of a PSPO order on adjacent occupiers and the local community and in appropriate circumstances identify a reasonable convenient alternative route. This should be a viable option for all users, including those with reduced mobility.
- RBC must be satisfied that the problems in an area are persistent and causing harassment, alarm or distress to the community. An assessment of the evidence shall be conducted in respect of this, before any decision on the making of a PSPO gating order is taken. In assessing the level of persistent anti-social behaviour or crime RBC will examine evidence gathered from the police and any other available sources of incidents.
- For guidance only, when considering PSPO gating order the volume of incidents would be measured over a 6 month period. Consideration would need to be given to the volume and the severity of the incidents and the impact on the community.

### 3. The Rugby Borough Council Approach

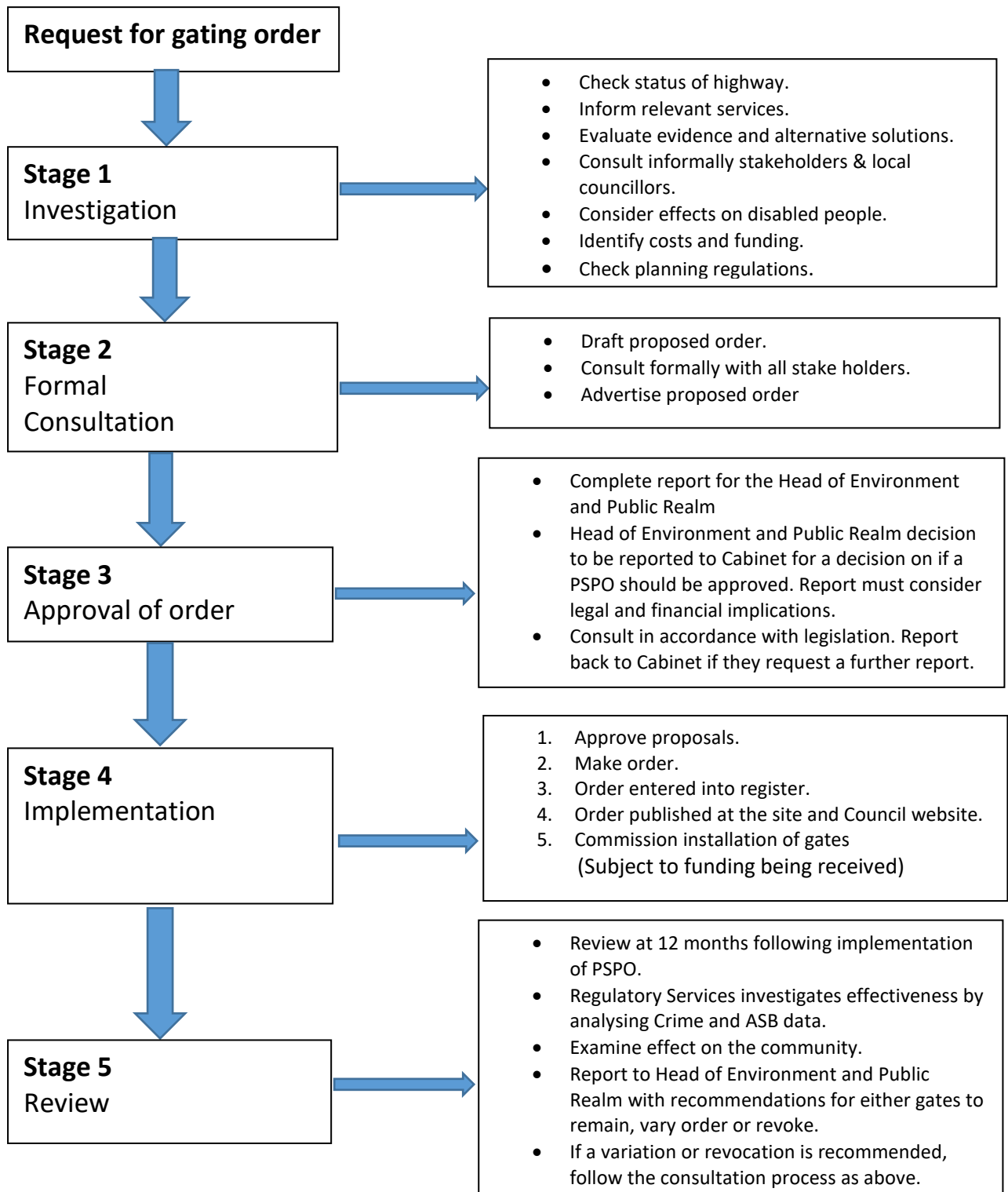
- RBC will, when determining an application for a PSPO gating order, have due regard to its public sector equality duty and consider the aims of the Equalities Act 2010 as part of the decision making process, particularly the potential effects of the application on different people.
- The final decision to temporarily close any public highway by means of PSPO would not be the decision of any RBC employee. RBC have a responsibility to manage any problem areas in respect to anti-social behaviour and would be responsible for providing a report for Cabinet to consider. This decision would also need to be considered by RBC Development Control Team
- If RBC believes that restricting access to a problem area by means of a PSPO, could be a helpful tool in reducing crime and anti-social behaviour, we will use the PSPO powers with sensitivity, balancing the community's concerns with our wish to maintain people's freedom of access as far as is possible.
- RBC therefore, sees PSPO gating orders as an intervention which should be used only when an investigation has concluded other means of addressing or anti-social behaviour have failed or are not likely to be successful or appropriate to the circumstances.
- Individuals, business or groups requesting a PSPO gating order (i.e. those who will benefit from the PSPO order) will need to identify funding for the following:
  - A. The installation of the gates
  - B. A commuted sum for any maintenance
  - C. Legal costs
  - D. Planning application
  - E. Advertising and publicity associated with making a PSPO order
  - F. Any variation
  - G. Any arrangements which need to be put in place to lock/unlock the gate
  - H. Annual maintenance, and repairs to accidental and deliberate damage
  - I. Decommissioning the gates
  - J. Any future replacement of the gates
- Funding is not restricted to these items, but additional costs may be applicable and will depend on each individual request.
- RBC officers may be able to offer advice on potential sources of funding

