

# Questions and Answers

## Executive

Thursday, 4th September, 2014

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# **Executive Meeting**

## **4 September 2014**

Questions and Answers



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## Public Questions as specified in the Council's Procedure Rules of the Constitution

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There were no public questions received in relation to items not included on the agenda.

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## Members' Questions as specified in the Council's Procedure Rules of the Constitution

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- (a) **Question submitted to the Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision by Councillor Keith Woodhams:**

*"Can the Executive Member for Highways & Transport tell me how many appeals there have been against fines on the Parkway Bridge?"*

**The Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision answered:**

You haven't actually given a date range for the information that you're requesting, but in question (b) you use the figure of 329 appeals and as that figure correlates to a reply recently provided by the Council under the Freedom of Information Act, I assume that you are referring to the period 1 April 2013 to 31 March 2014 and therefore my replies are based on that time period.

In the period 1 April 2013 to 31 March 2014, there were 975 bus lane appeals submitted and that figure includes all written bus lane penalty charge notice appeals submitted and includes cases ultimately resolved by the Traffic Penalty Tribunal.

**The Chairman asked:** *"Do you have a supplementary question arising directly out of the answer to your original question. A supplementary should be relevant to the original question and not introduce any new material?"*

**Councillor Keith Woodhams answered:** *I have no supplementary to any part of that question.*

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- (b) **Question submitted to the Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision by Councillor Keith Woodhams:**

*"Can the Executive Member for Highways & Transport tell me what the reasons are that 329 appeals against fines on the Parkway Bridge have been successful?"*

**The Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision answered:**

I think I have previously provided you with details of the reasons that penalty charge notices would be cancelled, and in the period 1 April 2013 to 31 March 2014, the numbers include:

- Emergency Services vehicles – 15;
- Mini buses and taxis – 129;
- Vehicles hired by overseas drivers visiting the UK - 71;
- Registered keeper of the vehicle who incurs a second penalty charge notice that is issued before the first penalty charge notice has been received - 64;
- Appeal allowed by the Traffic Penalty Tribunal - 1.

So these, as I have said before, are the main specific categories for cancellation of bus lane penalty charge notices that can be readily extracted from the system database and equate to 280 of the 329 cases. The remaining 49 cases are where favourable discretion has been exercised based on the unique circumstances advanced by the appellant.

**The Chairman asked:** *“Do you have a supplementary question arising directly out of the answer to your original question. A supplementary should be relevant to the original question and not introduce any new material?”*

**Councillor Keith Woodhams asked the following supplementary question:**

*“Yes, I think it still begs the question, the question probably hasn’t changed, can you tell me why this injustice towards the motorists is being allowed to continue by your Administration or are you only seeing this as a major income stream for the Council?”*

**The Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision answered:**

I’m sorry, I’m not quite sure what you mean by the “injustice”. People are driving over the bridge when it clearly shows that they’re not a bus or a taxi and should not do so.

**Councillor Keith Woodhams said:** *Well, obviously clearly something is wrong, and it is still a major injustice.*

**Councillor Gordon Lundie (Leader of Council) said:** The sign’s not quite big enough for people?

**Councillor Keith Woodhams said:** *Well, that maybe the case. I mean, if you’re saying that is the case, then perhaps it should be taken up with Highways.*

**Councillor Gordon Lundie (Leader of Council) said:** No, no. I think the sign is perfectly big.

**The Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision answered:**

As you are well aware from the case that went to the Tribunal the Inspector said that the signs were exactly as they should be.

**(c) Question submitted to the Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision by Councillor Keith Woodhams:**

*“Can the Executive Member for Highways & Transport tell me what is the administrative cost of processing all of these appeals against fines on the Parkway Bridge including staff time?”*

**The Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision answered:**

In 2013/14 the Council paid the DVLA 10p per case for details of each vehicle's registered keeper. The Council issued 2,694 bus lane penalty charge notices and the cost of the DVLA enquiries was therefore £269.40.

In the same time period the Council paid the Traffic Penalty Tribunal 60p for each bus lane penalty charge notice issued. Based on the 2,694 bus lane penalty charge notices issued this cost was £1,616.40.

When an unpaid bus lane penalty charge notice is registered with the Traffic Enforcement Centre as a civil debt it costs £7.00 per case and this amount is added to the unpaid penalty charge notice. In 2013/14 the Council registered 217 cases with the Traffic Enforcement Centre at a cost of £1,519.

Therefore the total cost associated with the 2,694 bus lane Penalty Charge Notices was £3,405.

It is not possible to identify the costs of administering the bus lane penalty charge notices as there is no specific administrative asset designated to this work. The costs of processing are subsumed within the total operational costs of the Parking Office, which provides the full range of parking administration.

