

STATUS OF OUTSTANDING ACTIONS ARISING FROM SCRUTINY COMMITTEE

SUMMARY OF PUBLIC QUESTIONS REQUIRING A WRITTEN RESPONSE AND MEMBER REQUESTS FOR INFORMATION 21st March 2016

59	Consideration of Cabinet Decisions		
	Subject	Status	
	The Chair asked for the future plans for the development of a programme to connect schools to the cycle network.	<p>Response received from Anne Stevens – Transport Planner on 1st April 2016, as follows:</p> <p>The Cycling Framework was intended to be a high level document to form a basis for the establishment of future priorities.</p> <p>Objective 3 of the framework highlights the desirability of providing better cycle facilities to schools and workplaces. The development of specific proposals to address the framework objectives will form part of a Delivery Plan, which is the next stage of the process following adoption of the framework. The Council has recently submitted a bid to the DfT under the new Access Fund arrangements (the revenue funding stream replacing the Local Sustainable Transport Fund) which could provide support to enable SBC to continue to work with schools to promote cycling.</p> <p>The DfT Cycling and Walking Investment Strategy, published for consultation on 27th March, sets out the Government's agenda for the promotion of cycling and walking, gives targets for increasing levels of both and identifies potential funding</p>	Complete

		<p>sources. The Strategy recognises that currently three quarters of children live within a fifteen minute cycle ride of their secondary school, and in view of this it would be reasonable to expect future capital funding to be directed towards measures that would assist older pupils to get to school by bike.</p>	
	<p>The Chair raised the issue of members of the public moving obstructions when driving through alleyways and the only option is to place the obstruction on private land. The Chair asked for clarification of the guidance given in such circumstances.</p>	<p>Response received from Kehinde Awojobi – Solicitor on 5th May 2016.</p> <p>The Council (Local Highway Authority) has a statutory duty to ensure that a highway is free from unlawful obstructions. It also has powers to require removal of obstructions by the person responsible.</p> <p>A member of the public should report a case of obstruction to the Council so that action may be taken.</p> <p>Where there is an obstruction to a public right of way over private land, the land owner should be contacted in the first instance. This is because it is the landowner's responsibility to remove unlawful obstruction on his land. If no action is taken, then the obstruction can be reported to the Council, so that appropriate action may be taken.</p> <p>Obstructions to private rights of way (unless there is a health hazard) are generally not a concern of the Council.</p> <p>We have not been able to find any written guidance as to what a member of the public should do in the scenario described by the Chair i.e. where a member of the public</p>	Complete

		<p>feels it is necessary to remove an obstruction in order to be able to drive through a road. However, it should be noted that whilst it may seem justifiable to remove an obstruction and place it on adjoining private land in order to be able to drive through, it may also constitute fly tipping which may be the subject of enforcement action by the appropriate authorities, and also trespass which could be actionable by the landowner.</p> <p>This issue may need to be discussed by the relevant officers, with a view to coming up with written guidance for members of the public. However, the scenario doesn't appear to be one that would occur frequently.</p>	
	<p>The Chair raised an issue of a resident who had been the subject of covert surveillance and requested to attend an interview with enforcement officers. The resident was not informed of his rights to be legally represented at the interview. The Chair asked for clarification of the procedure for attending such interviews.</p>	<p>Response received from Kehinde Awojobi – Solicitor on 20th April 2016.</p> <p>The Police and Criminal Evidence Act Code of Practice, Code C and in particular paragraphs 3.1 refers to the right to consult a solicitor. Section 78 of the Police and Criminal Evidence Act 1984 gives the court the power to exclude any evidence regarded as unfairly obtained. There are many cases which illustrate the courts' exercise of this discretion in relation to this particular right.</p> <p>Failure to advise the defendant of his right to consult a solicitor may lead to a conviction being quashed, as was the case in the in R. V Gokan and Another [1990] Crim. L.R. 185 C.A. where the Court of Appeal noted that, <i>"the right to have access to legal advice was held by this court to be a fundamental right. We understand it to have been the intention of Parliament that these codes of practice should</i></p>	Complete

