

COUNCIL - 21st NOVEMBER 2019

QUESTIONS RAISED BY MEMBERS OF THE COUNCIL

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

Freedom of Information Requests

The Council advises those who apply for information under the Freedom of Information Act that they may be subject to a fee.

Does the Leader of the Council consider that such a requirement should apply to Elected Members on Sefton Council who have asked a question under FOI where they have identified this as being the only mechanism that they can adopt to secure information to which they feel they are entitled but which has been denied to them under the current arrangements particularly in respect of "exempt" reports on which subsequent decisions are made.

Response:

"The Freedom of Information Act (FOIA) and subordinate regulations provide that a local authority can charge for the provision of information if the cost of providing the information exceeds £450.

The Council receives a significant number of requests under the FOIA which places a considerable burden on officers. Since the 1st April 2019 the Council has received over 780 such requests.

The Council always complies with its statutory responsibilities in relation to the disclosure of information and committee reports.

The FOIA applies equally to anyone and I see no reason why an Elected Member should be treated any differently to a member of the public."

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

The Strand

(a) The Audit and Governance Committee Meeting on the 24th July 2019 received the Annual Report on the Council's Financial Position and this included one line that indicated that there was a surplus on the account for the Strand of just under £1m.

Will the Leader of the Council please confirm how this amount has been spent particularly in respect of areas such as Adult Social Care which we know to be under considerable pressure?

(b) We are now passed the six month period of the current financial year so will the Leader of the Council please advise the current financial revenue position on the Strand and whether or not the £1m figure for the current year is on target?

(c) I consider it clear from the answer given at the last Council by the Deputy Leader that no Elected Cabinet Member has any business experience in the area of large scale retail development and extensive capital funding.

(i) In these circumstances would the Leader of the Council agree to set up through the arrangements we have with CIPFA a training course which I understand we are able to do under the arrangements we have with them?

(ii) Would you also at least consider that an invitation to other Elected Members to such a course be made available?

(d) A recent capital revaluation of the Strand indicated that it had a value of £25m which is a significant reduction on the £32m that the Council paid for the development. Will the Leader of the Council provide:-

(i) The annual revenue loan charges on the original £32m

(ii) The same figure that would have applied if the Strand had been valued at £25m in the first instance

(e) The Deputy Leader of the Council has confirmed that the Full Council has no power to either alter or refer back for further consideration cabinet decisions on the Strand made on the 25th July where the majority of information has been denied to Councillors other than Cabinet Members.

Does the Leader of the Council consider that this is an appropriate democratic process?

(f) The Deputy Leader of the Council has confirmed that in the event of the appropriate Overview and Scrutiny Committee a request for exempt information which would enable the Committee to determine the validity or otherwise of a cabinet decision can be refused.

The phrase used is that this could apply 'where it is legitimate for an executive to withhold information'

Would the Leader of the Council please give his interpretation as what is meant by this sentence and in particular the use of the word 'legitimate'?

(g) The Deputy Leader of the Council has advised that the exempt information on the Strand has not been shared with any Member of the Labour Group who are not Cabinet Members.

Would he advise whether or not any of his Members have made such a request and would he confirm that in the event of him doing so they will be denied the information?

(h) The Report, Agenda Item 18 of the Cabinet Meeting on the 25th July, indicated that there were proposals to 'transform' the Strand with a Health and Wellbeing hub, the development of an Assistive Technology Showroom and the incorporation of Sefton@Work.

Will the Leader of the Council please advise who is to provide these services, what rents will be debited to the public sector and what structural alterations - if any - will be required?

Response:

- a) "Council have previously been advised, indeed recent Budget reports have identified that for 2018/19 and 2019/20 a previously generated surplus of £1m from the Strand would be used in order to support the Council's revenue budget in each of these years, £0.5m in each year. This funding was required in order to help bridge the budget gap (created by cuts imposed by the Conservative and previous Coalition Government) in each of those years. The £1m in that reserve relates to those sums."
- b) "Neither the Council's revenue budget for 2019/20 that was approved by Full Council, nor the Strand reserve, have suggested that a £1m sum will be generated in year. The £1m question has been answered in a) above."
- c) "The Councillor should be aware that the Council and its Cabinet are policymakers, not managers. He should also be aware that we employ professional officers both to advise and deliver those policy decisions. As such, with regard to the Strand, a management company, highly experienced in managing shopping centres, was engaged."

i) "On the back of the recent LGA Peer Review, it was agreed that a member training and development programme would be developed, encompassing both internal provision and where appropriate external support. We have started this process with the recent LGA sessions. This programme is still in development that will cover many areas of council business and will include a number of mandatory sessions."

ii) "When this initial programme has been developed, delivered and then evaluated the next sessions of the training and development programme will be available to Members."

