

Democratic & Central Services

Governance Services

4th Floor (West)

Civic Hall

Leeds LS1 1UR

Contact Name: Kevin Tomkinson

e-mail: Kevin.tomkinson@leeds.gov.uk

Direct Line: (0113) 2474357

Fax: (0113) 3951599

Your ref:

Our Ref: A61/kjt/quest

Date: 30 January 2014

To: All Members of Council

Dear Councillor

COUNCIL MEETING – 15TH JANUARY 2014

At the above meeting, the thirty minutes of Question Time expired with questions 14 to 22 unanswered. Council Procedure Rule 11.6 requires that each Member of Council is sent responses to such questions.

Q14 Councillor A Blackburn - Does the Executive Member for Neighbourhoods, Planning and Support Services agree with me that the Council's Planning Compliance Officers carries out an important service for the Council?

A I agree with Councillor Blackburn that the Council's planning compliance service is an important service. This is why I have sought to prioritise the Compliance Service when considering budget reductions. National statistics show Leeds to take more formal enforcement actions than any other core City.

Having said this, as a result of internal promotions, we have seen a temporary dip in the enforcement resource, and so we are prioritising the most important cases in the interim period before new staff are appointed.

Q15 Councillor S Hamilton - Given the demand for affordable housing, can the executive member with responsibility for housing confirm whether he feels there should be a cap on HRA borrowing?

A In the determination of increasing the level of borrowing any decision needs to be taken in the context of the HRA Business Plan and supporting capital investment plans and it will also be influenced by what the borrowing is for. For instance when the borrowing is for new build then our financial models indicate that the revenue streams

associated with rental income more than cover the current costs of borrowing and therefore arguably, apart from the requirement to manage the cash flow impact of the borrowing, there would be no upper limit on the level of borrowing since ultimately there would be no net cost to the HRA.

The Council is borrowing £20m to deliver the largest programme of council house building for 3 decades. Clearly a relaxation of the cap would allow us to build more and better address the dire shortage of affordable homes in this city.

Q16 Councillor P Wadsworth - Would the Executive Board Member for the Environment provide an update on the alternate weekly collection service?

A Around 170,000 households across Leeds now receive the new bin service (Alternate Weekly Collections). This includes approximately 56,000 households that went live with Phase One in April 2013 and 113,000 households that went live with Phase Two in November 2013.

Properties in the Phase One area have sustained an increase in recycling tonnages and a decrease in residual tonnages when compared to the same period prior to the new bin service going live. Since the commencement of AWC1, there has been a reduction in residual waste collected of some 3400t and an increase in recycling collected of nearly 1500t in that area.

Early indications of the latest roll-out of the new bin service are promising, also showing a decrease in the amount of residual waste and an increase in the amount of recycling collected when compared to tonnages collected in the same period of the previous year. In the first 4 weeks of AWC2, the Council saw a reduction in residual waste of around 1,300t and an increase in recycled waste collected of some 400t in this area

In general the service has settled in very well, with customer contact being within the bounds to be expected for this time of year following the Xmas collection rescheduling. A small, limited number of issues are being addressed as part of routine operational delivery.

It should be noted that these are very early indications, and a more accurate picture of the success of the AWC2 will be attained over the next few weeks as the new service continues to bed in following the Christmas period.

Plans for future roll outs to remaining suitable properties in the city are currently being developed to meet the council's targets for the 2014/15 financial year.

Based on the sustained success of phase 1 and the initial data from phase 2, the Council is on target to achieve its target of saving in excess of £2m for a full City wide roll out of AWC.

Q17 Councillor M Hamilton - Could the Executive portfolio holder for Leisure & Skills explain what the Council's current policy is for estimating the value of art which is in the ownership of Leeds City Council? What is the current estimated value of the art collection and when was a valuation last undertaken?

A 1. Valuations are determined within the context of a risk management strategy

and are based on experience of staff, evidence from any recent auctions and other freely provided external expertise from national museums or other experts (more details below).

2. The global insurance valuation for entire council owned collections is £150m (not simply 'art' collections).
3. The last valuation was undertaken in Autumn 2013

An individual item only has a financial value when its bought or sold and that value can rise & fall on a daily basis. Because of the numbers involved, we only attempt to provide specific valuations for high value items, high risk items or when faced by a loan request. Obviously if we have purchased an item after a fundraising campaign we will have a real valuation at the point it was purchased which we would use.

