

PUBLIC QUESTIONS TO CABINET – 25 NOVEMBER 2021**Question 1****From: Ms S Newbert, Walford****To: Cabinet member, infrastructure and transport**

With the current state of our rivers in Herefordshire so concerning to those of us who live by it and see the deterioration daily. I would like to ask the question who is responsible for the water quality of our rivers and who is responsible for informing the public when the waters are unsafe for bathing and watersports.

Response

Thank you for your question and I agree we should all be very concerned about the quality of our rivers and other natural resources. With regard to the question about who is responsible for the water quality of our rivers, in simple terms it is the Environment Agency (EA) on the English side of the border and National Resources Wales (NRW) on the Welsh.

However, all of us who use or live near to a river or stream have a responsibility for water quality. For example, land owners are responsible for managing their land, through good practice and permitting, so as not to cause damage to water quality through manure, chemical or soil pollution and water companies have a responsibility to operate their Treatment Plants so that they only discharge treated waste into a river catchment strictly within the conditions of their permits. The EA and NRW issue and/or monitor those permits.

In special conservation areas such as the Lugg catchment, Herefordshire Council also has a responsibility through its planning function to ensure that they are certain that any new developments do not increase the level of phosphate pollution entering the catchment. The Council is also working to create Integrated Wetlands which remove phosphate pollution from Water Treatment Plants, most of this reduction will be used to enable new development in the Lugg catchment but some of it will be used to improve river quality.

The EA and NRW have a responsibility to monitor and report on water quality. They are also responsible, as already mentioned, for providing permits and regulating businesses, farms and homes that discharge water or waste water into rivers. The Environment agency also provide advice and enforce the rules about how land can best be used on farms so as to minimise detrimental impact water quality.

Natural England also have a role as a statutory consultee in the Council's planning process. We need to remember, as already mentioned, that the River Wye and the Lugg are located in two countries which are subject to different rules about how land is used. Natural Resource Wales (which combines the work that the Environment Agency and Natural England do on the English side of the border) has similar functions to Natural England but the rules they work by a different.

Even Herefordshire residents have a part to play in improving river quality too for example by not dropping litter in or near rivers and by carefully choosing and using the right angling equipment.

As you can see from the answer, although the Environment Agency has ultimate responsibility for the rivers in our county in terms of national governance, we all need to play our part and work together. In Herefordshire this is all brought together through a voluntary partnership called the Nutrient Management Board who keep oversight of a voluntary plan to improve river quality.

We think that there is more that can be done to improve water quality for everyone who uses or lives near our rivers and Herefordshire Council will continue to work with all our partners and to lobby government very hard too to ensure the much needed improvement that is needed in our rivers.

Turning lastly to your specific point about swimming and bathing. Councils have a duty to provide designated bathing areas but where they voluntarily choose to provide them then they must provide information to bathers using designated areas. Herefordshire has chosen not to adopt any designated swimming or bathing areas but will continue to work very hard with all our partners to improve river quality.

Post meeting note:

Through a motion to Council on the 8th October the Council is exploring whether to designate the Wye and Lugg bathing water. See [Agenda for Council on Friday 8 October 2021, 10.00 am - Herefordshire Council](#) for full details.

Question 2

From: Anonymous (name and address supplied)

To: cabinet member, children and families

One year ago Cabinet responded to concerns over the Council's failure to learn safeguarding lessons in connection with peer-on-peer sexual abuse cases by commissioning an independent external review into

- why lessons from the CSO report were not shared with schools in 2017
- why the 2019 review of peer-on-peer abuse cases failed to mention the CSO report (Cabinet, 26 Nov 2020, Item 8)

One year on, there are still no answers. Campaigners who were praised at CYP Scrutiny (15 Sept 2020) have lost all confidence in the independence of the investigation and a key witness has as a result recently withdrawn from the process.

How is it that legal services, whose actions are under the spotlight, were allowed to draft the terms of reference for the review and have been involved in managing the contact between the investigating solicitors and witnesses?

