



**QUESTIONS TO THE
LEADER OF THE COUNCIL, CABINET MEMBERS
AND/OR
CHAIR OF COMMITTEES**

Thursday 6 December 2018

1. QUESTION FROM COUNCILLOR HOOK

Re: County Estates Farms

In the recent past, Council has rejected requests for the prevention of certain activities on County Estates Farms (e.g. the prohibition of the use of neonicotinoids and badger culling) on the grounds that tenancy agreements once signed, cannot be amended.

It may be the case that retrospective agreements cannot be looked into. However, surely any new such tenancy agreement could include new regulations? Have tenancy agreements not changed over the years?

REPLY BY COUNCILLOR HART

Devon County Council (DCC) update lease agreements to accommodate changes in legislation or regulation and tenancy agreements have changed periodically where legislation or regulation necessitate a change (neonicotinoids and badger culling which have previously been discussed were not regulatory changes). DCC, as landlord do not feel that it is appropriate to impose restrictions on some of its tenants which prevent them from participating in otherwise lawful activities.

The request to ban Neonicotinoids on the Estate will shortly be overtaken by the impending ban on their use by the EU. As a legislative change, DCC tenants, along with all other farmers will have to comply with the law and the lease contains general clauses requiring the tenant to comply with Acts of Parliament.

DCC would not wish to impose a blanket badger culling ban in the absence of any form of proven alternative means of tackling the reservoir of Tb in both cattle and wildlife, or legislative requirements preventing a cull, which could lead to a serious financial impact on tenant's farm businesses.

2. QUESTION FROM COUNCILLOR ASVACHIN

Re: Living Wage

I would like to know if we, as a Council, are paying all of our staff, at least the Living Wage? This includes staff who are not directly employed by us, but also those who work for companies who we contract out to. If we are not, then why not, and when do we plan to achieve this?

REPLY BY COUNCILLOR PARSONS

There is a legal requirement to pay the National Living/National Minimum Wage, as follows:

- *Employees aged 25 and over receive the National Living Wage*
- *Employees of school leaving age (24 and under) receive the National Minimum Wage*

The National Living Wage hourly rate is currently £7.83 and will rise to £8.21 in April 2019. The National Minimum Wage hourly rate increases according to age so from April 2019 it will be £3.90 for apprentices up to a maximum of £7.70 per hour for those aged 21 to 24 inclusive.

The Living Wage Foundation is an organisation who recommend a 'voluntary' 'Living Wage' of an hourly rate currently set at £8.75 outside London and this will rise to £9 per hour outside London from April 2019. Adopting the 'voluntary' Living Wage as proposed by the Living Wage Foundation is not a legislative requirement, and individual organisations will wish to review whether to adopt this rate of pay or not.

Devon County Council's current lowest hourly pay rate is well above the National Living Wage/National Minimum Wage and applies to all corporate employees and school support staff regardless of age including apprentices. It is currently £8.50 per hour and will rise to £9 per hour with effect from April 2019, thus matching the 'voluntary' Living Wage from April 2019.

Terms and conditions of contracts DCC enters into with companies delivering services on behalf of the Council are required to comply with all relevant legislation including the national living wage/Minimum wage. Regular checks are carried out to ensure compliance.

3. QUESTION FROM COUNCILLOR PROWSE
Re: Drains & Gullies

The recent rains have confirmed how many blocked drains we have, and no more than seen in the highway network in my division. Would the Cabinet Member for Highways agree that a three-year cycle of emptying drains in many roads is false economy? Is it not time to review this policy?

REPLY BY COUNCILLOR HUGHES

The current policy is that urban gullies that do not lie on the winter service gritting routes are cleaned and checked a minimum of once every three years. The policy also allows for this frequency to be reduced where there are gullies that are known to fill up more quickly.

I would suggest you contact your Neighbourhood Officer to discuss further.

In the future we hope to move to a programme that is based on need. The systems in place currently require operatives to record exactly when gullies are emptied and feedback the condition of the gully at the same time. Future analysis of this data will then highlight problem areas and enable more effective deployment of resources.