The total value of the collection at any given time reflects the 'contents' of the buildings of the service (reflecting loans in and out) and not the total value of every item in our ownership. Included are approximately 430 items which are in our care, but owned by Leeds Art Fund. This collection includes works by Bacon, Grimshaw and Spencer. (Rather than add to this collection, the more recent practice is that Leeds Art Fund will provide a grant to the service to seed fund purchase of new acquisitions which would then be owned by the authority).

We could pay auctioneers to value the collection but the cost is prohibitive. The normal valuation charge can be around 10% of the value of each item. Even if we were able to negotiate a discount because of the scale of the collection it would not represent value for money. In any case, as in the rare occasions when we need to claim the insurers bring in a loss adjustor who we negotiate with as they would not necessarily accept the valuation we or others have placed on an item.

It would be useful to note that the request is about financial values. Many items in collections have little financial value but are irreplaceable as part of Leeds cultural heritage.

Q18 Councillor J Marjoram - What is the point of a public consultation?

A Members will not need reminding of the extraordinarily difficult financial circumstances councils find themselves in. This means that Councils up and down the country are having to make some incredibly difficult decisions. Here in Leeds we take the view that it is important to take into account the views of those affected.

Our approach to consultation is one that is open and transparent, that our consultations are genuine listening and understanding processes, and that they are thorough and respectful discussions with individuals and communities over matters that are important to them. We consult when proposals are still at a formative stage, and given reasons for proposals so that people can give informed consideration and response. We allow adequate time for this purpose, and we take the product of consultation conscientiously into account when we make decisions.

This means that following a consultation we are confident that we are able to take all points of view into consideration and come to a decision that is the best one for the city.

Having said that, we can't avoid taking important decisions on the basis that some of the people we consult register their opposition. But we can – and have – altered our proposals on the basis of issues articulated during consultations.

That, I believe, is the point of consultation as part of the democratic decision-making process in this city.

Q19 Councillor G Latty - Will the Executive Board Member for Adult Social Care update Council on the recent decision to reach an out of court settlement with the Leeds Society for the Deaf and Blind, including the value of the settlement and the Council's costs and legal fees?

A It is important to emphasise the historic nature of this case and to say from the outset that Adult Social Care commissioning process are now robustly monitored as contracts for specified services, as opposed to annual grants, which was the case when we first started funding the then Leeds Society for the Deaf and Blind.

In November 2006, Leeds Society for Deaf and Blind's director indicated that the Society was holding a surplus.

The Council attempted to engage with the Society to identify the extent of the surplus without success.

The Society's accounts for the year ending 31 March 2008 indicated that there was a surplus of a proportion of the Adult Social Care funding held by the Society, repayable to Leeds City Council at the end of the contract.

ASC undertook a specialist financial assessment of the latest accounts posted by the Society the outcome of which is set out below.

Following this assessment an assertion remained that a total of £288,230 should be claimed from LSDBP by Leeds City Council.

This is based on the following analysis of balances on restricted funds which we believe should be repayable to Leeds City Council. These balances have been adjusted to reinstate the amounts removed without authority to support the pension deficit.

The figures below are based on the published accounts for the year ended 31st March 2008.

Restricted Fund	Balance per the 31/03/08 accounts	Amount deducted re pension deficit	Revised balance
	£	£	£
Centre for the Deaf	(175,881)	195,000	19,119
Communications Unit	(22,602)	38,000	15,398

Interpreting Service	149,242	100,000	249,242
Shire View	1,471	3,000	4,471
Total	(47,770)	336,000	288,230

The table below with figures taken from the published accounts of the Society reveals the cumulative effect of deducting sums from restricted funds between 31 March 2005 and 31 March 2008 in order to reduce the deficit in the Society's pension fund.

	Centre for the Deaf	Communi-cations Unit	Interpreting Service	Shire View	
Year ended	£	£	£	£	£
31/03/05	134,000	21,000	57,000	0	212,000
31/03/06	21,000	5,000	14,000	0	40,000
31/03/07	(25,000)	(2,000)	(6,000)	0	(33,000)
31/03/08	65,000	14,000	35,000	3,000	117,000
Total	195,000	38,000	100,000	3,000	336,000

The amount of £288,000 was reclaimed in three deductions from quarters three and four of this financial year (2009/10) and quarter one from 2010/11. Each deduction was to the value of £96,076.

The Corporate Procurement Unit wrote to the Society in 1999 explaining that the Council would no longer be responsible for the pension deficit of contracted organisations. As a consequence the Council could not agree to the usage of restricted funds in this manner.

The Council therefore recovered the surplus as identified in the Society's accounts by 3 deductions from payments which would otherwise be due to the Society in 2009 and 2010.