		<p><i>have teeth, and should not merely be of an exhortatory nature with all but the most flagrant breaches being overlooked. There was, in our judgment, a failure here to accord this appellant rights which Parliament had clearly indicated he should have”.</i></p> <p>The same court was of the same view in R v Sanusi - [1992] Crim. L.R. 43 and made it clear that this code applies not only to police officers but also to those who are considered analogous to police officers in respect of role they perform (i.e. questioning a suspect). Although this particular case involved customs officers, however, by extension, the same principle applies to Council officers who carry out similar functions.</p> <p>In short therefore Council officers carrying out this type of function must advise individuals, who they suspect have committed offences, of their rights under the various Codes of Practice before they interview them about their involvement in offences. A failure to do so may result in the exclusion of any evidence obtained in breach of any requirement of the Code.</p> <p>We are aware that the usual practice with our enforcement officers is that before interview, suspects receive a letter of invitation which, amongst other things, advises them of their right to legal representation. This advice is repeated at the commencement of the interview under caution. As far as we know, this practice is adhered to by officers.</p> <p>As for the specific case mentioned by the Chair of Scrutiny, we are happy to investigate if given details of the particular case.</p>	
--	--	--	--

60.	Cabinet Member Question and Answer Session – Cabinet Member for Finance, People and Performance		
	Councillor Penny raised the issue of considering all possible options for the future delivery of the Library Service including the consideration of outsourcing. She asked for a meeting with Stuart McKellar, Board Director Resources and libraries staff.	Meeting has been held.	Complete
	Councillor Penny asked about the role of the Town Twinning Network and the expenditure of its budget.	<p>Response received on 13th April 2016:</p> <p>1) The work of the Town Twinning Network:</p> <ul style="list-style-type: none"> Seeks to promote co-ordination and co-operation in the development of Twinning Links with the Twin Towns of Swindon (currently Salzgitter and Ocotal) and other existing Twinning Links with towns in the Borough. It will also encourage the development of other international friendship links between the people of the Borough of Swindon and communities in other countries. Will act as a co-ordinating body for interested groups and individuals seeking to promote twinning links with the Twin Towns of Swindon (currently Salzgitter and Ocotal). 	Complete

		<ul style="list-style-type: none"> • Will seek to co-ordinate fund raising and publicity in relation to Town Twinning but will not itself undertake these activities. • Will seek to encourage the development of international friendship links and commercial links between the people of Swindon and communities in other countries by the provision of a forum for discussion and the exchange of information. • Will receive and consider applications for Town Twinning grants and make recommendations to the Council. • Shall not hold funds or enter into any financial transactions. <p>2) Does the Town Twinning Network have a budget?</p> <ul style="list-style-type: none"> • The Town Twinning Network does not have a budget, however it administers the award of grants to Twinning Groups and other Swindon based voluntary or not-for-profit organisations wishing to take part in twinning activities that will strengthen links between Swindon and its twin towns and widen the horizons of the individuals and groups involved in twinning activities. • Town Twinning grants are non-recurring grants intended to promote Town Twinning and, specifically, activities which will enhance existing twinning links and develop other international friendship links between the 	
--	--	---	--

		<p>people of Swindon and communities in other countries. A reserve has been made available for Town Twinning expenditure and this currently stands at £4,752.38.</p> <ul style="list-style-type: none"> • The maximum grant available is normally £1,000. The Director of Law and Democratic Services, in consultation with the Cabinet Member for Twinning, the Chief Executive and the Town Twinning Network can award slightly larger grants where necessary. • The grant application procedure is that, in accordance with delegated authority number 30 in the Council's Scheme of Delegations, the Director of Law and Democratic Services is authorised to approve the award for grants for Twinning activities, subject to available resources and in consultation with the Cabinet Member for Twinning, the Chief Executive and the Town Twinning Network. 	
	Councillor Tomlinson asked about the new procurement processes.	<p>Response received on 24th March 2016 from Kirsty Cole.</p> <p>A copy of the updated Contract Standing Order report considered by Cabinet on 21st October 2015 was circulated to Scrutiny Committee members.</p>	Complete

