

## WRITTEN QUESTIONS PURSUANT TO STANDING ORDER 44

### **1. Question by Councillor Field to the Lead Member for Adult Social Care and Health**

Winter is on the way with cold weather and rising heating costs, what progress has the Council made towards providing warm work spaces in its buildings?

#### **Answer by the Lead Member for Adult Social Care and Health**

Our website already has a page: [Benefits | East Sussex County Council](#) with a number of links signposting residents to advice and support for debt and money management, grants and benefit maximisation and access to the Warm Home Check Service. The Warm Home Check Service includes practical support to reduce costs and save energy through the provision of LED bulbs, radiator reflectors, draft excluders, room thermostats etc. We are also exploring the possibility of our Housing Support Provider providing a similar support service to the clients they visit (i.e. the provision of warm blankets/duvets, hot water bottles, temporary double glazing packs, hot water tank jackets etc.). Their vulnerable client group includes people who are losing or are at risk of losing their accommodation, living in temporary/emergency accommodation or unsuitable housing, as well as people who require support to maintain their independence or are at risk of losing their independence due to their housing situation.

The information available on our website has also been further enhanced with a local [cost of living support webpage](#) which has been developed with our partners. The webpage brings together details on sources of help and advice into one place and will be promoted via a range of communication channels including existing Children's Services and Adult Social Care and Health newsletters as well as via Borough and District and Town and Parish Councils.

The webpage will evolve to include a range of information for families, older people and people with disabilities. The themes of the webpage will include money and debt advice, energy advice, Warm Homes insulation advice, food, skills, employment and Warm Spaces advice and grant support. The webpage also links to relevant Government and local (East Sussex) information, advice and support. Plans are also being developed to support people who may be digitally excluded. The information will be shared with ESCC frontline staff to ensure they and our clients are made aware of the support that is available.

It is important to recognise that, especially if the weather is bad this winter, the increase in energy costs is both a national and international issue that requires the intervention of central government to manage and mitigate. The recently announced cap on domestic energy prices will go some way towards reducing the impact on our most vulnerable residents. Whilst the Council has no additional resources to address this issue, we are looking at our available resources and working in partnership with the Borough and District Councils and Voluntary, Community and Social Enterprise (VCSE) sectors to refocus and target our resources to those most in need.

The idea behind the provision of local Warm Spaces is sound. The scale and location of demand needs to be identified and then the availability of premises that are suitable, safe and affordable can be explored. Before making any new provision partners will want to understand how many people would need or want to use a Warm Space, when they would wish to use it, for how long and where they live. This last element is particularly important as any Warm Space provision would need to be delivered on a hyper-local basis, given that it is unlikely that individuals would be able to afford or be willing or able to travel far from home to visit a Warm Space.

With this in mind, the Council is adopting a partnership based (with Boroughs and Districts and the VCSE), needs led approach to this initiative to help understand demand and how best to contribute to meeting the needs. Our Libraries continue to be available for people to visit for as long as they wish, during normal opening hours (we have neither the staff nor funds to extend the current opening hours). We will also be amending the criteria for the next tranche of the COMF (Contain Outbreak Management Fund) funded small grants scheme which is being made available through Sussex Community Foundation at the end of the month, to support voluntary sector organisations and Parish and Town Councils wishing to offer Warm Spaces. Separately, we are developing a scheme for some schools wishing to offer after school activities as an alternative to a Warm Space.

Additionally, the Government has recently released £3.7m funding to ESCC for the third phase of the Household Support Fund which, in addition to the provision of food vouchers for families with children eligible for free school meals, will be passported to Borough and District Councils and VCSE partners to support individuals at risk of food and fuel poverty.

## **2. Question by Councillor Lambert to the Lead Member for Transport and Environment**

The Lead Member will be well aware of the concerns regarding the A259, particularly through Peacehaven, Newhaven and Seaford where there have been some serious accidents.

The Lead Member will also remember the Notice of Motion submitted by Councillors Lambert and Grover asking for immediate and urgent action at the Bishopstone junctions as a result of these accidents.

