

West Sussex County Council – Written Questions

14 February 2020

1. Written question from **Dr Walsh** for reply by **the Leader**

Question

Now that the BBC has made public that the former Chief Executive was paid £265,000 as a severance payment, will the Leader:

- (a) Confirm this figure, and on what it was based?
- (b) Confirm that legal advice over his departure cost the council £35,000?
- (c) Advise if any additional pension enhancement payments were made, or are to be made?
- (d) Confirm that the former CEO remained on full pay while he was 'away from his duties' for a period of two months?
- (e) Does he understand that apparently signing a 'non-disclosure agreement' with Mr Elvery over the reasons for his leaving, and over the financial terms only adds to the public and press suspicion of a 'cover-up', and the more so when it purported to bind councillors who had not been consulted?
- (f) Will he support the Council adopting into its pay policy the Government guidance that any severance payments over £100,000 should be voted on by councillors, and not be part of a confidential deal?
- (g) Will he further list the severance payments made over the last 10 years to four previous Chief Executive Officers/Chief Operating officers, and indicate for each one who took the decision?

Answer

- (a) The member has previously been advised of the information and has confirmed his agreement to abide by the terms on which it was provided.
- (b) The various actions and arrangements related to the departure of the former Chief Executive required the assistance of external legal advisers and the cost of those services was £35,000.
- (c) The terms of any agreement are confidential. Such agreements by the County Council provide for contractual entitlements and these do not include enhanced pension benefits.
- (d) Whilst complying with a request to remain away from duties an officer in the role of head of paid service is contractually entitled to remain on full pay.
- (e) The matter was resolved on the basis of contractual obligations upon the Council.

- (f) As a member of the Governance Committee the member is aware that this proposal was discussed at the last meeting of the Committee and a decision was taken to seek a review of the policy and the implications of a possible change in relation to the responsibility for agreeing severance terms. It would be reasonable to await that report before reaching a position.
- (g) Since 2010 there have been two officers in the post Of Chief Executive and one in the post of Chief Operating Officer, prior to the appointment of the former Chief Executive in 2016. In 2010 the Chief Executive left through a mutual agreement. A severance payment was agreed by the then Chairman and Council Leader. The amount paid was £140,000 and this payment was published in the Council's accounts.

In 2013 the post of Chief Executive was deleted with the approval of the Council's Governance Committee and full Council. The incumbent was made redundant. The redundancy payment of £119,488 was based on contractual entitlement and was published in the Council's accounts.

In 2016 the Chief Operating Officer's contract came to an end on the basis of its fixed term and the final payment to the post holder was in accordance with the terms of the contract, including a final payment of £37,000.

2. Written question from Mrs Sudan for reply by Cabinet Member for Children and Young People

Question

The proposed budget includes a proposed saving of £1m in 2020/21 within early help and a £0.9m saving in 2021/22. It is understood that there is currently a scoping exercise taking place to ascertain the best use of Children and Family centres.

Can the Cabinet Member please tell me:

- (a) How much of the £1.9m proposed saving identified for 2020/21 to 2021/22 is it intended would be met as a result of savings from changes to the arrangements at children and family centres?
- (b) Whether there will be an opportunity for service users to comment on the current service provision?
- (c) What the timescale for this programme of work is including plans for staff consultation and opportunities for member oversight?

Answer

- (a) To meet a proportion of the savings target there will be some rationalisation of the buildings that the service operates from, as well as a corresponding reduction in staff numbers. We are not able to provide figures against this at this time, further analysis is underway.
- (b) There will be a public consultation which will include service users.
- (c) Work is underway to develop a project plan that outlines a range of tasks necessary to deliver the decision. There will be opportunities for member oversight.

3. Written question from Ms Sudan for reply by Cabinet Member for Children and Young People

Question

Recent figures from the National Day Nurseries Association (NDNA) suggest that many councils are re-directing money intended to pay for free childcare often using it to plug gaps in education funding elsewhere. West Sussex County Council is understood to have had the highest underspend in the Country in 2018/19, having failed to spend £979,000 of Government funding set aside to fund free nursery places for three and four-year-olds.

A spokesperson has said that the money was used to benefit the education of children across the county with the remaining money used to support children with special needs and disabilities (SEND).