- Where funding is not likely to be possible, but there is a clear need to use a PSPO gating order, the Council may consider partially or fully funding the scheme.
- Where a PSPO gating order is deemed not to be a cost effective method of reducing Crime or anti-social behaviour, a PSPO order will not be implemented. However, RBC will explore other methods of tackling the problem.
- Where the highway to be gated is a pedestrian route, RBC undertakes to provide the officer input to investigate the initial request, the making of the PSPO order, any reviews to consider and any procedure to vary or revoke the PSPO plus any costs associated with the removal of the gates. If the highway is vehicular route these costs, together with those of any necessary design work will be met by the individuals, businesses requesting the PSPO gating order, to ensure that ongoing maintenance costs, plus any other costs associated with the potential removal of the gates are met. Where a Business Improvement District (BID) is in place, negotiations will be conducted in conjunction with the BID for requests within the BID area.
- In order to ensure that any gating installations are carried out to a satisfactory and safe standard, RBC will set the standard of installation required and retain an overall responsibility for engaging contractors, approving works and agreeing the necessary maintenance contracts.
- RBC aims to be open and transparent in its dealings with the public. All interested parties, including groups representing the interest of disadvantaged members of the community, emergency services, neighbouring schools, planning departments and any other bodies with a vested interest, this will also be advertised at the proposed site of the PSPO temporary closure and on RBC internet. Where objections or representations are made and remain unresolved both proposers and objectors will have the opportunity to voice concerns, but the decision will be submitted to the RBC Cabinet for a final decision. This decision will be subject to legal challenge if any party is not satisfied, e.g. judicial review.
- RBC will monitor all PSPO gating orders and will review the PSPO at appropriate intervals to evaluate whether they continue to be required and are being effectively implemented. RBC will also investigate any complaints in relation to the PSPO.



## The Rugby Borough Council process for PSPO gating closures

- To ensure we can apply PSPO gating orders in line with our policy, a five stage process will be applied. This is outlined below



## **Stage 1 – Initial investigation**

The first stage of the process will be an initial investigation conducted by RBC. This will be a team including an Environmental Health/Enforcement Officer, ASB co-ordinator and Community Wardens. This investigation will:

- Check the status of the highway with officers in both Highways and Rights of Way, to verify that it is under their jurisdiction and inform that the potential PSPO Gating Order has been raised.
- Assemble and record evidence relating to the problem, this can include reports from the Police and Community Wardens, where possible with the use of body cameras.
- Identify whether alternative solutions are practicable, have been tried or likely to succeed.
- Clarify what the proposals are, for example where gates might be sited, proposed timing of closure etc.
- Reach a judgement on whether the proposals are likely to solve the problem and are practically viable.
- Undertake an initial consultation with nominated representatives of the Chief Constable of Police, the Fire Authority, Health and Ambulance Trusts, utility providers where applicable and with Local Forums and Community Safety Partnerships and local Councillors.
- Identify groups that are likely to be affected by, or to have an interest in, the proposal and undertake initial consultation with these groups. This will include local residents and users of the highway, groups representing disabled people and may also include people likely to be affected by the potential displacement of any problems occasioned by the proposed PSPO gating order.
- The officer assigned to the case will assist with the proposers to clarify the likely costs and discuss with interested parties how the installation and maintenance of the gates is to be funded. Officers may be able to assist with advice on potential costs and potential source of funding. The source of the funding must be agreed before the PSPO gating order is approved.

