

WRITTEN QUESTIONS PURSUANT TO STANDING ORDER 44

1. Question by Councillor Daniel to the Lead Member for Adult Social Care

- a) Please can the Lead Member supply a statistical breakdown into Boroughs and Districts of East Sussex regarding the “Crackdown on blue badge fraud” – in terms of numbers of prosecutions, seizure of badges and community resolutions?
- b) With the end of the start-up funding from the Government how does East Sussex intend to carry out this important task in future years?

Answer by the Lead Member for Adult Social Care

- a) The statistical breakdown is as follows:

Borough or District	2015 seized	2016 seized (part year)	Total seized to date	Prosecutions	Police Cautions + Conditional cautions with fine attached	Community Resolution Orders issued
Eastbourne	71	30	101	6	0	28
Hastings	42	22	64	7	2 with fine attached	7
Rother	18	25	43	1	0	14
Lewes	29	6	35	5	1	9
Wealden	3	2	5	0	0	2

In addition to the above figures, warning letters have been sent to several County Council badge holders, reminding them of their responsibilities regarding appropriate use of their badges. There are also a further four prosecutions currently awaiting a court date.

- b) It has been agreed that this important work should continue and that it will be funded by East Sussex County Council from its on-street parking account until 30 June 2018, when the existing enforcement contract comes to an end. The need to continue the work beyond that date will be assessed as part of the re-tender of the enforcement contract.

2. Question by Councillor Scott to the Lead Member for Transport and Environment

With Our Roads Infrastructure continuing to deteriorate as less funds are made available from Central Government and from within East Sussex County Council's own Resources would the Lead Member advise how much the total cost is to investigate and administer and settle claims against East Sussex County Council for damage sustained to motor vehicles as a result of potholes and poor road surfaces. What is the total cost to the East Sussex taxpayer?

Answer by the Lead Member for Transport and Environment

I can confirm that the amount paid out for pothole related vehicle damage in 2015/16 was £32,928 (for 2014/15 this was £87,987 and in 2013/14 it was £168,584).

The cost of handling highway claims (including the majority of claims where no payment was made) was £63,707 for 2015/16.

In total for 2015/16 it cost £96,635 to investigate, administer and settle claims against East Sussex County Council for damage sustained to motor vehicles as a result of potholes and poor road surfaces.

Under the new highways contract that commenced on the 1 May, responsibility for third party claims has passed to Costain Ch2m to ensure there is a direct relationship between pothole repair, response times and the ability to defend third party claims.

3. Question by Councillor Stephen Shing to the Lead Member for Education and Inclusion, Special Educational Needs and Disability

School places in Willingdon and Polegate

At the busiest time allocating school places, a number of parents have reported that their child was not allocated to their preferred choice of school, one of the responses our council provided to the parents was:

“As arrangements for entry in 2016 were consulted on in 2014 it is impossible to take into account new developments and indeed we would see this to be the responsibility of the District Council in agreeing new developments in areas. They are required to ensure that the infrastructure which includes schools, nurseries and medical facilities can support the new developments.”

The parents are concerned that the County Council doesn't appear to be ensuring that the right infrastructure is in place before signing off on any new housing developments, in particular, sufficient school places. This is the view of many new residents. By not objecting to the lack of infrastructure, it appears that the County Council concedes that the provision of schools are sufficient.

As with any new major housing developments which have come before the planning authority, I have questioned whether adequate infrastructure contributions are being provided with that development.

- a) Why is it that families who moved to new developments which is near a school are having to send their children to schools which are further than their nearest one?
- b) Is this a widespread problem within our County and if so, how does the County propose to resolve this problem?

Answer by the Lead Member for Education and Inclusion, Special Educational Needs and Disability

Where a school is heavily oversubscribed it can sometimes be the case that children living nearby are unable to attend. This is because the County Council's admission priorities prioritise looked after (or previously looked after) children, followed by siblings of children

already attending the school, and then children living within the community area. All of these children are prioritised according to home to school distance. If the school cannot accommodate everyone who applies, then places will be offered up to the published admission number in accordance with these priorities, but this can mean that places are not offered to some children living close to the school, if there are large numbers of children requesting places who live even closer.

