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Town Hall
Trinity Road
Bootle
L20 7AE

TO: All Members of the Council

Date: 21 January 2021
Our Ref: Council
Your Ref:

Please contact: Ruth Harrison
Contact Number: 0151 934 2046
Fax No:
e-mail: ruth.harrison@sefton.gov.uk

Dear Councillor

COUNCIL - THURSDAY 21ST JANUARY, 2021

I refer to the agenda for the above meeting and now enclose the following report which was unavailable when the agenda was published.

Agenda No.	Item
6.	Questions Raised by Members of the Council (Pages 137 - 146) To receive and consider questions to Cabinet Members, Chairs of Committees or Spokespersons for any of the Joint Authorities upon any matter within their portfolio/area of responsibility, of which notice has been given by Members of the Council in accordance with Paragraph 49 to 51 of the Council and Committee Procedure Rules, set out in Chapter 4 of the Council Constitution.

Yours sincerely,

D. Johnson

Chief Executive

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COUNCIL – 21ST JANUARY 2021

QUESTIONS RAISED BY MEMBERS OF THE COUNCIL

1. **Question submitted by Councillor Sir Ron Watson to the Leader of the Council (Councillor Maher)**

Subject: Current Position on Council Balances

“Will the Leader of the Council please confirm the amount held by Sefton Council in balances on the 31st March 2020”.

“Will he advise if any of this amount has been spent and whether or not it is likely that some of the balances will be used for the new financial year 2021/22 to assist with the Covid situation”?

Response:

“The General Fund Reserve was £6.984m as at 31 March 2020.

The 2021/22 budget is currently being developed and will be reported to Cabinet on 11 February 2021 and Council on 4 March 2021.

Any in-year use in 2020/21 will depend upon the final outturn position.”

2. **Question submitted by Councillor Pitt to the Cabinet Member for Children, Schools and Safeguarding (Councillor Kelly)**

Subject: Education - Online Learning

Sefton Council Members are very conscious of the fact that school pupils in both the primary and secondary sector are being significantly disadvantaged for their future by the health needs that have resulted in the closure of schools.

Will the Member please advise, if the information is available, the extent to which online learning has been introduced and give an indication as to what percentage of pupils have been covered and how many hours per day have attempted to deal with educational needs in this manner.

Would the Member also indicate if there are any specific areas of the Borough where the problem is more acute and where additional efforts may potentially be needed from a revenue point of view in the future.

Response:

“Schools in Sefton have been working very hard to ensure pupils have access to good quality education since the announcement of the 3rd national lockdown. The DfE have published Guidance for schools on a range of issues including how remote education should be provided and access to digital devices.

<https://www.gov.uk/government/publications/actions-for-schools-during-the-coronavirus-outbreak>

There is an expectation that by 25th January all schools will publish on their website a report outlining the remote learning which they offer.

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Headteachers have been encouraged to use the DfE template for this and the LA will monitor schools' websites to ensure all schools have complied with this request and are meeting the expectations detailed in the guidance. At this stage we are not aware that there are any issues in specific areas of the Borough but we will continue to monitor this over the coming weeks.

Head teachers have developed their policies for remote learning and have made considerable progress in setting up on-line learning platforms. Detailed lessons and learning resources which cover the curriculum are posted on the learning platforms daily. Parents and pupils are then encouraged to work through the content and submit completed work to teachers to be marked and assessed. Many schools are now running Class or individual Zoom sessions to contact pupils and work through any problems or issues they may have had during the day”.

3. **Question submitted by Councillor Brough to the Leader of Sefton Council (Councillor Maher)**

Subject: EU Environmental Regulations

Will the Leader of the Council please advise that as the agreement with the EU has been agreed to the relief of all concerned irrespective of their views what plans Sefton has to evaluate current EU policy as it applies to the Borough and in particular with the whole of our beach front areas.

Would the Leader of the Council accept that such a review should be undertaken as quickly as possible and that it should involve Elected Members from the areas concerned.

Response:

“Having declared a climate emergency in Sefton, and having long worked with stakeholder groups across Sefton and its coast on the subject, such policies are continuously reviewed by the Council. Officers are actively engaged in regional boards relating to landscape management (including the coast), are members of national bodies and professional institutions keeping a watching brief on the developing situation - and all await national guidance (likely to come from DEFRA). This hasn't been made known as yet, but as the impact from leaving the EU becomes more understood, including any impact on beach, coast and overall landscape management, designations of protected landscapes, and the funding of such; officers will then liaise with Elected Members and our communities accordingly.”