Response

The council has already commissioned solicitors to review the circumstances regarding the circulation of a report produced by Create Safer Organisations (CSO) for a third party in 2017. This work is in progress with a full review of documentation and conducting

interviews. The council is grateful of the participation and co-operation from different parties, but appreciate personal choices of those who do not wish to take part. This is an independent process.

On 15 September 2020 the children and young people scrutiny committee considered the Peer on Peer Review Herefordshire MASH 2017 - 2019 report and made recommendations to the Executive.

On 26th November 2020, Cabinet approved the executive response to the CYP recommendations; the link to this can be found at <http://councillors.herefordshire.gov.uk/mgIssueHistoryHome.aspx?Ild=50035813>.

The Executive Response to recommendation 2 was 'Why the CSO Report was not circulated to all Schools will require investigation'.

The Cabinet approved that the owner for that Executive Response as the Chief Finance Officer and Deputy Chief Executive, who became the commissioning officer for the investigation. It was agreed with the Head of Legal that this investigation would be carried out by an external law firm as they were known for handling complex and sensitive investigations in the public sector and local government. In consultation with the Commissioning Officer the terms of reference were then drafted by Legal Services and agreed with the Independent investigator. The council has produced guidance to schools on peer on peer abuse that can be found on the council's website (www.herefordshire.gov.uk/schools-education/bullying-1)

Additional response published 25 November

To protect the interests of the council and to ensure solicitors were acting within professional conduct rules only those individuals in Legal Services who were not employed by the Council at the time of the CSO Report in 2017 or the issues leading to the CSO Report were involved in the drafting of the terms of reference and involved in managing the contact between the investigating solicitors and witnesses.

Supplementary question

The response to my question does not address the concerns that I raised. The concerns are as follows:

- It is completely inappropriate for legal services to set the terms of reference for an external investigation into their own actions and inactions since 2017 to the current date
- It is completely inappropriate for legal services to be managing the contact between witnesses and the external investigators.
- The written response confirms that legal services did draft the terms of reference for this so called independent investigation and the written response does not deny that legal services managed the contact between investigators and key witnesses.

- In the written response the assertion is made that this is an independent process. Merely making that statement does not make it an independent process. Zero evidence has been offered to address the lack of independence so this claim is both meaningless and insults the intelligence of both members and the public.

My supplementary question is this:

Which members of the Cabinet have confidence in the independence of this investigation?

In response to the answer given to the supplementary:

“The point is not whether the people employed in 2017 were employed at the time of the publication of the CSO report. There has been lots of action and inaction from then to date to suppress information getting to scrutiny about the CSO report so anybody involved in any aspect of that is compromised. I believe that the person in charge of drafting those terms of reference is one of those people.

If you're losing key witnesses because they don't believe it is independent how can you confidently have the full picture of what happened?”

Response from leader of the council

The leader stated he was confident that when the process was completed the report would be full and fair. Cabinet members would examine whether or not there was true independence and a written response would be provided.

Question 3

From: Ms B Shore, Hereford

To: cabinet member, finance, corporate services and planning

I submitted a question to CYP Scrutiny committee on 7th September, followed up with a supplementary. The officer present could not answer. One month later, after an email to democratic services, they replied, "I will follow up on the response to your supplementary question as requested and provide an update on when a response can be provided." I have heard nothing, despite two further emails asking when I might expect an answer. It is 9 weeks since my question and 5 weeks since the above reply. Public accountability is essential to local democracy. It is a serious matter when public questions are ignored. It should be a given that a simple question will be answered. Does the Cabinet have a policy in place to ensure that public questions are answered promptly and that emails are not ignored?

Response

Thank you for bringing this matter to my attention.

First may I apologise personally to you for the way in which your question has been handled, and also for the council's failure to communicate effectively with you regarding the reasons for the delay in providing you with a written response to your September scrutiny question.

I am disappointed that you have needed to submit a further question to this cabinet meeting in order to finally elicit the outstanding response.

I am advised that the response issued this week apologises for the delay you have experienced. I understand that it also states that the council should have kept you updated and should specifically have advised you that delay created by seeking detailed information from the Children's Service was further exacerbated by there being a current staff shortfall in our Democratic Service team which normally oversees the public questions process.