Polegate Community Primary School will be admitting a bulge class this year to accommodate the growth in population in the local area. This means that there were 90 places available this year instead of 60. However, there were still 159 applications, of which 101 were first preferences. 31 of these places were offered to children who already had older brothers or sisters attending the school, and the remaining 59 places were offered to children living within the community area, with the furthest child able to be offered a place living 1763 metres from the school.

Unfortunately this meant that children living 1800 metres away from the school were not able to be offered places at Polegate. For some of these children, Polegate will be the closest school to their family home, but because other children live closer to Polegate than they do, we cannot offer them a place. In this situation, if we are not able to offer a place at another of the family's preferred schools, we offer the nearest school to the family home with a place still available after other families' applications have been considered. In some cases this will be further from the family home than the preferred school.

While this situation is regrettable, in that it has not been possible to meet parental preference in all cases, it is not possible to make arrangements to accommodate every child in their parents' first preference school. The County Council has changed its admission arrangements for 2017/18 to try to meet the needs of more local children by restricting the sibling link so that it only applies to children living in the community area who have siblings already at the school. However this may have a limited impact as Polegate serves a shared area which covers all of Eastbourne.

The County Council works very closely with local planning authorities on their housing strategies and the implications for education infrastructure. Information on development locations, dwelling mix and house building trajectories are entered into our pupil forecasting model to produce forecasts of future pupil numbers. This data is used to inform our short term and longer term place planning strategies to ensure we are able to discharge our statutory duty to provide sufficient school places.

It is worth noting that the County Council does not sign off housing developments – it is one of a number of consultees in relation to infrastructure provision. It is for the local planning authority to grant planning permission for housing developments. In areas of significant house building it might be more appropriate to establish new schools rather than enlarge existing schools. In this instance, we work with the local planning authority and developers to secure land on which to build new schools. Sometimes the timing of land coming forward versus the demand for places does not coincide and we have to consider establishing bulge classes at existing schools to meet current demand.

Members will be aware of the need to deliver additional places within the Capital programme which requires a range of competing demands to be considered, whilst ensuring the most cost efficient delivery of places.

4. Question by Councillor Field to the Lead Member for Transport and Environment

Parliament decided in the 2000 Countryside and Rights of Way Act s53 that 1 January 2026 is to be the cut off date for accepting hitherto unrecorded Rights of Way and that after that

date no further Definitive Map orders for them would be accepted/processed. Therefore there is an opportunity between now and 1 January 2026 to research these “lost ways” and submit them for processing into Definitive Map orders.

- a) How is it intended that ESCC will proceed with this matter?
- b) Will ESCC act quickly to plan for “lost way” submissions to be processed through the initial assessment process in order to register them before the 2026 cut off date?
- c) Will ESCC’s Access to the Countryside Strategy take account of these processing needs and in view of the timescale prioritise this work?

Answer by the Lead Member for Transport and Environment

In 2000, the CROW Act proposed the ‘closure’ of the definitive map to ‘historic’ path claims. That is, claims for routes to be recorded where historic evidence may indicate public use before 1949. This means that paths, which existed before 1949 and which are not recorded on the definitive map by 31 December 2025, will be extinguished.

Since 2000, that section of the CROW Act has not been enacted. However, the Deregulation Act 2005 will finally introduce the 2026 cut-off date for pre-1949 claims of public rights of way.

It is important to note that, after 2026, it will still be possible to claim public rights of way based on user evidence - where 20 years continuous use without the landowner’s permission - can be proved. Claims based on ‘user evidence’ currently form the bulk of ESCC’s caseload.

DEFRA had been proposing that the Deregulation Act should come into force on the 1 April 2016, formally starting the ‘count-down’ to 2026. However, as much of the legislative detail and guidance has not yet been produced, that date has been missed and it is now proposed that the Act come into force on the 1 July. (It is possible that this date will again be delayed further into autumn 2016 if guidance cannot be produced by DEFRA in time.)

ESCC, as well as other Highway Authorities in England, are currently waiting for this guidance, which is fundamental to assessing how we are able to proceed with pre-1949 claims, to be published. In lieu of this guidance, it is not yet possible to put processes, policies and procedures in place to deal with an increase in historic public right of way claims.