Can the Cabinet Member please:

- (a) Confirm how much funding for free nursery places three and four-year-olds was provided by the Government in 2018/19 and from this how many nursery places were funded?
- (b) Confirm how much of the funding provided was underspent and provide a breakdown of how that underspend was re-directed?
- (c) Confirm how much of the underspend benefitted children in an early years setting or helped nursery settings support children with SEND?
- (d) Confirm what support and funding is available to nursery settings that need additional support for children with SEND?

Answer

- (a) The County Council received an Early Years Dedicated Schools Grant (DSG) allocation of £43.739m in 2018/19 for three and four-year-olds. This was used to support 22,034 nursery places.
- (b) The County Council received a total Early Years allocation of £49.252m in 2018/19, of which £1.244m was underspent. A breakdown of this underspend is set out below:
 - Two-year-old entitlement - £0.261m
 - Three and four-year-old entitlement - £0.012m
 - Inclusion fund - £0.133m
 - Unspent contingency held within central share - £0.501m
 - Additional DSG funds received after year end due to updated January 2019 census data - £0.603m

Of this total underspend, £0.979m was transferred to the DSG General Reserve, and currently these funds remain unspent. The balance in DSG reserves currently stands at £3.892m.

However, the total DSG budget in 2019/20 is projected to be £4.481m overspent largely due to pressures within the DSG High Needs block due to increasing numbers of young people with an Education, Health and Care Plan.

It is, therefore, expected that all the funds currently sat in DSG reserves (including the £0.979m) will be required to offset this overspend at year end.

- (c) The remaining £0.265m of the 2018/19 underspend was paid to Early Years providers in November 2019 in order to honour the 95% passport requirement as set out in the Department of Education Early Years guidance notes for three and four-year-old funding.
- (d) There is a Disability Access Fund and for 2018/19 the expenditure was £0.157m.

Early Years and Childcare Advisors provide guidance and strategies to support inclusive practice in nursery settings. This includes support in identifying all children with vulnerabilities as well as support to access the Early Years Inclusion fund. In 2018/19, Inclusion Fund expenditure was £0.843m supporting 459 children.

4. Written question from Mr Jones for reply by Cabinet Member for Economy and Corporate Resources

Question

A recent article in the national press has revealed that over 400 local authorities let at least one third-party company track individuals who visit their sites to realise a profit. In some instances this included searches of sensitive areas of the website such as financial support or support for substance abuse.

Can the Cabinet Member tell me:

- (a) Whether the County Council currently sells data to third-parties or has done so in the past?
- (b) If so, please provide me with details of each year that data has been sold, the name of the third-party company it was sold to, the nature of the data and how much it was sold for?

West Sussex Fire & Rescue Service also collects sensitive and personal data for control room purposes, so the recent transfer of the control room function to Surrey Fire & Rescue Service is an added concern. Can the Cabinet Member confirm the following:

- (c) Was consent sought for sensitive and personal data to be shared with Surrey Fire & Rescue Service?
- (d) Was consent sought for sensitive and personal data to be shared with companies involved with moving, managing, or storing that data?
- (e) How does West Sussex County Council ensure that data, for which they have legal responsibility under GDPR and any other regulations, is properly maintained and cannot be misused by any third party?
- (f) Is that data stored and backed up at West Sussex County Council, Surrey County Council or commercially-owned facilities?

Answer

- (a) The Council does not sell data to third parties and has not done so in the past.
- (b) Not applicable.
- (c) The lawful basis for sharing personal data is the discharge of the duty placed upon West Sussex Fire & Service under the Fire & Rescue Act Services 2004 to ensure compliance with fire statutory response requirements in emergency situations in the substantial public interest. Therefore, consent was not required.
- (d) Consent was not sought.
- (e) The Council complies with its Data Protection Policy (DPP) and Data Protection Impact Assessment Policy (DPIA). The DPP mentions third parties who the County Council shares data with: third parties such as partners, public and private organisations or contractors with whom the Council shares personal data or who hold data on the Council's behalf will be expected to enter into and adhere to formal agreements or contractual obligations with the Council incorporating the principles of this policy and the requirements of the Act. Such agreements or contracts must define the purposes for which personal data is supplied to or held by the other party and require contractors to have in place appropriate organisational and technical measures to protect the data and processes to enable the exercising of the rights of individuals.