4. QUESTION FROM COUNCILLOR PROWSE
Re: School Budgets and Additional Funding

There are not many schools blessed with ten acres of green space especially in this city. The Junior school within my division is one such school but is surrounded by mature hedges of considerable size inter-dispersed with a vast number of mature trees most of which are subject to Tree Preservation Orders. Given that when it comes to school funding allocation it features very near the bottom of the list of schools within the County, can the Cabinet Member reveal whether any additional funding is available from another source when the Council Highway Authority receives complaints about the volume of vegetation overgrowth occurring over one of its public maintained highways?

REPLY BY COUNCILLOR MCINNES

Money for maintenance, including this kind of grounds maintenance is part of the funds that are delegated to schools. The school is responsible for ensuring that they deploy the resource effectively to cover all of their responsibilities.

When a hedge is clearly very overgrown and limiting pedestrian access to the footway, the County Council will encourage the school to cut the hedge, but can serve a notice if the school does not comply. I am not aware of other funding, outside of parental contributions, the school could access to supplement the maintenance resource that is already included in their budget.

5. QUESTION FROM COUNCILLOR PROWSE
Re: Funding Cuts

The Council cut funding to Home Start in 2011 and at that time we had 43 children's centres which we were assured would be able to offer assistance to such groups that the likes of Home Start catered for. A recent national newspaper report confirmed that no less than 30 authorities in England have their Children's Services in special measures. There are enough reports floating around that state early intervention is key to preventing children from slipping into youth offending, social services and court spiral. Can the Cabinet Member reaffirm that the Authority is focussed on positive intervention to aid vulnerable children who may end up costing the Authority more by not investing in the prevention process in the first place?

REPLY BY COUNCILLOR MCINNES

Various Home Start schemes across the county remain, funded through voluntary sector grants. Children's Centres, Health Visitors and other Early Help services are focussed on early intervention, in order to avoid statutory intervention.

The Council has had to make extremely difficult decisions about priorities, in the context of very significant reductions in funding; it remains focused on positive intervention to aid vulnerable children, with investment very purposefully targeted. It should be noted that the rates of activity in higher end statutory services in Devon, continue to be below the level of national and statistical neighbour comparators, suggesting that the Council's aim to prevent escalation is proving effective.

6. QUESTION FROM COUNCILLOR ACKLAND
Re: Carers Allowances

The DWP estimates that it overpays £160 million in Carer's Allowance on an annual basis and is now looking to recover that money. The Work and Pensions Committee is holding a one-off evidence session with Carers UK to explore why the levels of over payments in Carer's Allowance is so high. Given our commitment to unpaid carers across the health and social care system would it be possible to identify and, if so, support any Devon carers affected by this? The Committee believes that many carers could have to repay hundreds to thousands of pounds.

REPLY BY COUNCILLOR LEADBETTER

Our Carers' support service, "Devon Carers" will be ready to respond to carers who contact them in relation to any demand for repayment, provide online information and signposting, answer calls and talk to carers affected by any final decision by the Government to recover overpayments. Devon Carers will direct carers to sources of expert advice on their personal financial position.

We are maintaining close liaison with our local DWP partners so that when they have an estimate of the numbers of carers in Devon likely to be affected we can assist Devon Carers to prepare to respond to the likely demand.

We are in discussion with Citizens Advice locally and if the recovery goes ahead we will monitor demand on them for initial advice and any additional support required where a carer may need support in working out how to make repayments, or how to challenge a demand for repayment if the carer believes it is based on erroneous basic information and it appears they have a reasonable prospect of success.

Our approach will also include making best use of nationally available information and support services, such as the expert information provided by Carers UK.

7. QUESTION FROM COUNCILLOR GREENSLADE
Re: Resilience Testing post Brexit

A recent press reporting revealed that Cornwall County Council are carrying out resilience Testing on key supplies and services for the county post Brexit.

Does Devon County Council intend to do likewise assuming no work as already been done?