The council's constitution states clearly that a written response will normally be provided within 10 working days of a meeting taking place. This did not happen in your case, and whilst you have been given reasons for this, they are in no way offered up as excuses. We can and must do better.

I am sorry for the delay you encountered on this occasion. I hope and expect that this will not happen again.

The council is currently reviewing its process for public questions and this will be considered by the council in the new year as part of the ongoing and gallingly glacial governance review. I would like to take this opportunity to assure you that I am taking a very close interest in the Democratic Services and Governance Support aspects of this review. Hopefully we can all look forward to sustained service improvements in the New Year.

Thank you for your continued interest in council services and in particular the performance of our Children's Directorate. We welcome your and others' challenge of us when our performance falls below the standards you expect of us and, indeed, below those we set for ourselves

Question 4

From: Mr P McKay, Leominster

To: cabinet member, infrastructure and transport

Thank you for your written reply to my question of 28 October. The full definition of C.R.F & C.R.B. on the Schedule of Information raised by Parish Meetings, Approved by Rural District Councils, and Accepted by former Herefordshire County Council is "Public Carriage Road or Cart Road or Green Lane mainly used Footpath – C.R.F., or Bridleway – C.R.B.", but these were shown by Herefordshire County Council on Definitive Map as F.P. or B.R. without any explanation to detriment of other users. So I ask if as part of the review of best practice you would consider identifying these as prospective Restricted Byways, with the Schedules of Information having been digitised but not made viewable online the onus being with yourselves rather than the Parishes/Public to address this issue by 2026?

Response

The council is not aware of any errors in managing the Parish Council's, Rural District and accepted by the County Council as part of the historical PRoW submissions.

The information submitted by parish council is available to view at the HARC council offices in Rotherwas, when resources allow and if feasible, we will look into providing the information on the website.

The resource required to review would be significant and would divert limited resources from other priorities such as DMMO applications. If we are made aware of anomalies, we will manage the enquiry as we do with the Definitive Map Modification application process.

Question 5

From: Mr A Hill, Llangarron

To: cabinet member, commissioning, procurement and assets

The new Waste Management Strategy review is laudable and focuses on many of the important issues.

However I strongly believe that there should be equal focus on the necessary evil of disposable nappies.

8 million disposable nappies go to landfill every day in the UK:

- That's 3 billion per year
- That's 500,000 tons per year
- That's more than 6.5% of domestic unrecyclable waste
- That's 500 years to rot down giving off methane
- Yet only 8% of parents use re-useable nappies, so clearly parents prefer the convenience of disposables

There is a potential solution, used throughout Wales.

Nappycycle provide bins and pick up nappies from the roadside. 100% is recycled. Councils do this alongside a cash promotion for mothers to buy re-useable nappies.

The new strategy writes of a promotion of re-useable nappies only, can we look into the 'welsh solution'?

Response

Thank you for your positive feedback regarding the direction of the new Waste Management Strategy and question regarding disposable nappies.

As you have mentioned the new waste strategy sets out our plans to promote the use of reusable nappies throughout Herefordshire. We will be encouraging parents to use reusable nappies through a communications campaign on social media, via our website and by providing information to parents requesting larger general rubbish bins through our service. We will also be working to build upon our relationship with our local nappy

library group, utilising their expertise to provide a platform for practical advice for parents and offering workshops and promotional events.

We are currently assessing an additional proposal to consider introducing a financial incentive (cash back scheme) for the purchase of reusable nappy kits, or funding the purchase and distribution of the kits via the council or our local group. If introduced we believe these measure will help to increase the use of reusable nappies across Herefordshire.

Whilst it is very interesting to hear of the work going on with several Welsh local authorities and Nappicycle, our research shows no local authorities providing a 3 weekly collection for general rubbish in England offer a separate nappy collection. A recently proposed scheme at one of these local authorities was met with a very limited response by just two residents.

The separate collection of nappies for recycling is not an option we will be immediately considering as part of the proposed change to the collection service form 2023, but should the need ever arise we will keep it in mind through any future service development.