Periodic audits of DPP and DPIA compliance are mandated as control measures both through the Corporate and Directorate risk registers and under the Council's audit framework.

- (f) Data is stored and backed up on West Sussex County Council, Surrey County Council and commercially owned premises:

Data held by West Sussex County Council is stored on servers in Chichester and Horsham. Data held by Surrey County Council is stored at their premises in Salfords and Guildford.

Data is stored on commercial premises for the following reasons:

- Hosted – where the Council's bespoke system is hosted at the software vendor's own premises or third-party premises (e.g. Cloud provider – Microsoft, Amazon, etc.).
- IaaS – Infrastructure as a Service – where the Council buys compute and storage capacity from a mainstream Cloud provider and manages these applications directly.
- SaaS – Software as a Service – where the Council buys an end user solution – with operation, maintenance, storage and support of a software solution handled directly by the vendor – the Council consumes resources provided as a service (SmartCore Enterprise Resource Planning (ERP) replacement project is proposing to procure through this model).

5. Written question from Mr Jones for reply by Chairman of the Pensions Panel

Question

The Cabinet Member recently chaired a meeting of the Pension Panel that considered a motion submitted by Adur & Worthing Borough Councils calling on West Sussex County Council to divest all funds currently invested in fossil fuel companies and instead invest in renewable sources. Please can he advise:

- (a) Has the amount of members' and employers' money invested in fossil fuels gone up or down over the past few years, both in real terms and as a percentage value of the total fund?
- (b) Are employers and scheme members, including pensioners, being kept fully informed about fossil fuel investment? Are they informed of climate change risk, both financial and environmental, associated with these unsustainable investments?
- (c) Has any major fossil fuel company, in which the Pension Fund is invested, started to downsize their non-renewable energy operations? Has any major fossil fuel company, in which the pension fund is invested, established and floated a separate renewable energy enterprise, into which the fund has invested or has considered investing, provided it with any risk reduced dividend income?
- (d) Though the Pension Fund may not be legally obliged to consult members and take into account their views on fossil fuel investments, does the Cabinet Member not agree that were a growing majority of those members to wish such holdings to be divested, continued resistance by the fund's Trustees to meet the aspirations of most members would come to be seen as unethical and, eventually, in a free democratic society, as intolerable?
- (e) Finally, does the Cabinet Member agree that although West Sussex County Council claims to accept that we need to respond to the climate emergency, by continually failing to act to change the investment policy of the Fund in this important way, it is not taking the practical action needed to make this happen? Why are he and his Trustee colleagues failing to recognise the gravity of the situation we all face, and the responsibility personally and collectively, to urgently take measures to remove fossil fuel investments from the Pension Fund?

Answer

- (a) The table below shows direct investments in fossil fuel companies over the past few years:

	Total Exposure £m	Total Portfolio £m	Fossil Fuel Exposure %
31/12/2019	116.1	4,769.7	2.4%
31/12/2018	107.4	4,045.2	2.7%
31/12/2017	111.2	4,131.5	2.7%

- (b) It is important to acknowledge that member benefits are set nationally and not dependent on the investment returns of the Pension Fund.

The Pension Fund's Investment Strategy Statement and Annual Report are available to all stakeholders. These two documents set out how the Pension Fund's approach to responsible investment and consideration of environmental, social and corporate governance factors in the selection, non-selection, retention and realisation of investments and the Pension Fund's performance.

The Pension Fund has also provided a Responsible Investment Update to district and borough colleagues in response to their recent contact.

- (c) Reliance Industries is an example of a company investing out of the energy sector. Reliance Industries is an Indian conglomerate, with substantial investments in refining and petrochemicals, mobile telecoms and retail. The company uses cashflow from its energy assets to fund growth in Reliance Jio, the world's largest 4G telecoms network, and its ecommerce retail platform. In recent months Reliance announced two deals that will see it commit ever greater focus to its (non-energy) operations. The first was the sale of 20% of its stake in its refining/petrochemical assets to Saudi Aramco for \$15bn. The second deal was a sale of a 49% stake in its petrol retail assets to BP. Our fund managers view Reliance as one of the most exciting businesses to invest in globally. Its decision to sell down part of its energy operations and focus on the digitisation of India only reinforces their belief in the future growth of the company. Reliance Industries is classified in the Energy sector.