4. **Question submitted by Councillor Dutton to the Cabinet Member for Planning and Building Control (Councillor Viedman)**

Subject: Policy towards mixed retail/residential developments

The current situation with Covid 19 has undoubtedly accelerated the move away from retail in a traditional shop setting to online shopping and this process is bound to continue.

Does the Cabinet Member agree in these circumstances that the moves to change the environment of traditional retail shopping areas particularly in places like Southport Lord Street and Southport Chapel Street would benefit from a new mix of residential and retail use.

Does the Chairman acknowledge the concern felt by many Members of the recent Planning Committee's decision to refuse an application to convert the empty BHS store into a mixed development of quality apartments and ground floor retail.

Would she be good enough to give an assurance that every effort will be made with the proposed developer to ensure that the objections stated can be reconciled with the overall application which many believe will be a significant improvement on the current situation and also show that Sefton is moving forward rapidly with this new type of approach.

Response:

"We would all like to see the revitalisation of traditional retail areas within the Borough, but all planning applications should be assessed on their own merits and decisions which shape our built environment should be made locally in line with current policy.

The Planning Committee did not refuse any application to convert the former BHS building in Southport.

Planning officers remain in dialogue with the applicants of the previously submitted scheme."

5. **Question submitted by Councillor Keith to the Cabinet Member for Locality Services (Councillor Fairclough)**

Subject: Street Cycle Lanes

"One of my residents has forwarded me a letter he received from Damien Moore MP in relation to the Tranche 1 Queens Road/Hoghton Street Cycle Lanes installed last summer in Southport. It included the following comment:

"... we are still not yet satisfied that the government has responded to Sefton Council's flagrant breach of government guidelines in relation to the emergency active travel fund which stipulates that Local Authorities should consult with all stakeholders prior to implementation."

What precisely did the Government stipulate as regards consultation last summer and why did Sefton Council fail to comply?"

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Response:

“The need for consultation and engagement is understood and every other transport scheme developed in recent times has been subject to consultation including a report to the Consultation and Engagement Panel so that proposals can be subject to scrutiny. However, the Tranche 1 schemes were developed on the strict understanding that the schemes had to be in site within 4 weeks of the offer letter being received by the Liverpool City Region Combined Authority which was subsequently received on 3rd July 2020. This extremely short timeframe was imposed on the Council by the Department of Transport and Cabinet therefore acknowledged the limitations with regard to the usual consultation processes we adopt in the delivery of these schemes. This only allowed time to advise all businesses and residents on the route affected via a leaflet explaining the proposals.

To quote from the DfT conditions of the grant agreement:

‘We expect all these measures to be delivered quickly.....If work has not started within four weeks of receiving your allocation under this tranche of funding, or has not been completed within eight weeks of starting, the Department will reserve the right to claw the funding back by adjusting downwards a future grant payment to your authority.’

‘Although the initial implementation period can be quick, local residents and businesses should still be given an opportunity to comment on proposed changes, and the need for extra monitoring and consultation afterwards can make them a more onerous process overall.’

As can be seen from the above, the DfT acknowledged the facilitation of an ‘opportunity to comment’ rather than a full consultation process.

The Council has therefore followed the stipulations set out by central government and there has been no ‘failure to comply’.”

6. Question submitted by Councillor Shaw to the Cabinet Member for Regulatory, Compliance and Corporate Services (Councillor Lappin)

Subject: Pay and Grading

“At the meeting of the Pay and Grading Committee held 13 January 2021, in discussion on the Government’s recently introduced cap of £95,000 on public sector exit payments, an amendment was put and carried by Labour members. This was that:

“in the event of a future Labour Government the Council be recommended to write to the Government requesting that the Restriction of Public Sector Exit Payments Regulations 2020 be repealed.”

The reason given by the proposer was concern at the “effects of the proposed legislation on employees who were not considered to be high earners”.

Is the Cabinet Member aware that:

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(i) the Council's published Financial Statements over the last 5 years disclose that there have been 15 employees who have left the employment of the Council during that period where Exit Payments exceeding £100,000 have been incurred, and that the total cost of those 15 Exit Payments was £2.4 million.

(ii) that the three highest Exit Payments were:

- £268,000 in 2018/19
- £262,000 in 2015/16
- £197,000 in 2015/16

(iii) that of the 15 employees, 14 were managers and 12 were Grade K and above, or Hay Grade.

In the light of the above would the Cabinet Member agree that it would be much better to write to the present Government calling for the Regulations to be revised so as address the anomalies which could undoubtedly arise in relation to relatively low earners, rather than writing to some hypothetical future Labour Government calling for very large Exit Payment to resume to very high earners?"