REPLY BY COUNCILLOR HART

The County Council set up a corporate group some 18 months ago to consider the potential impacts from BREXIT for the County Council's services, including workforce planning. In addition to this internal group the Council has engaged with the Heart of the South West BREXIT Resilience and Opportunities Group to consider the risks and opportunities for the local economy, and this is chaired by the County Council's Chief Executive. Part of the work of the group has included liaison and engagement with Cornwall County Council and their partners. With no clarity on the eventual position for exiting the EU both groups have considered at a high level the possible impacts and outcomes. Part of the focus for the internal group has also been to consider the 105 Technical Papers provided by Government, again these papers have been limited in detail making it difficult to provide proper consideration of associated impacts on supplies and services. The papers do not provide any assessment on the cumulative impacts of scenarios, the known risks and nor do they set out what Government expects from Local Government.

The Local Resilience Forum is tasked with contingency planning for major incidents and events. The County Council is an active and fully engaged member of the Local Resilience Forum as part of discharging its Emergency Planning remit. This Forum is considering key impacts from exiting the EU and is developing contingency planning. The Council will continue to develop plans working through this forum

The Leadership team are considering the work from the above three groups on 14th January and will consider what further plans and preparation is required.

8. QUESTION FROM COUNCILLOR GREENSLADE
Re: Barnstaple Civic Centre

Can the portfolio holder update me on the situation with the tower block at the Barnstaple Civic Centre. Residents frequently ask me about this issue.

REPLY BY COUNCILLOR HART

It is hoped to be in a position to market the site early in the New Year once agreements with North Devon Council to acquire the freehold of the site have been completed.

9. QUESTION FROM COUNCILLOR BIEDERMAN
Re: Council Gagging Clauses

Following a FOI request by the Press to this council, I was staggered to learn we have paid out nearly £2million in Gagging Clauses to employees. Can you provide a breakdown of these over the last five years and what they were for?

REPLY BY COUNCILLOR PARSONS

Devon is a large employer with over 4,300 staff, plus a further 8,000 staff in maintained schools for whom the Council provides an HR service.

145 settlement agreements were made in the last 5 years. The average number per year is 29 and the average cost of these settlements is £393,000 a year or £13,500 per case.

The total cost of settlement agreements over this period was £1.965m which represents less than 0.13% of the total salary cost during the same period (£1.535bn).

Settlement agreements are not “gagging clauses” and do not prevent employees from exposing unacceptable behaviour, whistleblowing, reporting a crime, talking to a regulator or disclosing information as require by law.

The settlement process is a recognised and lawful practice that can provide a cost-effective way to resolve unreconcilable employment disputes which could otherwise lead to more time-consuming and expensive legal processes. They can also be used to expediate the early release of a school employee so that they can be replaced more quickly to minimise disruption to teaching and learning for schools.

Over half (75) of the 145 agreements made in the past five years relate to schools.

A business case has to be prepared for each settlement agreement and the likely financial impact of both a settlement and no settlement is considered carefully as part of this. When negotiating settlement agreements any compensation payment will take into account the amount/cost of the notice period that a member of staff would be entitled to. For the majority of staff this will be 3 month's notice. All expenditure on settlement agreements is subject to external financial audit.

10. QUESTION FROM COUNCILLOR DEWHIRST Re: Victims of Child Sexual Exploitation and Parental Rights

In the light of the Rotherham rapist, Arshid Hussain, being told he could have a visit from his son, a child in care, fathered by the rape of a teenager; could the Cabinet Member for Children's Services and Schools confirm that no Devon child fathered in this way has been or will be compelled to meet their biological father?

REPLY BY COUNCILLOR MCINNES

When the Local Authority applies to the Court for an Order in respect of a child, it has a duty to contact any person who has parental responsibility for the child. There is also a duty to contact putative parents of the child, to ascertain their intentions. This is a legal duty, undertaken under the jurisdiction of the Courts to ensure that all due processes are carried out, so that effective and timely planning can be made for the child. In these circumstances the safety and wellbeing of the child and the mother are the paramount consideration.

Any contact between a parent and child, must be in the child's best interests. It is difficult to see any circumstances where it would be in a child's best interest to compel contact with a person who raped the mother as a stranger. However, social workers regularly have situations where the rapist is the mother's ex- partner and father of mother's other children. In those circumstances, appropriate consideration would be given to the children's contact with their father. A risk assessment would be undertaken to assess the risk he poses to any of the children and to the mother.