Other companies held within the portfolio, including Royal Dutch Shell and Equinor are investing to maintain their current production but their directed growth is towards their renewables businesses, which will eventually become the core business.

- (d) The Pension Fund has a responsibility to act in the best interest of scheme employers and scheme members. The Pensions Panel is mindful of its legal duty to obtain the best possible return on the investments of the Pension Fund it administers.

However, there is no requirement to invest in line with member views where it is not considered to be in their best interest - even if views were held by the majority. The fund managers actively engage with companies on a range of matters including climate change, financial and environmental risk factors. Investment decisions are directed towards achieving a wide variety of suitable investments and what is best for the financial position of the Fund (consistent with an appropriate risk profile), in line with the Pension Fund's fiduciary responsibility.

- (e) In its role as Administering Authority the Council must maintain, administer and invest the Fund to ensure that pensions can be paid to members of the West Sussex Pension Fund when due and has a duty to both the scheme employers, scheme members and tax-payers in doing so.

Recent opinion sought by the Scheme Advisory Board confirms the position that the Administering Authority's powers of investment must be used for investment purposes, the Council's interests or views should not be placed

above other employers and it should not impose its own views on the management of the Pension Fund.

As a County Council our Climate Change Advisory Group is working hard on plans to become carbon neutral by 2030 and we have already significantly cut our carbon emissions by making our buildings more energy efficient.

6. Written question from Mr Oxlade for reply by Cabinet Member for Fire & Rescue and Communities

Question

I understand that the opening date of Worthing Community Hub has been moved from summer 2020 to autumn 2020 due to further surveys and investigation work being completed on the current library.

Is the Cabinet Member:

- (a) In a position to confirm the date that Worthing Library will temporarily re-locate to Richmond Road?
- (b) Can he also confirm the current cost of the project and the extent to which this remains with the previously agreed budget of £3m?

Furthermore, as it has been some time since members have been provided with an update on the wider community hubs programme which includes the following locations:

- Crawley (town centre)
- East Preston/Rustington, Arun
- Bognor Regis, Arun
- Southbourne, Chichester
- Horsham, (town centre)
- Broadfield, Crawley
- Broadwater, Worthing
- Haywards Heath, Mid Sussex
- Durrington, Worthing

Could he confirm:

- (c) Which of the above locations have completed viability studies and of these how many are indeed thought to be viable, are moving forward, and which services have been identified as being in scope in each location?
- (d) The order of priority for delivering the next phase of community hubs listed above?
- (e) Which of the above hubs being delivered by July 2021?
- (f) What plans exist to deliver a community hub within the proposed West of Ifield development which Homes England are currently consulting on (given that reference is made to a community centre and library in their consultation papers)?

Answer

(a) Worthing library will move to temporary accommodation at 37 Richmond Road. The light refurbishment work at this address is now complete and in the snagging phase. It is anticipated that the main library will close at 5 pm on Saturday, 28 March 2020. The library will reopen at 37 Richmond Road on Tuesday, 31 March 2020. IT installation works will need to be undertaken at 37 Richmond Road just before opening so these dates are caveated on the premise that the IT works can happen successfully and without delay.

(b) £3.085m was allocated for the refurbishment of Worthing library in the original business case. The tender for a contractor is currently out for procurement, however, a pre-tender estimate has indicated that the works should be completed within the budget allocation. This estimate includes a provisional allocation of 10% for contingency.

(c) Following consultation with Libraries, Early Help, Find it Out and Yes (Youth Emotional Support) Services, viability assessments have been completed for the following sites:

- East Preston
- Rustington
- Southbourne
- Bognor Regis
- Crawley

A number of the locations identified within the initial business case have been found to be unsuitable for a bespoke community hub at this stage for a variety of reasons. Wider work is being undertaken to explore the new opportunities presented by locality focused developments in Adults' Services, in addition to the original focus on Early Help/Children's Services.

(d) Engagement with County Council services has identified that the following three locations have potential as Community Hubs and will be pursued further, forming the next phase of priorities:

- Petworth
- Pulborough
- East Preston

A Strategic Outline Business Case is currently being prepared to take these through the capital programme and to ask for the allocation of feasibility funding.

(e) The suitability of these three locations for Community Hubs will be determined after the feasibility assessments are undertaken. Following completion of feasibility assessments, works required will need to be costed and full business cases submitted through the capital programme. At this moment in time it is too early to confirm which locations may be completed by July 2021.