Response:

"The call to repeal the workings of The Restriction on Exit Payment Regulations 2020 reflects a view as to the real quandary and difficulty the Government's handling of this matter has left this Council in and other public section employers. This has been described 'as a real pickle'. At this moment in time the Exit Pay Regulations in respect of certain earners say one thing and the Pension Regulations say another, leaving uncertainty. This is now added to as a Judicial Review application has been received and accepted for hearing. The Regulations were passed at the same time as consultation in respect of MCHLG proposed changes which are far reaching changes to the Local Government Pension Scheme. The Government has chosen to use Pension strain figures in the calculation of the cap. The Pension strain figure is not something which an employee will receive, it is paid to a pension fund.

UNISON the trade union have said:

"Ministers claimed the legislation, limiting payments to £95,000, was designed to reduce the pay-outs to Senior managers. But instead, thousands of staff with decades of service could be caught up in problems with the new law.

Despite warning of the damaging impact of the cap, the Government has ploughed ahead and the change will come into effect on 4 November 2020.

The new law means the £95k includes a payment employers make to pension funds to ensure that long serving staff don't receive reduced pensions. Any worker over the age of 55 who is made redundant will be affected by the change.

Although employees don't directly receive the payment themselves the legislation penalises them as if they did. This is unfair, unjustified, and causing anxiety among workers who've given a lifetime of service to the public sector. Middle income earners taking home around £20000, to £30000 a year, who have built up pensions over decades, are being treated as if they are after a quick pay-out. Yet high earners who've put in **Page 141** if public service can walk away with

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£95000 because they haven't built up a pension pot says UNISON. It makes a mockery of the years staff have worked for the public good."

The judicial Review parties not only involves UNISON, GMB and UNITE, but also a number of others, including Chief Executives organisations (ALACE) and Lawyers in Local Government (LLG) .

The President of LLG (Lawyers in Local Government) said "Up to 86% of officers facing redundancy over the age of 55 are likely to be adversely affected."

The Exit Pay Regulations, in using pension strain (payments made from the employer to fund), creates a position whereby unexpected earners are caught.

Caroline Yarrow and Alex Rush in People Magazine in November 2020 also point to further issues alongside the cap not only affecting senior managers, but the legislation could also be seen as breach of a promise in respect of further changes at the time of changes to pension schemes in 2013. They also point out the cap does not apply to a member employee of a private organisation who is a member of a public sector pension scheme. Finally, they explain that as passed the legislation may encourage an employee seeking an exit to avoid the cap by crafting a narrative about potential claims trying to place themselves in an exception.

Proposed MHLG changes to the pension regulations which sit alongside the cap (which uses pension strain and are detailed as a result, also mean that anyone over 55 will be affected in an redundancy situation in the following ways.

1. To receive unreduced, immediate pension benefits the employee can forgo their redundancy payment towards the exit cap. The employer will fund the balance of the strain costs less the value of the redundancy up to £95k and the employee has the option to fund any strain costs more than the 95k from their own funds. *(If the employee does not want to pay the additional strain costs Option 3 would apply)*
2. Employee receives a redundancy a payment and defers their pension benefits until normal pension age (NPA) when no reductions are applicable. There is no strain cost to employer only the redundancy payment. The employee can also access their deferred benefits on any date after leaving employment and before NPA but would be subject to actuarial reductions applicable at the time.
3. Employee receives statutory redundancy payment and reduced pension benefits in line with the current actuarial reduction factors. The strain costs paid by the employer are reduced by the value of the redundancy. As this value is included in the total of the exit payment, the adjustments to pension benefits are not fully funded therefore a reduction is applicable (this applies even if the total of the exit payment falls below 95k).

Examples of Effect

Example (a)

60-year-old part time Cleaner works 5 hours per week at a school with 13 years' service:

Annual salary £2133.15

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A weeks' pay £47.52
Pension Strain Costs £2575
Redundancy payment £926

Regardless of whether the exit cap applies or not, the member is in effect forced to choose.

This would mean in applying the choice that an individual would potentially lose a redundancy payment to pay towards the strain costs and still have a reduction in pension benefits compared to the current regime. Note changes on an actuarial basis may be made in strain costs.

Example (b)

57-year-old Teaching Assistant at a school working 19.5 hrs t/t with 16 years' service:

Annual salary £8586.15
A week's pay £237.86
Pension Strain Cost £22803
Redundancy payment £5708

Again the Employee faces a choice of whether to use the redundancy payment to fund strain costs but a shortfall exists meaning reduced benefits.