- d) "The annual loan payment that supported the initial purchase is £1.707m. This reflected the purchase price at that time that was based on a professional externally commissioned formal valuation and negotiation."

"The Strand was not valued at £25m at that point in time therefore any comparison is not valid. The cost of raising £25m at that point of time to be repaid over 25 years would be £1.313m."

- e) "The decision made by Cabinet on 25th July 2019 in relation to the Strand Shopping Centre was an appropriate one for the Cabinet to make in accordance with the provisions of the Local Government Act 2000 (and subordinate legislation) and the Council's Constitution. The same provisions do not allow for Full Council to alter such decisions."

"The Council will always comply with the law and the provisions of its Constitution."

- f) "Each request for information from an Overview and Scrutiny Committee would be judged on its individual merits bearing in mind the reason the information was classed as exempt in the first instance and the reason why the Overview and Scrutiny Committee were requesting the same."

"The word 'legitimate' is used in the statutory guidance on Overview and Scrutiny in Local and Combined Authorities (May 2019) and should be given its ordinary dictionary meaning."

- g) “The Deputy Leader was, of course, correct in advising that the exempt information on the Strand has not been shared with any Member of the Labour Group who are not Cabinet Members.”
- h) “Proposals for re-purposing a small area of the Strand not currently in use, are still in development. These proposals will be developed with the private sector on a commercial basis and may require re-configuration of units but it’s too early to make any definitive comments.”

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

V.E. Day Celebration, Friday 8th May 2020

“Friday 8th May 2020 is the 75th anniversary of the ending of the Second World War in Europe. To celebrate this day the Government has changed the traditional May Day Bank Holiday Monday to the Friday in order for people in the United Kingdom to celebrate this anniversary.

Sefton has a large population of elderly people who remember the war years to this day vividly in which many thousands of our residents were killed or injured in their fight to protect our country. I believe it is only right that this authority should assist either financially or help in kind with any community based groups who plan to celebrate this day in Sefton.

In Formby the Business Partnership along with the Parish Council, Civic Society, various community groups and especially local schools are planning to hold a street party in the centre of Formby with live music of the period along with a street procession, stalls and children’s party during the day time.

In order to celebrate this remarkable day in our history I ask that Sefton Council would consider waving the charge in order to close the roads in the centre of Formby as this gesture by the authority would go a long way to help make this day a day to remember for old and young in our community.

I ask that the Leader of the Council, Councillor Maher considers this request.”

Response:

“For many years, it has been custom and practice for Sefton Council to cover the cost of advertising and processing of legal temporary traffic regulation orders (TROs) relating to road closures for national events such as Royal anniversaries and weddings and commemorative events relating to the armed forces etc.

One month before the event, colleagues in our Communications Section will advertise the fact that Sefton Council will fund the legal Traffic Regulation Order (TRO) for such events and will invite organisers to contact the Highway Safety Team to discuss their requirements.

Organisers will be advised that all costs associated with the physical closing of the road and associated diversion signage would need to be organised and funded by the applicant, but all costs associated with the TRO would be met by the Council.

Once the location of all requested road closures is finalised, one set of notices would be placed in the local Press, advising of the date, time and location of all of the temporary closures.”

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

“The Leader of the Council may be aware that I submitted a request in September for some specific information through an FOI on The Strand.

I received a formal acknowledgement on the 25th September advising me that I would receive a reply within 20 working days.

The date for the reply therefore would have been the 20th October.

I spoke to the Chief Legal & Democratic Officer informally on the 29th October and he indicated he thought he had seen a draft reply but would follow the matter through on my behalf.