61.	Cabinet Member Question and Answer Session – Cabinet Member for Children’s Services		
	Councillor Moffatt raised a question about the number of foster carers who went on to be adopters.	<p>Response received from Karen Reeve on 14th April 2016.</p> <p>In Swindon 2014 /2015 3 all adoption no SG Orders 2015/2016 3 all adoption no SG Orders</p>	Complete
	Councillor Penny asked about Fixed Term Exclusions, in particular for further statistical information and information on the measures in place to tackle high rates of FTE experienced in Swindon.	<p>Response received from Peter Nathan on 27th March 2016 and Nigel Pickering on 1st April 2016, as follows:</p> <p>Peter Nathan –</p> <p>‘The issue of high fixed term exclusions has been raised by myself and also John Gilbert for example with the headteacher of Nova (and there has been a reduction). Furthermore, it is an agenda item on each Education Strategy Board meeting where the data is analysed – it is also shared with SASH (secondary heads group). A group of deputy headteachers meets fortnightly to go over behaviour issues (permanent exclusions and behaviour concerns) and they are currently looking at practice in each others schools with behaviour learning walks.’</p> <p>Nigel Pickering –</p> <p>‘Primary sector – The latest data (end of term 3) is showing an increase in fixed term exclusion compared to the same period last year. In addition there have been four permanent exclusions in the Primary sector this academic year. FTE in the primary sector overall is not exceptionally high in Swindon and the increasing trend of challenges for children who are</p>	Complete

		<p>very young is an issue across the SW region.</p> <ul style="list-style-type: none"> • The data shows that fixed term exclusion in the primary sector does tend to be an issue for a relatively small number of pupils that cause significant challenges. These pupils can receive multiple exclusions. • This being the case the primary schools using FTE does change year on year. • In the majority of cases the pupils involved are subject to external school support notably from Nyland Campus outreach team (NCOT) and in some cases dual placement with their home school and either Nyland or Mountford Manor. • In addition support from colleagues within the Exclusion and Reintegration Team, SEN and health colleagues including mental health professionals is also sought depending on the needs of the pupil/family. <p>Secondary sector – The latest data is showing a significant decrease in FTE (approximately 25%) compared to the same period last year. Swindon figures have been highlighted as a particular concern as Peter has highlighted below.</p> <ul style="list-style-type: none"> • Secondary schools Behaviour and Attendance leaders have this issue high on their agenda and are taking a number of actions in reviewing their school systems and sharing best practice to try and reduce the numbers of exclusion. They meet each term as a group to discuss issues and share best practice. Current actions include; 	
--	--	---	--

		<ul style="list-style-type: none"> ○ Behaviour inquiry walks across the secondary sector. ○ Developing a set of over-arching principles around managing behaviour in secondary schools ○ Using data from the primary sector to be able to identify pupils who may need additional support as they move from Year 6 to Year 7. ○ Using strategies of 'managed moves' to avoid permanent exclusion as part of the Fair Access processes in Swindon. The Fair Access Panel meets fortnightly during term time. ○ Organising a half day conference with a focus of managing behaviour in school with a keynote external specialist speaker Paul Dix (October 16). <p>Special School sector – The latest data is showing an increase in FTE in comparison to the same period last academic year. Most FTE in the special school sector are at St Lukes which is our secondary school that supports pupils with Statements of Special Educational Need/Education Health and Care Plans under the main SEN category of Social Emotional and Mental Health. Work is being undertaken by the LA with St Lukes to try and develop alternatives to fixed term exclusion.</p> <p>From the perspective of the Local Authority we do monitor all exclusion from school and target pupils in the mainstream who have multiple exclusions and also exclusions for particular vulnerable groupings for example pupils with</p>	
--	--	--	--

		<p>Statements/Education Health and Care Plans and Children in Care.</p> <p>In Swindon there has been one formal permanent exclusion of a child with a Statement/Education Health and Care Plan in the last eight years . There have been no formal permanent exclusions of a Child in Care across the same period.</p> <p>We are currently support colleagues within the secondary sector in all of the actions noted above. In addition intensive work is being taken to drill down in to the exclusion data and to work with our secondary schools in highlighting their own specific issues and setting targets where appropriate to reduce the number of pupils subject to FTE. The Commissioner for Education Marie Horton is taking this work forward.</p> <p>The Exclusion and Reintegration team work on a multi-agency/service basis to support pupils who are at risk of permanent exclusions and to support plans aimed at maintaining pupils in school. This team also provides a level of challenge to school colleagues with regard to the use of exclusion. Training on exclusion is also provided to school governors.</p> <p>As noted below report on school exclusion is presented each term to the Education Strategy Board meeting.'</p>	