The Lead Member did not support the Notice of Motion on the grounds that the County Council was carrying out a survey of the A 259. Work has begun on this but nothing further has been reported on since the last series of workshops despite assurances that further workshops would be arranged in the autumn of this year.

Could the Lead Member please provide an update on progress and timelines for this important project.

## **Answer by the Lead Member for Transport and Environment**

The outputs from the first stage of A259 key stakeholders workshops and engagement held in October 2021 and January 2022, and the baseline evidence

report has been used to identify and develop a long list of schemes for consideration as part of the A259 South Coast Corridor study, with some initial high-level sifting. Throughout stakeholders, including local Councillors, have received periodic updates on the study's progress.

In the meantime, ESCC has been in ongoing dialogue with the Department for Transport (DfT) regarding the transport modelling work that has been undertaken to date. With the recent Bus Service Improvement Plan (BSIP) funding allocation, which includes capital funding towards bus priority measures on the A259, the DfT has asked that these bus priority measures are factored into our modelling assessments of the proposed package of transport improvements for the corridor.

Consequently, this has caused a slight delay to the programme of a few months. Therefore the shortlist of proposed package of transport improvements will be presented to stakeholders in early 2023 and it is hoped that combining the modelling data of this package and the BSIP proposals will provide a stronger Strategic Outline Business Case for submission to DfT in early 2023.

### **3. Question by Councillor Murphy to the Lead Member for Resources and Climate Change**

I note ESCC is or has been involved in a number of judicial review matters either currently in progress or recently determined, see for example the recent Upper Tribunal (Administrative Appeals Chamber) decision of *EAM v ESCC* [2022] UKUT 193 AAC . I am concerned that there is little oversight/public accountability of Legal Services' and ESCC's expenditure in this area as brief synopsis of cases do not appear in the monitoring reports.

For each of the last 3 calendar years:

1. How many applications for judicial review have been initiated against ESCC in respect of:
  - Education and Children's Services, particularly SEND
  - Adult social care
  - Trading standards
  - Environmental protection
  - Planning
2. How many of these matters were ultimately determined in favour of the applicant?
3. How many of these matters were ultimately determined in favour of the respondent (ESCC)?
4. For each of the last 3 calendar years in respect of each category of matter outlined above, how much in total has ESCC been required to pay to the applicant parties as compensation?
5. For each of the last three calendar years how many cases has ESCC resolved immediately prior to a court hearing on the matter and what was the settlement?
6. For each of the last 3 calendar years, please quantify the expenditure of Legal Services on matters relating to judicial review?

## Answer by the Lead Member for Resources and Climate Change

In relation to the oversight and accountability of Legal Services, the service participates in the Law Society's Lexcel legal practice quality mark scheme which requires it to be inspected annually. Following the 3 day assessment of the service this year, 46 areas of good practice were identified.

The Service does not operate in isolation, it is instructed by Departments and is integral to the delivery of their services. As such Legal Services is held to account by the Departments and by the scrutiny of the delivery of the Council's services through the Council's governance framework.

By way of clarification, the recent Upper Tribunal (Administrative Appeals Chamber) decision of *EAM v ESCC* [2022] UKUT 193 AAC matter was not a judicial review. The Upper Tribunal is an appellate body which deals with appeals regarding decisions of the First Tier Tribunal in respect of special educational needs decisions whereas a Judicial review *is* a proceeding in which a judge reviews the lawfulness of a decision or action made by a public body.

In terms of each of your questions, my responses are set out below in italics and relate to each of the last 3 calendar years (1 January 2020 to 4 October 2022):

1. How many applications for judicial review have been initiated against ESCC in respect of:
  - Education and Children's Services, particularly SEND - *Six, which includes 3 SEND cases (one of which was received this month and so is ongoing).*
  - Adult social care - *None*
  - Trading standards - *None*
  - Environmental protection - *None*
  - Planning - *None*
2. How many of these matters were ultimately determined in favour of the applicant? - *None*
3. How many of these matters were ultimately determined in favour of the respondent (ESCC)? *Two.*
4. For each of the last 3 calendar years in respect of each category of matter outlined above, how much in total has ESCC been required to pay to the applicant parties as compensation? *See response to 5 below.*
5. For each of the last three calendar years how many cases has ESCC resolved immediately prior to a court hearing on the matter and what was the settlement?