Example (c)

55-year-old Council Officer whole time with 38 years' service:

Actual Annual salary £43662
A weeks' pay £837.35
Pension Strain £149105
Redundancy Payment £22608

The Employee comes within the cap. The Employee can choose to give up the redundancy payment to fund the cap by taking reductions or deferment. In some way the excess costs must be accounted for in the way in which benefits are either reduced or delayed.

In Councillor Shaw's question the totals given include pension strain payments and not payments to the employee which resulted in savings for the organisation. It is very important to note that apart from a redundancy payment based on a week's pay and on the statutory formula (note that Sefton does not apply an increased multiplier but does use an actual weeks pay), the rest of funding went to the pension fund.

It can be seen that the effects of Cap (utilising strain) and Regulations and how they deal with pension strain have far reaching consequences. The call to repeal is to ensure that a blunt instrument causing a real problem is removed.

We all await the Judicial Review process."

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Services (Councillor Fairclough)

Subject: Street Cycle Lanes

"In the last two weeks there have been reports in the local Southport media that there has been a recent announcement from the Council that

- "the cycle lane project introduced down Hoghton Street and Queens Road last summer will now be expanded to include areas of Churchtown, Crossens and Birkdale Village"
- "lanes will also be installed connecting the town centre to Crossens and Churchtown going North and Birkdale Village going South"

The press statement also claims that:

- in areas where parking was already limited and footfall already severely reduced by the pandemic, Labour Councillors have once again voted to reduce this parking availability even further"

I have checked carefully but can find no basis for the claims in this press statement.

Would the Cabinet member please advise me whether there has been any announcement in January of cycle lanes in Birkdale Village (i.e. Weld Road from York Road to railway line, and Liverpool Road from railway line to Welbeck Road/Bolton Road)?

Whether or not there has been any "announcement" are there, in fact, any plans to introduce cycle lanes in Birkdale Village?"

Response:

"There has been no formal announcement or press release concerning the Active Travel Tranche 2 scheme.

The Cabinet Member Report titled 'Liverpool City Region - Tranche 1 Emergency Active Travel Fund', issued on 17 August 2020, included the paragraph:

- 4.8 Phase two proposals, which could be considered as part of Tranche 2, could see this route extended both north and south to serve a wider area of the town, to the south along Alma Road to Birkdale and York Road and Trafalgar Road to Smedley Hydro and to the north along the A565 to connect Churchtown and Crossens to the town centre.

The Department for Transport considered a range of schemes submitted by the Liverpool City Region Combined Authority (LCRCA) to receive funding from the DfT Active Travel Fund. An extension to the Southport route was chosen as the only Sefton scheme to be considered.

Unlike tranche 1, the Department for Transport made consultation a condition of funding. The LCRCA was required to include consultation proposals on its website by 11th December 2020.

Whilst the scheme hadn't been

included on the website on the understand that these would be modified following consideration by the Council's Public Engagement and Consultation Panel and Cabinet Member.

These proposals give no indication of the route or details. They simply set out the proposed process to be undertaken in the engagement. The papers for the Public Engagement and Consultation Panel, which were intended to bring members up to speed, also specifically didn't include details of the routes.

Although officers were approached by Andrew Brown, who runs the 'Stand Up for Southport' website, following sight of the Public Engagement and Consultation Panel papers, no engagement has happened. There is no clear indication of where the local media have sourced their information for inclusion in the recent articles. The only publicly available information is the sentence included in the above report.

Officers are currently working up details of the potential routes with support from consultants engaged by the LCRCA. This process will also examine the potential implications. The intention is for the routes to be costed and a review undertaken to determine what can be funded from the budget expected from the LCRCA. These will then be considered by Cabinet Member before consultation with Ward Members and then with the wider public."

8. **Question submitted by Councillor Irving to the Cabinet Member for Planning and Building Control (Councillor Veidman)**

Subject: Sefton's Natural Environment

"Sefton MBC have a duty under a range of existing and new environment legislation to protect and enhance its natural environment and green infrastructure. Why then are so many trees, green spaces and even gardens being lost to development by those whose main concern is the pursuit of wealth at the expense of the environment. Some clarity from the planning department on their position would be helpful. Are they making full use of the legislation to control this trend and how committed they really are to the protection of Sefton's natural environment?"

Response:

"The LPA is fully aware of the legislation around protecting the natural environment and all development must be sustainable.

There are numerous issues which have to be taken into account when assessing planning applications which fall into the three pillars of sustainability, those being environment, social and economic.

These issues need to be weighted in order to achieve a planning balance, and the weighting attached by the decision maker will vary. Mitigation is another consideration in the process.

All decisions in Sefton are assessed on this basis in line with lawful procedure."

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