- The assigned officer will consider, in consultation with the RBC Development Control Team, whether the gates being considered would require planning permission or whether they would come under within the Council's permitted development rights under part 12 of the Town and Country Planning (General Permitted Development) Order 1995

At any point during this stage, the investigating officer may stop the process if they conclude that;

- The route is not a public highway
- There is insufficient evidence
- Alternative methods of addressing it should be explored first
- The proposal is not practical or not likely to control the issue raised
- Objections from emergency services and affected local councils mean the order is unlikely to succeed
- There is insufficient funding to meet the necessary costs

In the above circumstances, no further action will be taken in relation to the gating PSPO process. The Officer will however, develop alternative proposals for the area concerned, in consultation with affected parties.

Any decision by an authorised officer not to proceed, or to proceed, is subject to the Council's Compliments, Comments and Complaints Scheme.

At the conclusion of this stage if the officer recommends that a PSPO gating order is an appropriate measure for dealing with the crime or anti-social behaviour problem, they will make formal report to the Head of Environment and Public Realm recommending authorisation is received for a formal consultation on the proposal. The process will then proceed to stage 2.

## **Stage 2 – Formal Consultation**

The Head of Environment and Public Realm will instruct officers in conjunction with Legal to draft the proposed PSPO and along with the lead officer in Regulatory Services to arrange for the formal consultation with the following parties.

- The Chief Constable of the Police
- Fire and Rescue Authority
- Every ambulance service relevant to where the highway passes
- All occupiers of premises adjacent to or adjoining the relevant highway
- Any Local Access Forum through whose area the highway passes
- Where a consultation breaks down and any parties decline to comment RBC reserve the right to form a decision.

Other public bodies and companies who provide services in the locality in which the relevant highway is situated including:

- Statutory undertakers
- The providers of gas, electricity or water services

- Communication providers
- Any person who requires a copy of the Notice (PSPO)
- Local Councillors
- Any person who the council reasonable consider might have an interest in the proposal, e.g. land owners, Borough Ward and County Councillors
- Anyone who asked to be notified of any PSPO gating orders

The proposed PSPO gating order and details of how to make representation also will be advertised at the site, in a local newspaper and on RBC website.

Consultation responses will be directed to the assigned RBC Officer.

### **Stage 3 – Approval of the PSPO Gating Order**

Once responses from the consultation exercise have been received, the assigned officer will produce a report for the Head of Environment and Public Realm.

This report will contain:

- The justification for the proposal at a statement of how it meets the legal requirements for a PSPO Order to be applied.
- Details of the proposal, the exact location of the gates, details or proposed key holders.
- The alternative routes available to people affected by the closure.
- A summary of the responses from consultation.
- Details of the proposed funding arrangements.
- The potential effects on all users, including any where additional consideration is required, e.g. people with disabilities who use wheelchairs.

If the recommendation of the Head of Environment and Public Realm is to proceed with the PSPO, a report will be sent to Cabinet to consider.

## **Stage 4 – Making and implementing a PSPO Gating Order**

If Cabinet approves the proposal to make a PSPO Gating Order, officers from the RBC Legal Team will make the PSPO Gating Order and enter it on a register.

The order will contain:

- A statement that the required legal conditions have been met.
- The dates and times that the public right of way along the relevant highway will be restricted.
- Details of any person(s) who are excluded from effects of the restriction.
- Details of alternative routes which would be available to pedestrians and vehicular traffic during the period the relevant highway is restricted.
- Contact details of the person who is responsible for maintaining and operating any barrier whose installation is authorised by the PSPO.

The PSPO will also be published at the site and on the relevant RBC internet page. A copy of the PSPO and all relevant notices related to it will be held on the RBC Register for PSPO Gating Orders.

Following the receipt of funding, officers from Regulatory Services will make arrangements with the Street Scene Team for the installation of the gate to take place.