I emailed again on the 14th November and was advised that a response would be forthcoming from the appropriate Officer but at the time of the submission of this question I have not been able to trace a response.

I would be grateful if the Leader of the Council could now provide the answer - whatever it may be - whilst at the same time outlining to me the rationale that has been adopted towards the FOI.”

Response:

“I apologise for the delay in the Council replying to your FOIA request but I understand that a reply has now been emailed to you. I have not had sight of the request or reply nor had any input into its contents and therefore, I am unable to comment on the rationale that has been adopted in formulating the reply.”

5. **Question submitted by Councillor Pugh to the Cabinet Member for Children, Schools and Safeguarding (Councillor John Joseph Kelly)**

Applications to St Teresa’s Primary School

“Given that the council is conducting an open consultation on the future of St Teresa’s Primary School, why do parents seeking to enrol at that school have their application automatically re-directed on the council website to Our Lady of Lourdes?”

Response:

“This is not the case; the school admissions forms have St Teresa’s as an option and will continue to do so as no decision has been made at the present time.

It was also made clear in the consultation meetings with staff, governors and parents that St Teresa’s is an option on the admissions forms for primary schools, the closing date for applications is 15th January 2020.

The information on the website, which was developed in consultation with Arch Diocese, was intended to provide reassurance to parents that if they applied to St Teresa’s and if as a result of consultation the proposal was taken forward, they would not have to reapply for a school place.

The website has been updated to make it clear that parents should continue to apply to St Teresa’s if that is their preference and the Governors at St Teresa’s have been made aware. It remains the responsibility of the Governors and head teacher to promote the school.”

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

Busker's Licensing Scheme

"Will the council give serious consideration to a buskers licensing scheme?"

Response:

"Whilst a permit is required to collect money in the street for charitable purposes there is no such requirement when the collection is for private gain. Therefore, no licence or permit is required for busking. There are no bylaws locally which prevent busking. If the Council were to consider the introduction of a bylaw it would require the approval of the Secretary of State, followed by an advertisement and consultation process which would be very time consuming and expensive.

The Council Services that would receive complaints about buskers from members of the public and businesses report a very low level of activity in this area. Consequently, it would not seem appropriate at this time to commence the bylaw process.

Clearly this is a matter that can be reviewed periodically to determine whether complaint levels increase and a need exists to revisit this issue."

7. **Question submitted by Councillor Pugh to the Cabinet Member for Regulatory, Compliance and Corporate Services (Councillor Lappin)**

A Boards and Street Impedimenta

"What is the Council's current policy on A-Boards and street impedimenta on roads like Lord St within a Conservation area and how is it being enforced?"

Response:

"The Council currently does not have a policy specifically for A boards. Any illegal obstruction of the Highway as deemed by the Highways Act 1980 will be addressed on an ad hoc basis within the limitations of available resources

The Council does license Open Air Cafés on the footway which require both Advertising Consent and a Highway Amenities Licence.

Although as Cabinet Member I am responsible for enforcement, I actually do not have responsibility for this area of policy which lies with the Cabinet Member for Locality Services."

8. **Question submitted by Councillor Dawson to the Cabinet Member for Regulatory, Compliance and Corporate Services (Councillor Lappin)**

Number of Days Victoria Park, Southport Closed

"On how many days in the financial year 2018-2019 was (a) all of or (b) any significant part of Victoria Park, Southport closed to use by the general public? How does this performance accord with the Council's interpretation of the present agreement between the Council and the Southport Flower Show Company?"

Which officer or department of Sefton MBC is responsible for monitoring the performance of the Flower Show Company in this respect in complying with a formal agreement made with the Council acting on behalf of the people of Southport and Birkdale?"

Response:

"Full Park Closures - 74 days and partial park closures - 54 days (the gates to the park are open and the majority of the park is accessible to the public)

The current agreement allows for the park to be closed for 94 days a year for events, we are working with The Flower Show over the management of the partial closures. Victoria Park is vital to Southport's visitor economy, the towns major events would not be able to take place without the quality of the park and that is down to the continued investment of The Flower Show Board."