**The Chairman asked:** *"Do you have a supplementary question arising directly out of the answer to your original question. A supplementary should be relevant to the original question and not introduce any new material?"*

**Councillor Keith Woodhams asked the following supplementary question:**

*"A very interesting answer to the first half of the question thank you. It's a very interesting subject this. Going on to taxis: if a number of out-of-town taxis have been fined for using Parkway Bridge, especially whilst carrying passengers, surely to save staff time and tax payers money would it not be prudent to invite the surrounding taxi companies to apply for an exemption to use Parkway Bridge as you have obviously done with taxis operating purely in West Berkshire?"*

**The Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision answered:**

I will follow-up the answer to that question because I do believe that taxis are entitled to that, but I will check that for you.

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**(d) Question submitted to the Portfolio Holder for Adult Social Care and Insurance by Councillor Gwen Mason:**

*"Can you advise why West Berkshire Council doesn't have an advocacy policy like, for example, Bracknell Forest Council does (<http://www.bracknell-forest.gov.uk/advocacy-policy.pdf>)?"*

**The Portfolio Holder for Adult Social Care and Insurance answered:**

Whilst the Council do not have a general policy we are strongly committed to a person centred approach which is based on doing with rather than to a person. Advocacy is a core part of that approach and therefore we will always talk to someone about who they would like to be involved in helping them make the decisions for their life.

This approach is integral to how we work, whether we are assessing an individual's needs, making a decision about their capacity, supporting decisions around care and support or responding to a complaint. We understand that not everyone will either wish or have access to family or friends who can provide this and therefore we always ensure we commission independent advocacy to meet this need.

Given that the Care Act 2014 will be putting this on a statutory footing we shall be looking at what is required to see if we need to do more.

**The Chairman asked:** *“Do you have a supplementary question arising directly out of the answer to your original question. A supplementary should be relevant to the original question and not introduce any new material?”*

**Councillor Gwen Mason asked the following supplementary question:**

*“A little bit of background: This came up at a corporate complaints review that I was attending and we found that although we thought that Adult Social Care and Children’s Services did have an advocacy policy, we found that they didn’t. So what my question really is, would you agree to a policy being written and what sort of time frame would you be looking at? Just even if it’s staff and Members, just a guideline to what is expected of them in giving an advocacy service. I gave the example of Bracknell where they explain very carefully the four types of different advocacy that are available and also what isn’t an advocacy policy. So really what I’m asking is would you agree to having a policy written and in what sort of time frame?”*

**The Portfolio Holder for Adult Social Care and Insurance answered:**

Well, as I’ve already said, the Care Act is going to impose upon us a certain course of action and I’m quite happy for us to look at the point that you’ve made to see if there’s anything else we can do.

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**(e) Question submitted to the Portfolio Holder for Adult Social Care and Insurance by Councillor Gwen Mason:**

*“Can the Executive Member for residential care for both adults and young people tell us how many times per annum West Berkshire inspect residential care homes where our residents are placed?”*

**The Portfolio Holder for Adult Social Care and Insurance answered:**

Can I first of all say that I haven’t got the responsibility for young people. My remit is for Adult Social Care, but I’m more than happy to do Councillor Neill’s little bit of work tonight for her.

West Berkshire Council is not the regulator and as such has no legal powers to make inspections of care provision. The inspectorate body with the legal powers in this regard is the Care Quality Commission. The Care Quality Commission visits registered residential care

homes on a rolling programme and that is to ensure they are compliant to the standards set and takes action as is deemed appropriate where these standards are not being met.

In addition to this the local authority routinely visits Adult Social Care residential homes and that is to ensure the services that are being provided meet the requirement of services commissioned. Visits are also made if deficiencies or safeguarding alerts are raised as part of the overall quality assurance process. The total number of visits to residential and nursing homes in the first quarter of 14/15 was 89 and these have been a combination of proactive planned visits and those in response to care quality issues.

Some three years ago I, as the Portfolio Holder, decided that I didn't think enough was being done insofar as inspections were concerned, and I introduced unannounced visits and I would say that at that time I faced a certain amount of opposition, both internally and externally, in carrying out unannounced visits. However, I would say that unannounced visits did take place and where I had external opposition in doing this particular piece of work, those people have now come to me and asked me: How did you do it? What are you doing? and What are the outcomes? because they realised, under safeguarding, it is very, very important for us to know what's going on. We've got to be more proactive. So I'm delighted to say that I have been proactive in visiting unannounced and over the last three years I've undertaken a programme of unannounced visits to residential homes and I have been instrumental (I'm very pleased to say) in making a number of improvements to these homes as a consequence. It's not always been quite easy, sometimes it's an uphill battle. During 2013/14 I carried out 29 visits to a range of residential and nursing homes in the area.

Children and young people's residential provision is subject to rigorous and robust oversight. All children's homes are subject to independent Ofsted inspection on a regular basis. They are also monitored closely through visits by suitably qualified individuals employed specifically by providers for this purpose (Regulation 33 Visits). In addition children are visited on a minimum 12 weekly basis by Social Workers and their placements are reviewed by Independent Reviewing officers at least twice per year.