The validity of the order can be challenged on the grounds that RBC had no power to make the PSPO and the requirements for implementing a PSPO Gating order had not been met. In these circumstances the challenge will have to be made to the High Court and will have to be within six months of the PSPO Gating Order having been made

## **Stage 5 – Review**

The Council can vary a PSPO Gating Order, either to increase or reduce the restriction, or it can revoke the PSPO. The maximum duration of a PSPO is three years but they can last for shorter periods of time where appropriate. At any point before expiry, the Council can extend a PSPO by up to three years if they consider that it is necessary to prevent the original behaviour from occurring or recurring.

RBC will review each PSPO Gating Order at intervals appropriate to the particular circumstances although as a general rule it is anticipated that PSPO Gating Orders will be reviewed annually.

The review will take the form of a brief investigation by the assigned officer. This is to establish whether the PSPO has been successful in reducing the crime or the anti-social behaviour problem, to assess the impact the PSPO is having on the community and to assess whether there is any case for amending the PSPO or revoking it entirely.

If there is recommendation that the PSPO be amended or revoked, the same consultation process will be followed as for the making of the PSPO Gating Order. The assigned Officer will produce a report, including a summary of any consultation responses and the decision whether to vary or revoke the PSPO Gating Order will be made by the Head of Environment and Public Realm, as per the principles outlined in stage 3 above.

### **Appealing a decision**

- Members of the public may disagree with a decision to halt or continue the process at the initial investigation stage (Stage 1)
- In these circumstances an appeal should be made in writing through the Compliments, Comments and Complaints Scheme at Rugby Borough Council. The appeal should include reasons for disagreeing with a decision and also contain supporting evidence.
- The assigned officer will then undertake a review of the decision and if appropriate may request a new investigation, starting the process at Stage 1.
- In all circumstances the applicant will be kept informed of the progress of any appeal.
- Any subsequent appeals or disagreements will be made in writing to the Head of Environment and Public Realm during the Formal Consultation as set out in (Stage 2) and during the annual review as set out in (Stage 5).

**PSPO for gating alleyways and highways assessment matrix**

Appendix 2

<b>Criteria</b>	<b>Issue to be considered</b>	<b>Is this critical to the decision?</b>	<b>Outcome</b>	<b>Comment</b>
Rugby Borough Council - Regulatory Services	Is there sufficient evidence of ASB to justify closure? Are there alternatives which could be e.g. CCTV, PSPO preventing gathering, additional patrols? Alternative routes if alleyway gated? Equalities Act 2010?	Yes. Must be evidence of ASB and must considered alternatives.		
Rugby Borough Council - Development Control	Planning permission is required to gate an alleyway. Is this likely to be granted? View of impact of closure? Legal reasons for	Yes. Must have planning approval.		
Warwickshire County Council Highway Authority	it not being permitted? Restrictions of highway legislation?	Possibly.		
Warwickshire Police	Evidence of ASB? Potential risks of closure?	Possibly.		
Warwickshire Fire and Rescue	Potential risk to safety of those who use the alleyway, in particular residents whose properties link to the alleyway?	Yes. If safety compromised, scheme cannot be permitted.		
Residents including all residents that directly access the highway and local residents.	Views of those most affected by the alleyway? View so general residents and other users?	Possibly.		
Warwickshire County Council - Community safety Team	Evidence of ASB? Potential risks of closure?	Possibly.		
Other interested parties e.g. local schools	Views ?	Possibly.		
Rugby BID (if town centre)	Views?			

Criteria	Issue to be considered	Is this critical to the decision?	Outcome	Comment
Funding for gates	Residents? Rugby Borough Council (Cabinet approval)? Other funding e.g. grants from Community safety Partnership?	Yes. Without funding for installation, maintenance and removal, scheme cannot be permitted.		
Period of closure or restrictions	Up to 3 years. Closed all time? Open at set periods? Who opens and closes gates? Who has access to keys?	Yes. Must balance needs of all users.		
Rugby Borough Council - Work Services Unit	Access to bins	Unlikely.		
West Midlands Ambulance	Access to patients.	Possibly.		
Local Rugby Borough Council and Warwickshire County Council elected members, members of the parish council (if applicable)	Views on proposals.	Possibly.		
Statutory undertakers - water, gas, electricity, communications.	Access to utilities.	Unlikely but are likely to require a system of access potentially for customers and the statutory undertakers.		