9. **Question submitted by Councillor Dawson to the Leader of the Council (Councillor Maher)**

Sefton MBC and the EU

"Is it the view or policy of Sefton MBC, the Sefton MBC Cabinet and/or the Leader of the Council that the future prospects for the operation of and service to local people provided by Sefton MBC would be enhanced were Britain to remain in the EU?"

Response:

"Other than the scenario in Operation Yellowhammer, we have no information based on which we can respond to this. The organisation is as prepared as it can be, based on the information we have, for a no-deal exit, but like others we await further detail on terms of exiting the EU."

10. **Question submitted by Councillor Dawson to the Cabinet Member for Regeneration and Skills (Councillor Atkinson)**

Southport Indoor Market

"In response to a Question asked at the September 2019 Council meeting about Southport Indoor Market, the Cabinet Member informed members that an organisation DV8, 'a subcontractor of Dawnvale Architects' were being employed on a £72,000 contract issued following a procurement process exercised through 'The Chest Northwest'. Could the Cabinet Member detail the decision-making process (dates and persons involved) within the Council which approved the issue of the 'spec' for that contract and (b) the spending of this amount by Sefton Council? Has any further contract concerning the Indoor Market been 'spec'ed' or any further expenditure approved or made?"

Response:

"The Council's procurement process was followed; key sign offs include:

- Pre-procurement Chief Officer report was produced by property and design team and signed by Head of Economic Growth and Housing on the 22/05/2019.

- Growth Board agreed the use of Growth Revenue budget for project on the 04/07/2019 as per the approval process.
- Post procurement Chief Officer report was produced by property and design team and signed by Head of Economic Growth and Housing on 04/07/2019
- The Council has also engaged other specialist advice in relation to the business plan and hospitality operations.”

11. **Question submitted by Councillor Dawson to the Leader of the Council (Councillor Maher)**

Questions to Cabinet Members on Long Term Absence

“Having recently come through an extended period of significant illness myself, I am particularly understanding of the necessity, on occasion, for a Cabinet Member who is suffering ill-health to not be able to attend meetings of the Council and answer supplementary questions further to written answers given to formal questions submitted to the Council. The Council's public Questioning process is an important part of the public accountability provisions of the Council's Constitution and their functioning should not be subject to the state of health of individual Cabinet members.

Bearing in mind that Cabinet Members answering formal questions do so exercising responsibilities on the behalf of the Cabinet and Council, answers being generally based upon briefings provided by senior officers of the Council, - and also that all Cabinet Members exercise office through a process which involves accountability to the elected Leader of the Council, would the Leader agree to initiating and developing, within the processes of the Council, constitutional changes which will (a) provide for the Leader or Acting Leader answering supplementary questions when a Cabinet Member concerned is indisposed and (b) ensure that any initial formal Question put to a Cabinet Member who is indisposed are always provided with a written answer and opportunity for supplementary question under the 'umbrella' responsibility of the Leadership?”

Response:

- a) “No”
- b) “It is my understanding that any formal question put to a Cabinet Member at Full Council, who is not in attendance, is responded to and a written answer provided as soon as it is practicable afterwards.”

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

Use of ‘Deputy Leader’ title in Public Statements

“On any occasion when the Cabinet Member issues any public statement on any local matter under his title as 'Deputy Leader', would any such issue be made (a) based on the personal opinions held by the Cabinet Member at the time; or (b) under delegated authority on behalf of the Cabinet based upon policies of the Council?”

Response:

“It could be both or either depending upon the circumstances.”

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

Flooding in Rotten Row Southport

“Could the Cabinet Member provide a short statement to the Council in respect of the frequent significant flooding of part of Rotten Row, Southport, and prospects for the recurrence and/or rectification of this problem? Could the Cabinet Member's answer provide some guidance which will assist the public understand the distribution of formal responsibilities for these problems (both 'cause' and 'cure') between the Local Authority and United Utilities?”

Response:

“The conclusion to an investigation of the flooding to Rotten Row is that it is groundwater flooding. When water is taken out of the gully pots it just gushed back in, suggesting that the water is under pressure. Our contractors have been on several occasions to do this and each time they took approximately 18,000 litres of water, which given the area that the gully system drains (from the entrance to the boating lake to the entrance of the park) is a lot of water and should have cleared it if the source of the water was “local”.