Supplementary question

After Food waste, nappies and adult hygiene products are the biggest component of residual waste at around 12%.

Uptake of re-usable nappies is unfortunately proven to be no more than 10% of parents. 19 of 22 Welsh Local Authorities are doing or have signed up to recycle disposable nappies and adult hygiene products.

Whilst a little more expensive it diverts so much from landfill, and allows for residual waste to be collected even less frequently.

A big win for the environment and Herefordshire County Council.

Can the Cabinet please confirm that they have looked into the recycling of disposable nappies and AHP's within their review?

Response from cabinet member

We are looking into this within the review. The decision today is not the end of the journey but just the start. We have approximately a year and a half to go through a number of different trials and look at best practice in other local authorities. I will provide updates when we have more information on what options we are taking forward.

Question 6

From: Anonymous (Name and address supplied)

To: cabinet member, children and families

Why are Council officers withholding from Cabinet Members and from campaigners the name of the QC commissioned to provide legal advice on the issue of protecting victims of peer-on-peer sexual assault from further contact in school or college with the alleged perpetrator?

Response

Peter Oldham QC from 11 Kings Bench Walk chambers has previously given external legal advice to the council and this advice is not disclosable because it is legally privileged and the council is not going to waive that. It is not a document open for public inspection.

Supplementary questions

Peter Oldham's legal advice informed an answer to a public question to CYP Scrutiny in August. The question asked when it would be legal for a school to leave a rape victim in class with the alleged perpetrator.

The written answer to this question was withdrawn the day after publication. The answer had completely failed to take into account the implications for schools of the Human Rights Act and Equality Act.

This was an extraordinary omission since the Department for Education's guidance clearly states that schools must take into account the duties under both Acts.

Given these circumstances, it is a strange choice by Legal Services to go back to the same QC for further advice, particularly after Members asked that a different QC was commissioned.

How comfortable do Cabinet Members feel with Legal Services' decision making on this matter?

Response from cabinet member

The cabinet member confirmed that she did personally have confidence in the process, in which a well-respected external expert was commissioned to look into the council's internal processes and the cabinet member's priority was that that work is effective and makes the council's decision making better. A detailed written response would be provided.

Question 7

From: Mr C Perryman, Hereford

To: cabinet member, commissioning, procurement and assets

Can I ask what cities the council have looked at and which they have visited to further best practice?

Models are already up and running in many areas which could be adopted or modified to allow us to recycle more.

Response

As part of the cross party Strategic Waste Review undertaken by General Scrutiny Committee, members and officers undertook a review of the service models at numerous other local authorities to ensure that the review considered and learnt from best practice.

Here the task and finish group considered a range of services provided elsewhere, focussing on those local authorities that have similar rural characteristics to Herefordshire but also including local authorities that:

- Are Unitary Councils like Herefordshire
- Services are already aligned to expected future requirements
- Are in the top 10 Unitary Councils in terms of recycling performance
- Have rural Characteristics (only Milton Keynes has been excluded)
- Report costs less than those of Herefordshire Council

The local authorities included within the review included:

- East Riding
- Dorset Waste Partnership
- Cheshire West and Chester
- Isle of Wight
- North Somerset Council
- Bath & North East Somerset
- South Gloucestershire Council
- Rutland County Council
- North Lincolnshire.

The analysis showed that all three main types of recycling collection methodologies used in the UK are represented in the top performing (for recycling) Unitary Councils. More details on this are available on pages 13 - 15 of Appendix 2 to the Waste Service Review – Waste Collection report (item 6).

<https://councillors.herefordshire.gov.uk/documents/s50095887/Appendix%20%20-%20Task%20and%20Finish%20Group%20Report%20Sept%202020.pdf>

Visits had been planned to Monmouth and Cheshire West and Chester to allow members of the T&F group to experience the operational elements of service provision using kerbside boxes, reusable bags, food waste collections and garden waste collections. Unfortunately these had to be cancelled due to COVID restrictions.

Officers working with the T&F group shared their experiences of the services provided in Rutland County Council, North Lincolnshire Council and Brent Council in London.