

Legislation

Legislation

- 1.1 The relevant legislation for street naming and numbering is contained within various provisions under;
- 1.1.1 the Town Improvement Clauses Act 1847;
 - 1.1.2 the Public Health Acts 1875 to 1925;
 - 1.1.3 the Public Health Act Amendment Act 1907; and
 - 1.1.4 the Cheshire County Council Act 1980
- all of which are summarised in paragraphs 1.3 and 1.4 below. The full extracts are available as background papers.

Numbering of properties

- 1.2 By virtue of paragraph 23 of Schedule 14 to the Local Government Act 1972, all of the provisions of the Public Health Acts 1875-1925 apply throughout England and Wales, subject to specified exceptions. As a result, the legislation in respect of numbering of houses was automatically applied throughout England and Wales. Locally, these provisions were further amended by the Cheshire County Council Act 1980 which came into force on 1st July 1980 and it continues to apply following local government reorganisation by virtue of Regulation 3 of The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 (SI 2008/2867). The effect of the Cheshire County Council Act 1980 is that property numbering is dealt with under that local Act rather than the Town Improvement Clause Act 1847.
- 1.3 Section 11 of the Cheshire County Council Act 1980 provides for the allocation by the Council to buildings in the street of such numbers as they think fit and allows the service of a notice requiring the owner/occupier to mark the number in a manner which is legible from the street. The owner/occupier is required to maintain the mark so that it remains legible from the street and to keep the view of the mark unobstructed. The Council can also alter numbers under this Section and the same requirements on the owner/occupier will apply. The Council may require a building to be marked with some identification other than a number. Again, the same requirements as to maintenance and unobstructed view on the owner/occupier will apply. Any owner/occupier who fails to comply with a notice served or contravenes these requirements is guilty of an offence, liable on conviction in the Magistrates' courts to a £50 fine. As detailed above, any provisions of sections 64 and 65 of the Town Improvement Clause Act 1847, insofar as they relate to numbering, cease to apply in the (former) county area. As a discretionary power, the Council would be able to charge for the numbering and renumbering service if desired.

Street naming/altering existing names

1.4 A summary of the relevant legislation for street naming/altering of street names is as follows;

1.4.1 Section 64 of the Town Improvement Clauses Act 1847 (incorporated into Section 160 of the Public Health Act 1875) allows councils to name new streets, mark the street name (street nameplate provision) and control interference with such markings (under the legislation interference is a criminal offence name - maximum £250 penalty on conviction).

1.4.2 Section 21 of the Public Health Acts Amendment Act 1907 provides for the alteration of a street name with the consent of two-thirds of the ratepayers/council tax payers living in the street. It also gives power to mark the altered street name and there are offences for any person who obliterates, defaces, obscures, removes, or alters any such name [maximum £250 penalty on conviction].

1.4.3 Sections 17-19 Public Health Act 1925 provides as follows:-

(i) s17 – allows a notice proposing a street name to be served on a council. Where the council object, it is unlawful for the street sign to be erected until the objection is either withdrawn by the council or overruled on appeal to the Magistrates' court. Any person acting in contravention is liable to a maximum penalty of £250 on conviction.

(ii) s18 – allows a council to alter a street name or assign a name to any street for which a name has not been given. One month before doing so, the council must erect notices in the street informing the public of the council's intention and advising of route of appeal to Magistrates' courts within 21 days of notice being displayed.

(iii) s19 – requires a council to mark (and renew/alter) the name of every street in a conspicuous position. It also provides for the prosecution of any person who pulls down such an inscription or erects a different name or places any advertisement within 12 inches of a street nameplate. [maximum £250 penalty on conviction].