As part of the investigations the caravan site was inspected and when water was removed from the soakaway the manhole filled back up very quickly, again indicating that it is a groundwater issue. It was also noted that the park was waterlogged.

We have recommended a survey of the highway drainage system in the area to understand the connections but this can't be performed whilst water is standing on the highway. Once the survey has been completed a longer-term solution can be investigated. This appears to be an issue for the Council rather than United Utilities.

The guidance which has been developed to show the differences in responsibilities can be found at: <https://thefloodhub.co.uk/household/#section-3>”

14. **Question submitted by Councillor Brough to the Cabinet Member for Regeneration and Skills (Councillor Atkinson)**

Town Centre Commission Update

- a) “Can the Cabinet Member outline the progress being made by the Town Centre Commission and Town Centre's Panel for the Liverpool City Region Combined Authority in reference to the factors associated with the decline of retail areas and shopping parades within Sefton.”
- b) “Can the Cabinet Member provide instances of consultations as part of this work with retail operators in Sefton.”
- c) “Can the Cabinet Member please outline any initiatives or investigations or surveys undertaken by Sefton Council engaging with retail operations within the borough and their outcomes.”

Response:

- a) "Cllr Brough rightly references the Combined Authority who are leading on this work. I suggest he contact them for a breakdown of their activity."
- b) "See above."
- c) "Health checks for all of our town centres and wider area resulting in an up-to-date evidence based retail strategy."

"Representation on Southport BID board by the Chief Executive. The BID represents 700 + levy paying businesses with regular feedback from local businesses.

Consultation on our three town centre plans, with adoption of all three plans.

Townscape Heritage initiative with a £1.6million grant awarded. Additional funding from the private sector will be made.

InvestSefton has now moved its Business Clinics in the Atkinson to a monthly basis, underpinned by themed events run by business experts. The clinics are for anyone thinking of starting or growing their business covering a range of topics such as accessing finance, business ideas, sales and marketing. InvestSefton's Advisers and a mix of volunteer mentors including accountants, and local entrepreneurs are on hand to offer advice and guidance.

InvestSefton Cyber attack prevention and artificial intelligence event attended by businesses. Feedback included:

"The support provided was invaluable"

"Would welcome further support on this"

SeftonCrowd funding opportunities- Council's Civic Crowd Funding scheme launched in January. The event was a success with 27 businesses attending and there has already been some interest shown by businesses in investing in projects including a community café.

InvestSefton will be promoting Small business Saturday on 7th December. This event aims to highlight and showcase UK small businesses and independent retailers. InvestSefton is adopting the Small Business local authority package including:

- Displaying Small Business logo's on the InvestSefton website and all team member signature emails
- Tweet (once a week)
- Send a mailshot to over 2000 businesses advising them of the campaign
- We will also offer Sefton based small retail businesses the opportunity to be promoted on our twitter account between Monday 2 December – Saturday 7th December.

Sefton Economic Forum is the Council's premier business engagement and consultation event' Held twice pa in south and north Sefton venues attracting up to 100+ businesses per event with a wide range of subjects discussed, most recently including:

- EU Exit
- Artificial intelligence and digital support
- State of the Economy
- Business Growth
- Opportunities landing in Southport”

15. **Question submitted by Councillor Bennett to the Leader of the Council (Councillor Maher)**

“Could the Leader of the Council please confirm why he would feel it necessary for elected members of council to have to go through the process of a Freedom on Information request to gain information relating to the council's business. I would like to think that our council is open and transparent and whilst I appreciate there may be some information that is private and confidential I would like to think he would agree that an elected member being given such information would be aware of its confidentiality and be able to keep it confidential.”

“I am at a loss as to why an elected Councillor to this council has to seek a Freedom on Information request to gain access to information. Could he explain why this is the case?”

Response:

“The Council will at all times comply with its statutory duties under the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

It is my understanding that Members receive all the documentation that they are entitled to receive as councillors within the above-mentioned Regulations.

I note the reference to the disclosure of information outside these statutory duties but past experience has shown that trust placed in opposition members in this regard can be misplaced.”