**The Chairman asked:** *“Do you have a supplementary question arising directly out of the answer to your original question. A supplementary should be relevant to the original question and not introduce any new material?”*

**Councillor Gwen Mason asked the following supplementary question:**

*“Just to say that I'm really pleased to hear about the unannounced visits, particularly because of changes due in April of next year.”*

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**(f) Question submitted to the Portfolio Holder for Adult Social Care and Insurance by Councillor Gwen Mason:**

*“Do you think the inspections are sufficiently rigorous to ensure that the care homes do not fall foul of the Government's new inspection regime as announced by Jeremy Hunt MP, the Health Secretary?”*

**The Portfolio Holder for Adult Social Care and Insurance answered:**

Jeremy Hunt raised concerns over residential care homes for the elderly and in response to this the Care Quality Commission (CQC) has reviewed and updated its inspection framework to



ensure inspections are more rigorous and I think we would all agree that has to be something that is welcome.

The Local Authority is in close contact with CQC and meets regularly with the regional manager, any issues or concerns identified are immediately notified to CQC.

Visits by the Local Authority are made as part of a planned programme of work or where there are concerns over the quality of care. The role of the Local Authority in this regard is intended to be supportive to the provider in establishing and maintaining quality of care. Where there are concerns, and it is appropriate to do so, the Local Authority will work with both CQC and the provider themselves to make improvements to the quality of service provision. Service improvements will be formally monitored by both Local Authority and CQC via agreed action plans and should progress against the agreed actions not be sufficient then further action will be taken in terms of making alternative arrangements for those people placed in their care and/or to cease commissioning services.

West Berkshire provider services have been assessing the impact of the changes arising from the implementation of the new regime on regulated Adult Social Care services. There is currently a consultation running on CQC guidance on helping providers to meet new inspection standards and West Berkshire will be able to respond to this.

**The Chairman asked:** *“Do you have a supplementary question arising directly out of the answer to your original question. A supplementary should be relevant to the original question and not introduce any new material?”*

**Councillor Gwen Mason asked the following supplementary question:**

*“Thank you very much for your answer, especially to advise on the ongoing consultation. One of the main things that we usually fail on is training and facilities so are West Berkshire prepared to have to put in extra funding as there is not going to be the same length of time to enjoy as there has been before, there is going to be a much smaller time frame, so is additional funding going to be available to make sure that adequate training is there, facilities, things like that, are going to be in for April 2015?”*

**The Portfolio Holder for Adult Social Care and Insurance answered:**

Are you talking about the private providers? Because if you are, that is not our responsibility, it is the responsibility of the providers to train their staff.

**Councillor Gwen Mason said:** *But we are in partnership with different people where we have residents placed.*

**The Portfolio Holder for Adult Social Care and Insurance answered:**

Yes, we invest to make sure our own staff are properly trained, but we have no way that we would want to spend our hard earned revenue money on training staff from private providers, but we are continuously in liaison with them and on Friday we had a providers' forum, where there were 60 to 70 people present and we have those on a regular basis where we help them to understand changes in what we're doing and what they need to do to bring their services up to scratch and I have to say it was very successful on Friday.

**(g) Question submitted to the Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision by Councillor Keith Woodhams:**

*“What action has the Executive Member for Highways & Transport taken to ensure that BT obtains authorisation from WBC in the first instance, before digging up the highway?”*

**The Portfolio Holder for Portfolio Holder for Highways, Transport (Operations), Emergency Planning, Newbury Vision answered:**

Under current legislation, West Berkshire Council has no duty or responsibility to ensure that utility companies obtain authorisation before digging up the highway. The legislation puts this responsibility onto the utility company who must formally notify the Council when they wish to carry out works on the public highway.

If, however, a utility company wishes to use traffic control or a road closure in order to carry out their works, the utility company is required to obtain the Council’s authorisation before the works start.

As you know, the Council has applied to the Department for Transport for permission to implement a permit system so the utilities and others have to apply for a permit before commencing work on the highway and you will also be aware of the recent case where the Council has obtained costs from Thames Water who carried out works without prior notification.

**The Chairman asked:** *“Do you have a supplementary question arising directly out of the answer to your original question. A supplementary should be relevant to the original question and not introduce any new material?”*

**Councillor Keith Woodhams asked the following supplementary question:**

*“What is the Executive Member doing to promote the use of smart phone apps, such as ‘Fix my Street’, to make it easier and quicker for members of the public to report problems such as the recent BT works so that WBC can take urgent action to return the road network to normality?”*

**Councillor Gordon Lundie (Leader of Council) said:** I don’t think that’s got anything to do with the original question. If you wanted to ask a question about smart phone apps, you should have put that into the question.

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