There remain opportunities to bring more services under one roof in both Crawley and Bognor Regis but without the level of capital investment seen in the development of Worthing. Burgess Hill library will see more County Council services move in following its completion, and recent small-scale improvements

in Hurstpierpoint and Henfield now present potential for enhancing the offer to local communities.

- (f) Regarding the West of Ifield development, this proposal is at early consultation stage (due to close in December 2020) and does currently include a suggestion for a library building and community centre. Library Service officers are engaged with the proposals for this development to explore how we can ensure new residents are able to access library services and derive the benefits of having a welcoming, neutral space in their new community. Given the current stage of consultation, no decisions have been made regarding the opportunity to locate County Council services under one roof on this proposed development.

7. Written question from Mr Oxlade for reply by Cabinet Member for Fire & Rescue and Communities

Question

The latest government statistics show that the trend for fire service response times in West Sussex to increase is continuing. The average time for some categories of fire, compared to the previous year, increased by more than a minute. That minute can be a life and death difference but these are average times, which means some people will be waiting even longer for help to arrive.

National figures only show the response times for the first fire engine to arrive at fires, but some life-saving actions cannot be carried out until two fire engines have arrived. Previous figures have shown that the deterioration in response times for second fire engines is even greater in West Sussex.

With more rescues carried out at road traffic collisions than at fires, the response time for the first fire engine to arrive at road traffic collisions is another essential performance indicator.

It is very concerning that details of response times for the second fire engine and for both fire engines attending fires, and for the first fire engine at road traffic collisions were removed from the council's Performance Dashboard. Previous assurances to councillors that they would be restored have not been honoured.

A lot of effort has gone in to finding ways to improve the availability of On Call crewed fire engines, but that availability data has also been removed from the Performance Dashboard. Councillors and the public need to be able to monitor this data to assess the effectiveness of new initiatives.

Can the Cabinet Member inform Council when this performance data will be restored to the Performance Dashboard and, until it is, provide updated performance data for these categories, with past data for comparison?

Answer

I would like to reassure the member that the data is still publicly available and is still on the West Sussex County Council's website. The data was moved from the dashboard and now sits on the West Sussex Fire & Rescue Service pages of the website. Here is the link:

<https://www.westsussex.gov.uk/fire-emergencies-and-crime/west-sussex-fire-and-rescue-service/performance-plans-and-reports/fire-rescue-service-reports/>

This change took place in March 2019 and was made following feedback from Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services. They requested that all fire service data was placed on the fire service pages to ensure members of the public had immediate access to the information with the minimal number of click-throughs.

It also means the data is in one place, rather than two separate places.

This change was discussed at the Environment, Communities and Fire Scrutiny Committee Business Planning Group in March 2019.

I would also like to reassure you that the performance planning group will continue to receive this information and it will continue to be published by the new Fire & Rescue Service Scrutiny Committee.

8. Written question from Mr Quinn for reply by Cabinet Member for Highways and Infrastructure

Question

The budget pack shows that the sum of £4m has been paid from reserves to Amey in respect of the costs of the contested procurement process for the highways maintenance contract.

Can the Cabinet Member please confirm:

- (a) What the sum of £4m represented and how that figure was arrived at?
- (b) The cost of legal advice to deal with the contested case on behalf of the County Council?
- (c) The cost of the original failed procurement process?
- (d) The additional amount the County Council had to pay Balfour Beatty to run the interim contract?
- (e) The overall costs of the second procurement process to appoint new contractors (given that the lots were subsequently split)?

Answer

- (a) The sum is a global sum to cover all associated costs and cost avoidance related to the litigation.
- (b) The costs of the Council's legal advice totalled £679,000 which included a number of hearings in the High Court prior to the settlement.
- (c) The costs of the original procurement are difficult to quantify as they include internal and external resources over an extended period.
- (d) Whilst the Council can set out the payments made to Balfour Beatty to run the interim contract, it is not a straightforward matter to identify any 'additional'

amount as the procurement was never completed, no replacement contract was let and so the final terms of the replacement contract and the costs associated with the delivery of the services under such a contract cannot be known. There is, therefore, no basis for a comparison with actual spend.

- (e) As with the answer to (c) above the costs of the procurement include a range of internal resources and officer time which is not separately quantified.