The Society amended its accounts and re-submitted, claiming that there was no surplus due to Leeds City Council and the sums were from other income. The council sought but did not receive evidence to substantiate this claim.

The Society then issued proceedings against the Council to seek to recover the deductions made, plus interest, plus their legal costs.

Advice was sought from counsel at an early stage. However, we were in difficulties assessing the merits of the claim for recovery of the surplus because of lack of information and documentation from the Society. In addition, there was a complicated history of numerous contracts dating back to 1974. Officers who had dealt with the matter had left. Historically there had been a lack of monitoring of the contract.

It was not until after disclosure of documents and exchange of witness statements through the court process that we were able to establish a clearer picture of the case we would face at court. Even then there was significant uncertainty remaining as to what witness evidence would come out at trial and so the chances of success.

The main issues were;

- 1 which contracts were in place and when
- 2 on the facts whether sums were repayable to the Council
- 3 whether there were agreements by the Council that such sums would not be repayable
- 4 whether the limitation period for recovery of the money had expired
- 5 whether the Council was liable to pay the society for the estimated future pension deficit

Counsel advised on the basis of the information we had received through the court process:

- taking into account the uncertainty of the evidence which may be provided orally by witnesses at court,
- taking into account the complicated history, the lack of information regarding conduct of the contracts historically because of turnover of staff,
- taking into account the risk of significant costs and interest being awarded against the Council following a 5 day contested trial (Society's costs estimated at £219,673)

and

- taking into account the offer to settle made by the Society,

that the court was likely to conclude that some of the amount claimed was payable by the Council and that the Council should seek to negotiate a settlement.

The Council entered into negotiations with the Society and reached an agreement approved by counsel as a sensible settlement taking into account all the circumstances.

The Council has agreed to pay the sum of £310,000 inclusive of costs and interest.

The costs incurred on this matter by the council were £17,005.09 in respect of counsel and £16,040 in house legal team.

We would emphasise that over the past seven years, all Adult Social Care contracts have been the subject of systematic review, which means that any issues such as poor performance and accumulated surpluses, which were the issue in this case, are picked up at a very early stage and addressed.

The out of court settlement was based on Counsel's specialist advice and if we had taken the case to court and lost, it would have cost the Council at least £0.5 million.

A report is in preparation and will be presented as a Significant Operational Decision to the Adult Social Care Delegated Decision Panel on 6 March so that the payment can be recorded under the Council's Governance procedures.

NOTE: The out of court settlement was made on 3 December 2013 and payment was made shortly after.

Q20 Councillor J Marjoram - In 2013 how many Residents' Only Parking Zones were created that failed to meet the Highways Department own criteria for such schemes?

A In 2013 four Residents Parking Schemes were promoted in the city. All schemes were promoted on the basis of representations made by local Ward Members and residents to address parking matters of local concern, often at locations near large generators of parking demand such as businesses and leisure venues. The only criteria that is applied in considering these schemes is to ensure that they meet basic principles of traffic management and do not have an undue impact on traffic movement and are not detrimental to road safety. None of the schemes promoted during 2013 are considered to have contradicted those principles. Following the Executive Board report on residents parking in November 2013 it is intended that during 2014 a review of the policy approach to residents' parking schemes will be commenced.

Q21 Councillor B Anderson - Does the Executive Board Member for Neighbourhoods, Planning and Support Services believe that there are sufficient resources available to meet the challenge of delivering enhanced locality working arrangements?

A "Whilst I believe there are sufficient resources overall to meet the challenge of delivering the proposed changes to our locality working arrangements, I do accept that as new functions are delegated we do need to ensure the right resources are transferred alongside. We will need to look carefully at our support arrangements to ensure we have the right resource base with the right skills and expertise to support the new way of working. This will form part of the implementation arrangements as we move forward".

Q22 Councillor G Wilkinson - Is the Executive Board Member for Neighbourhoods, Planning and Support Services satisfied with planning enforcement in Wetherby, specifically with regard to the long running case involving St Angelo's restaurant?

A The Planning Compliance Service is one of the Council's priorities. National Statistics show that Leeds take more formal enforcement actions than any other core city. This includes Wetherby ward. The specific case relating to St Angelos restaurant is long standing and relates to flue extraction and air conditioning units. An application to discharge conditions relating to this matter is with the Development Management Service and is subject to negotiation. The resolution and direction of the enforcement case rests on the outcome of this application.

Yours sincerely

Kevin Tomkinson
Principal Governance Officer