1.5 In accordance with Schedule 14 of the Local Government Act 1972, it is not possible for the Council to use all of the above legislation and in certain cases, a resolution to adopt one provision automatically has the effect of disapplying an alternative provision. The alternatives available in accordance with the 1972 Act are as follows:

1.5.1 Section 21 Public Health Acts Amendment Act 1907 **or** Section 18 Public Health Act 1925.

1.5.2 Sections 64 & 65 Town Improvement Clauses Act 1847 **or** Section 19 Public Health Act 1925.

- 1.6 Insofar as the naming of new streets is concerned, Section 17 of the Public Health Act 1925 can be adopted individually, without conflict with any other legislation. Thus, it is recommended that the Council adopts this Section in addition to the choices to be made as described below.

The options – 2 separate choices to be made

- 1.7 Choice 1 – concerning the ability to alter street names

1.7.1 Section 21 Public Health Acts Amendment Act 1907.

Under this Section the procedure for altering street names requires the consent of two thirds of the ratepayers affected. Thereafter, the Council has the power to erect street nameplates and there are offences for any person who obliterates, defaces, obscures, removes, or alters any such name.

or

1.7.2 Section 18 Public Health Act 1925.

Under this Section the Council may alter the name of a street by order, provided one month prior to making the order notice of the intended change is given. Aggrieved persons have 21 days to appeal to the Magistrates' court against the order. Under this Section there are no formal consultation requirements.

Analysis of the differences between these Sections

The main difference is that when altering a street name, Section 21 Public Health Acts Amendment Act 1907 requires the consent of two thirds of the affected ratepayers, whereas under Section 18 Public Health Act 1925 the Council can alter the name by order, (subject to a route of appeal to Magistrates' court). Thus, there is much less flexibility under Section 21 Public Health Acts Amendment Act 1907. A further difference, however, is that Section 21 contains penalties for interference with the street name, whereas Section 18 does not. Thus, if Members wish to adopt Section 18 and defacing of name plates is of concern, it will be necessary to specifically consider which of the options in Choice 2 below offers the widest criminal offences for prosecution.

Charging

Both Section 21 Health Acts Amendment Act 1907 and Section 18 Public Health Act 1925 are discretionary services and therefore the Council may charge for amending a street name under either provision.

- 1.8 Choice 2 – concerning the erection of name plates and penalties for damage or using unapproved street names

1.8.1 Section 64 Town Improvement Clauses Act 1847 (Section 65 is not relevant in this case, having ceased its application in the former county area by virtue of s11 of the Cheshire County Council Act 1980). Enables new streets to be named and there are penalties for any

person who destroys, pulls down or defaces the street name. It also has a penalty for any person erecting a different name.

or

1.8.2 Section 19 Public Health Act 1925

This Section requires the council to mark the names of streets, with a power to renew or alter as the case may be. There are penalties if any person pulls down the name plate, sets up a different name or erects any notice or advertisement within 12” of the name.

Analysis of the differences between these Sections

The main difference is that Section 64 Town Improvement Clauses Act 1847 carries the wider list of criminal offences as it enables prosecutions for destruction and defacing a street name, whereas Section 19 Public Health Act 1925 only has a penalty for pulling down the name plate or where any notice or advertisement is placed within 12 inches of a name plate. Section 19, however, does carry a specific power to renew/alter the name plate, which Section 64 Town Improvement Clauses Act 1847 does not have. The level of the penalty upon conviction is the same regardless of the legislation chosen. Thus, it would seem that if damage or defacing is a concern in the Borough it would be more appropriate to adopt Section 64 Town Improvement Clauses Act 1847. If notices or advertisements being attached to or near to street name plates is of greater concern in the Borough, then it would be more appropriate to adopt Section 19 Public Health Act 1925.

Charging

Both Section 64 Town Improvement Clauses Act 1847 and Section 19 Public Health Act 1925 are powers which the council are mandated to provide or have a duty to provide and therefore the Council would not be able to charge for the erection of name plates under either of these provisions.

Recommendations

1.9 Officers recommend that in respect of the options, the following legislation is chosen:

1.9.1 Choice 1 – concerning the ability to alter street names

Section 21 Public Health Acts Amendment Act 1907

1.9.2 Choice 2 – concerning the erection of street signs and penalties for damage or using unapproved street names

Section 19 of the Public Health Act 1925