- a) ESCC currently has a list of around 13 path claims. These are all based on user, rather than historic/pre-1949 evidence and are processed on a chronological basis, with the earliest applications being dealt with first.

With the closure of the definitive map to historic claims, however, several user groups (primarily the Ramblers and Open Spaces Society) have started a ‘Don’t Lose Your Way’ campaign, with the intention of researching and submitting historic claims.

The Rights of Way Team has recently met with the ‘Don’t Lose Your Way’ group in East Sussex, to discuss the closure of the definitive map. Whilst this campaign is currently at an early stage, it is likely that 100-200 new ‘historic’ claims will be submitted to ESCC in the ten years prior to the closure of the definitive map.

b) The Deregulation Act will introduce a 3-month deadline for ESCC to make an initial assessment of submitted claims. If this deadline is not met, then the applicant can appeal to magistrate's court, which may then choose to set a timeline for ESCC to follow.

Following the initial assessment, ESCC will need to make a final determination regarding the order within 12-months from initial application. Again, if this timeline is not met, then the applicant can appeal to magistrate's court, which may decide to set a timescale for ESCC to follow.

The intention of this section of the Deregulation Act is to ensure that Highway Authorities process new claims quickly and prior to the 2026 cut-off.

With that in mind, the Rights of Way Team will be reviewing its processes and procedures, as well as making any necessary policy changes, to be in a good position to handle new applications that are generated due to the 2026 cut-off. However, ESCC cannot yet make these changes, as the guidance and detail of the Deregulation Act is yet to be published. (DEFRA's current intention is to give Highway Authorities a 21-day notice period before the guidance is published.)

c) The draft Implementation Plan, which was appended to the Countryside Access Strategy, includes a reference to the 'governance changes' necessary to take account of the Deregulation Act.

However, the timing of these changes is dependent on the final legislative guidance and detail being published by DEFRA. Nevertheless, the 'staff restructure' referred to in the draft Implementation Plan will look to ensure flexibility within Rights of Way Team staff resources, especially in light of the 2026 cut-off and an expected increase in pre-1949 claims.

5. Question by Councillor Daniel Shing to the Lead Member for Transport and Environment

In view of new powers for councils to remove unnecessary road signs, what action will the County Council take to remove such signs? In addition, will the Council ensure that in future, signs such as 'new' layout ahead will have 'remove by dates' on the back so they are not needlessly left in place for years and that signs are removed in line with these dates? Removal of such signs will improve our county's road environment and image.

Answer by the Lead Member for Transport and Environment

National legislation relating to traffic signs and road markings has been updated, with a new Traffic Signs Regulations and General Directions published on 22 April 2016. The new regulations do not provide any additional powers to Highway Authorities to remove traffic signs. However, the new structure offers significant deregulation, providing more flexibility for local authorities enabling the delivery of schemes suited to the local environment. There are a number of relaxations in the regulations that may be applied where appropriate but advice on best practice for signing remains largely unchanged. Consistency and continuity in signing will be key to continued safety and a drivers understanding of restrictions. Any deviation from current practices will need to be carefully considered and documented but, when applied appropriately; the new flexibilities will be particularly advantageous where there are environmental considerations.

We are aware that there are considerable limitations to what a driver is able to notice and safely respond to. An overload of information or any unnecessary distraction from the road compromises safety. The purpose of signing is to provide adequate information to the motorist to enable them to make safe decisions. Concise signing and good design are essential to the success of any traffic management scheme. The inclusion of a 'remove by' date on 'new road layout signs' is welcomed as many of these signs are installed by developers and other outside bodies and it will help local residents and our Highway Stewards keep track of when they need to be removed.

Removal of unnecessary signs (de-cluttering) has always been exercised across the County where appropriate. For example the removal of 'no waiting at any time' plates has been undertaken as part of our normal maintenance work. With the reduction in local authority funding and the need to ensure that this funding is used appropriately we do not have a specific programme of assessing, evaluating and removing traffic signs. However, this approach is applied as part of any new traffic management or road safety scheme that we may introduce.