*In one case a settlement was agreed which included a compensation amount and legal costs (both of which the Court held should be confidential). In the other two cases no compensation was paid but reasonable costs were agreed. The total amount paid over the last three calendar years was £98,606.*

6. For each of the last 3 calendar years, please quantify the expenditure of Legal Services on matters relating to judicial review?

*Legal Services is centrally funded to provide legal advice and support to the Council in relation to decisions that are made which are then subject to judicial review challenges and no quantifiable cost is therefore attributable to Legal Services advice and support in this area. The total cost of external Counsel instructed in relation to judicial reviews across the last three calendar years was approximately £49,845 (exc VAT).*

#### **4. Question by Councillor Georgia Taylor to the Lead Member for Transport and Environment**

The current UK government has lifted the ban on fracking in the UK, suggesting it is a viable means of improving our energy security. Areas of East Sussex have previously been identified as having possible shale oil/ gas reserves worth exploring. Given that the Council support action to keep the global heating temperature increase to below 1.5 degrees, I assume that we are aligned with the Intergovernmental Panel on Climate Change (IPCC) scientifically backed up requirement to keep fossil fuels in the ground, which means no new fossil fuel exploitation. Do you think that there is a current risk of fracking or other methods of oil and gas extraction taking place in East Sussex in the next 5 – 10 years?

#### **Answer by the Lead Member for Transport and Environment**

The fracking ban that the Government recently lifted was introduced in November 2019. Prior to this date, no planning applications or pre-application enquiries were submitted to the County Council that involved fracking for shale oil or gas. For the parts of the county that fall outside of our County Planning Authority area (i.e. the South Downs National Park), we are not aware of any such proposals during this time either.

As well as requiring planning permission, any exploration for onshore oil and gas resources requires a Petroleum Exploration and Development License, which is granted by the North Sea Transition Authority. Licenced areas correlate with Ordnance Survey grid squares and there is one such licence that falls slightly within the administrative boundary of East Sussex (reference: PEDL244). The majority of this licenced area is within West Sussex and is thought to relate to the Cuadrilla operations that took place at Balcombe a number of years ago. Certainly, there has never been any approach to the County Council from any organisation who are pursuing a proposal in the licenced part of the county.

Given the above, I think the chances of oil and gas extraction taking place in the county in the next 5-10 years are low. Nevertheless, should any such proposal emerge in the part county outside of the National Park, it is important to note that the County Council has a legal obligation to consider the planning application on its own merits taking into account national and local planning policy, as well as material planning considerations relevant to that proposal.

**5. Question by Councillor Georgia Taylor to the Lead Member for Transport and Environment**

Has the council been approached by any organisation wishing to explore for oil or gas in the county and are you aware of any areas in the County that might be targets for fracking or other oil or gas exploration and extraction?

**Answer by the Lead Member for Transport and Environment**

To reiterate my responses to earlier questions, the County Council has not been approached by any company or organisation with a prospective proposal for oil or gas exploration. However, I would point out that I can only provide a definitive “no” for the parts of the county that the County Council is the County Planning Authority for. Whilst we have not been approached by any organisation that is seeking to undertake oil or gas exploration in the parts of the county in the South Downs National Park, to get a definitive answer for this particular area, I would advise you to contact the South Downs National Park Authority.

**6. Question by Councillor Georgia Taylor to the Lead Member for Transport and Environment**

If fracking is considered favourably by this Council, what assessments will be made of the impacts on traffic, road degradation due to use by heavy vehicles, air quality and local noise pollution?

**Answer by the Lead Member for Transport and Environment**

Should any planning application be submitted to the County Council for fracking, the assessments that would need to accompany such an application would depend upon the proposal itself, the site and surrounding location, the material planning considerations relevant to it and what information applicants are required to provide the Planning Authority based on legislation and the Council's own requirements (i.e. what is known as validation requirements). As these assessments would form part of the planning application, they would be open to any individual and organisation to comment on and would be scrutinised, with specialist input, as part of the decision making process.