***AGENDA MANAGEMENT SHEET***

<b>Report Title:</b>	Overview and Scrutiny Work Programme 2019/20
<b>Name of Committee:</b>	Environment and Growth Scrutiny Committee
<b>Date of Meeting:</b>	24 February 2020
<b>Contact Officer:</b>	Linn Ashmore, Democratic Services Officer, Tel: 01788 533522
<b>Summary:</b>	The report updates the Committee on the progress of task group reviews within its remit and details the overview and scrutiny forward work programme for 2019/20.
<b>Financial Implications:</b>	There is a budget of £500 available in 2019/20 to spend on the delivery of the overview and scrutiny work programme.
<b>Risk Management Implications:</b>	There are no risk management implications arising from this report.
<b>Environmental Implications:</b>	There are no environmental implications arising from this report.
<b>Legal Implications:</b>	There are no legal implications arising from this report.
<b>Equality and Diversity:</b>	No new or existing policy or procedure has been recommended.

**Environment and Growth Scrutiny Committee - 24 February 2020**

**Overview and Scrutiny Work Programme 2019/20**

**Summary**

The report updates the Committee on the progress of task group reviews within its remit and details the overview and scrutiny forward work programme for 2019/20.

**1. SCRUTINY REVIEWS**

**1.1 Current Reviews**

**Policy for PSPOs as Gating Orders** – this review is now complete and has been covered by item 6 of the agenda.

**2. WORK PROGRAMME**

**2.1 Current Work Programme**

The following topics were included in items 4 and 5 of the agenda:

<b>Item 4 Environment and Public Realm Portfolio Holder</b>	<b>Community Areas</b>	Making better use of grot spots and open spaces and exploring links to community projects.
<b>Item 5 Annual Review of Waste and Recycling</b>	<b>Fly Tipping and Bulky Waste</b>	Review increase in fly tipping in rural areas and the bulky waste collection service and whether it represents value for money.

A copy of the current work programme is attached at Appendix 1.

**2.2 Future Work Programme**

Calls for review topic suggestions for the 2020/21 work programme would be renewed through social media platforms, the E-Grapevine newsletter produced by Warwickshire CAVA, and Parish Councils, schools and local community groups. Committee chairs would continue to explore opportunities to engage with the public at local community events and holding Listening Posts.

### **3. FORWARD PLAN**

The following public topics are currently listed or scheduled for inclusion in the Forward Plan during February and March:

25 February 2020 – Council

- Council Tax Determination 2020/21
- Scrutiny – Terms of Reference
- Election of Mayor and Appointment of Deputy Mayor 2020/21 (private)
- Appointment of Executive Director

2 March 2020 - Cabinet

- Queen's Diamond Jubilee Centre – soft play proposal
- Air Quality SPD
- Digitalisation Strategy (to be rescheduled for a later date)

30 March 2020 - Cabinet

- Ryton-on-Dunsmore Neighbourhood Plan
- Public Spaces Protection Order Gating Orders Policy

### **4. CONCLUSION**

The committee is asked to:

- note the progress in the task group reviews; and
- agree the future work programme for the committee.

**Name of Meeting:** Environment and Growth Scrutiny Committee  
**Date of Meeting:** 24 February 2020  
**Subject Matter:** Overview and Scrutiny Work Programme 2019/20

**DO ANY BACKGROUND PAPERS APPLY**       **YES**       **NO**

**LIST OF BACKGROUND PAPERS**

<b>Doc No</b>	<b>Title of Document and Hyperlink</b>

## Overview and Scrutiny Work Programme 2019/20

### Communities and Resources 3 March 2020 (postponed from 6 February 2020)

Topic	Description
<b>Finance and Performance Monitoring 2019/20 Q3</b>	Monitoring of finance and performance
<b>Working in Partnership with the Voluntary and Community Sector</b>	Light-touch review of the Council's relationships with partners.
<b>Employee Wellbeing</b>	Progress report

### Communities and Resources 19 March 2020

Topic	Description
<b>Communities and Homes Portfolio Holder</b>	Discuss performance and future strategy in relation to the portfolio
<b>Corporate Resources Portfolio Holder</b>	Discuss performance and future strategy in relation to the portfolio

### Environment and Growth 2 April 2020

Topic	Description
<b>Crime and Disorder</b>	Annual review
<b>Growth and Investment</b>	Discuss performance and future strategy in relation to the portfolio
<b>Notice of Motion – Reduce Plastic Waste at the Council</b>	Progress report

### ITEMS TO BE ALLOCATED OR CARRIED FORWARD TO 2020/21

#### Communities and Resources

Topic	Description
<b>Review of Housing Voids</b>	Light-touch review
<b>Rugby Lotto</b>	Progress report after a year of operation
<b>Review of Attendance Policy</b>	Light-touch review
<b>Informing and Engaging Our Communities</b>	Progress against the recommendations in the review report (12 months)

**Environment and Growth**

<b>Topic</b>	<b>Description</b>
<b>For 2020/21 – Access for People with a Disability</b>	Progress against review recommendations.