

Supplement to the agenda for

Council

Friday 29 July 2022

10.00 am

**Herefordshire Council Offices, Plough Lane, Hereford, HR4
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5.	QUESTIONS FROM MEMBERS OF THE PUBLIC	3 - 6

Agenda item no. 5 - Questions from members of the public

Question Number	Questioner	Question	Question to
PQ 1	Ms Liddle, Ledbury	<p>In Herefordshire Council's guidance for schools on peer on peer sexual abuse, there is NO information at all as to HOW the Human Rights Act applies. Specifically, there is no mention of Article 3 or any explanation of the substantive and procedural obligations on schools under Article 3. The public has set out its concerns that this lack of guidance is resulting in victims, mainly girls, being denied their Article 3 and Article 8 rights and suffering avoidable harm.</p> <p>The CEO recently confirmed that Herefordshire Council does not intend to fill this gap in its guidance, which the public has claimed leaves girls at risk of unlawful discrimination.</p> <p>Before making this decision not to issue further guidance to schools, did Herefordshire Council undertake an Equality Impact Assessment?</p>	Cabinet member children and families
<p>Response: All guidance to schools with regard to peer on peer abuse will take into account the relevant articles under the Human Rights Act and Equality legislation. Guidance is continually reviewed and follows advice and guidance on this subject from the DfE. Equality Impact Assessments are carried out when new policy or practice is developed or amended. The guidance given is not such a document. The guidance is based on the Law and guidance issued by the DfE. However, we do take account of all legislation when drafting guidance for schools.</p>			
PQ 2	Dr McLean, Leominster	<p>There is widespread concern among the public that the Director of Children's Services and his team do not understand the substantive and procedural obligations imposed by Article 3 of the Human Rights Act on state Schools, and that as a result the advice being offered from the Council's MASH team is deficient and failing to protect victims of sexual assault, who are mainly female.</p> <p>Can the Cabinet Member please ask the Director of Children's Services to put the public's mind at rest and set out in writing, in response to this question, what he understands the procedural obligations to be on schools dealing with a credible allegation of peer on peer sexual violence, in a case where the victim has reported the case to the police but does not want to pursue the case through the criminal justice system?</p>	Cabinet member children and families
<p>Response: Thank you for your question. I can confirm that the Director of Children's Services and the MASH team do understand the importance of following and considering the law when advising on such a sensitive and serious subject. The guidance given to schools does take account of all relevant legislation and articles under the Human Rights Act. It is for schools to consider and use this guidance at a practical level when faced with such cases. Every case will depend on its own set of facts. If a matter is not pursued through the criminal process then the guidance is available to assist</p>			

schools in such cases. Schools as has been said previously can seek further support or advice should they so wish. If it is felt that a school was in breach of the Human Rights Act then any legal action or challenge would need to be made against the school as the decision taker. Furthermore we do offer advice and training to schools emphasising what we would expect them to do in cases where the Police have been informed but the victim does not wish to pursue any action.

PQ 3	Ms Attfield, Bromyard	Since August last year, Herefordshire Council has commissioned three pieces of advice from a QC in order to better understand the legal framework operating when schools are dealing with cases of peer on peer sexual violence. The advice has cost over £6,000 and would have been an excellent investment had the advice received by the Council been passed on to Herefordshire schools. However, since receiving the advice the Council has not updated the guidance for schools to include information received from the QC about the application of Article 8 of the Human Rights Act, and detailed information about the legal basis for excluding those against whom credible allegations have been made. What is the Council's rational for not sharing this helpful and clear advice from the QC with schools?	Cabinet member children and families
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Response:

Thank you for your question and your helpful challenge. The guidance given to schools with regard to peer on peer abuse is reviewed and will always be amended should the law or government guidance change. We are satisfied that schools have all the most up to date guidance available on this sensitive subject and that covers the relevant Articles under the Human Rights Act and any Equalities legislation. Having said this we accept that there is always room to improve and we shall be considering the article mentioned in your question and others again to make sure that schools do understand their significance when applying the guidance to a particular set of facts. It is important to highlight that the Council provides training to schools on safeguarding which covers peer on peer abuse. Schools can seek advice at any time from this Council or indeed any other body should they need this in relation to any case that they may be faced with. We will take account of the advice from the QC.

PQ 4	Anonymous, Name and address supplied	<p>In the Leader's recent newsletter, the Cabinet Member for Children wrote this in the section on peer-on-peer abuse:</p> <p>"We also offer a fully independent and confidential mediation service for any families or victims of abuse."</p> <p>In September 2020, families who had been campaigning about safeguarding failures in connection with peer on peer sexual abuse were promised a "reconciliation" service. This has never materialised.</p> <p>It appears that the promised "reconciliation" service has now been replaced by a "mediation" service, without consultation with the families affected despite the recommendation from CYP Scrutiny on 1 June 2021, resolution 9b, which stated, "That consultation take place with families ahead of the signature of the contract for the mediation service". If the mediation service now exists, why have the affected families not been informed or given access to the service?</p>	Cabinet member children and families
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Response:

Thank you for your question. The service referenced here is the same service – it is not true to say it has never materialised. The reconciliation service exists and is available. The contact details are available permanently on the council website under the heading 'Protect Someone' following a period of on line consultation. However the service that has been commissioned, fully independent from the council, calls itself a mediation service but offers a range of support and advice. The name was changed to avoid confusion but the offer has not changed in any substantive way. It is fully confidential and sits outside the council as agreed previously. It has been widely publicised. The exact details on the council website are :

If your family has been affected by peer on peer abuse, there is local support available. Children First Family Mediation is an independent family mediation service who offer confidential, sensitive support to Herefordshire families and individuals who have been affected by peer on peer abuse. To access the service please contact Sheena Adam by email confidential@childrenfirstfamilymediation.org.uk or call 01617 638793 and quote "Herefordshire".

PQ 5	Ms Shore, Bartestree	<p>In the first approved written answer to a public question to Cabinet, the Cabinet Member for Children claimed that the Council's position on peer on peer abuse is not discriminatory. In that answer, the justification given quoted Section 26 of the Human Rights Act. There is no S26 of the Human Rights Act. It simply does not exist.</p> <p>The concern has been raised repeatedly by the public that the Council's current policy and practice on peer on peer sexual violence is likely to lead to sex discrimination. The Council has rejected this position by quoting legislation which does not exist. Can the public now have a proper, detailed legal analysis of why the Council thinks that the failure to ensure that Article 3 rights are respected in EVERY case of peer on peer sexual violence will not lead to discrimination?</p>	Cabinet member children and families
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Response:

Thank you for your question. The sentence you refer to in the supplementary response to the question at Cabinet in May as I understand you have now been advised was incorrect and should have been removed. My apologies for that. The guidance as I have already said does take into account all relevant articles under the Human Rights Act and all other relevant legislation. I can only repeat guidance given to schools on this subject is kept under constant review and would follow all guidance and advice provided by the DfE.

