



Coventry City Council

---

## **Council Meeting**

28<sup>th</sup> June, 2011

**Booklet 2**

Answers to Written Questions

1.

**QUESTION SUBMITTED BY: Councillor Nellist**

**TO BE ANSWERED BY: Councillor Duggins (Cabinet Member - Strategic Finance and Resources)**

**TEXT OF QUESTION:**

How and when the decision was taken to "deliberately create(d) a significant underspend" in the 2010/11 budget (quoted in the Executive Summary of Public Report 11 to the Cabinet meeting on June 21) which has resulted in £5.7 million underspend for that financial year?

**ANSWER:**

The proposal to deliberately create a significant underspend in the 2010/11 budget was included within the quarter 2 Revenue and Capital Monitoring Report and approved by Cabinet on 30<sup>th</sup> November 2010. The significant financial pressures facing the City Council which necessitated this approach and the specific actions being undertaken to create an underspend were detailed in section 5 of that report.

This approach was reiterated within the quarter three Revenue and Capital Monitoring Report taken to Cabinet on 8<sup>th</sup> February and Council on 15<sup>th</sup> February. The report again recommended that senior managers be instructed to take all possible action to limit discretionary expenditure in order to create an underspend by year end.

The 2011/12 Budget Report to Council on 15<sup>th</sup> February highlighted that one of the key risks identified in setting the budget related to the potential continued incidence of spending linked to grant streams for which the funding will fall-out on 31<sup>st</sup> March 2011. This report explicitly referred to the actions being taken to create an underspend in the 2011/12 budget as means of addressing this and other key financial risks. The budget report estimated that the actions being undertaken were likely to result in an underspend of between £3m and £5m.

In summary, there was a clear plan of action from the middle of 2010/11 communicated transparently to Cabinet and Council to deliberately create an underspend in the 2010/11 budget. The strategy has been designed to ensure the integrity of the Council's financial position and give it the soundest possible base from which to identify long-term solutions to managing the future resource cuts that we will face in the future.

2.

**QUESTION SUBMITTED BY: Councillor Nellist**

**TO BE ANSWERED BY: Councillor Clifford (Cabinet Member – Health and Community Services)**

**TEXT OF QUESTION:**

Will he make a statement on the latest position regarding Southern Cross Care Homes?

**ANSWER:**

Southern Cross Background:

National context: Southern Cross is the largest independent provider of social and nursing care for people in the UK providing support to over 31,000 people. The company has 587 adult social care services locations registered with the Care Quality Commission in England. These services operate through 56 subsidiary companies and are spread across all nine of Care Quality Commission's (CQC) regions.

Local Context: In Coventry Southern Cross operates seven homes across the city offering 244 places, with 214 places currently occupied (108 people in nursing places and 106 people in residential places). The City Council has funding responsibility for 88 people, NHS Coventry 81 people (there are a number of people with health funding contribution) and other local authorities fund 7 people. There are therefore approximately 76 people who are self funders, however between both Coventry organisations; our statutory duties will require us to consider the needs of all residents.

All of the homes are registered with the CQC and are rated either adequate or good.

<u>Ward</u>	<u>Name</u>	<u>Type of care</u>
Longford	Brandon House	Nursing dementia
Bablake	Keresley Wood	Nursing
Lower Stoke	Milverton Gates	Nursing
Westwood	Victoria Gardens	Residential
Cheylesmore	Victoria Manor	Residential and residential dementia
Lower Stoke	Victoria Mews	Residential dementia
Lower Stoke	Victoria Park	Residential

Overarching issues: In March this year, Southern Cross announced its interim financial results showing a £311 million loss before tax. This came after warnings that the group had experienced a difficult trading environment. Southern Cross has been particularly affected because of the kind of lease arrangements which underpin their business model. In short, Southern Cross stated that its current rental levels were unsustainable and that it would be seeking to negotiate revised levels with landlords across the country. Under its current leasing arrangements, Southern Cross are contracted to pay a 2.5% up lift every year resulting in an unsustainable business model for the organisation to maintain both now and in the future.

The organisation is working with its landlords to ensure that they are able to continue the running of the majority of their schemes whilst also streamlining their service model across the UK.

National approach: The ADASS (The Association of Directors of Adult Social Services) group have been working jointly to ensure a national approach is taken across local authorities giving guidance and sharing good practice tools which have mirrored actions at both national and regional levels. The group, chaired by Peter Hay ADASS President, has met with Senior Management within Southern Cross. These meetings have resulted in an agreed recovery plan being put in place. This recovery plan is to be reviewed in October 2011. Currently there are no plans to close and Southern Cross services in Coventry.

Coventry City Council and local partners: Coventry City Council has been working with local partners (NHS Coventry, NHS Warwickshire and Warwickshire County Council) as well as the Care Quality Commission (CQC) to ensure that a consistent approach is taken to support our residents residing at Southern Cross homes whilst also ensuring that families are firmly kept up to date. We are fully aware of each individual placed within both Coventry's Southern Cross homes and those placed out of Coventry in other Southern Cross homes. A joint letter has been sent to all residents (and families where appropriate) to reassure them of the ongoing commitment to their wellbeing and safety as individuals that all parties have and will continue to have. Colleagues will have seen a number of articles in the local press. The Council has responded to a number of media requests for information regarding both the Southern Cross homes and more recently care homes providers across the city. The Council is maintaining a balanced approach to continuing media interest.

3.

**QUESTION SUBMITTED BY: Councillor Mrs Dixon**

**TO BE ANSWERED BY: Councillor Kelly (Cabinet Member – Education)**

**TEXT OF QUESTION:**

Would the Cabinet Member explain, apart from the OFSTED category of school eligible to convert, what differences there are between academy status under the present government and that of the previous labour government?

**ANSWER:**

Academies were originally introduced by the previous Labour Government. The further development of Academies is a key aspect of the current Government's Education Policy. Whilst the rights and responsibilities of individual Academies remain broadly similar the main policy differences are:

1. Under a Labour Government the Academies Policy was brought in and used to improve schools deemed to be under-achieving or poorly performing.
2. The current approach enables a much wider group of schools to apply for academy status and transfers funding towards schools that, in the main, are more likely to have intakes that face fewer socio-economic challenges.

The Policy is now to convert outstanding and good schools to Academies that will partner satisfactory or failing schools in academy chains in order to improve them.

3. There is less consultation required as part of the conversion process.
4. The Secretary of State has greater powers to take schools out of LA control and re-open them as Academies.
5. The Freedom of Information Act now applies to Academies.
6. Good and outstanding schools aren't required to have sponsors.
7. There seemed to be a different ministerial approach to agreements relating to national pay and conditions of service when Lord Hill wrote to potential academies that "We consider the ability to set the pay and conditions of staff to be one of the key freedoms of Academy Status," "Consequently, the existence of any such agreement will be a significant factor in the assessment the Secretary of State will make before deciding whether or not to enter into a funding agreement for an Academy."

4. **QUESTION SUBMITTED BY: Councillor Field**

**TO BE ANSWERED BY: Councillor Townshend (Cabinet Member – Community Safety and Equalities)**

**TEXT OF QUESTION:**

Car sales on residential streets is a continuing problem in a number of places in Coventry and those selling them are finding ways around existing legislation restricting sales to one every 500 metres.

I have been informed that there are plans to look into restricting car sales across the City using schedule 4 the Local Government (Miscellaneous Provisions) Act 1982 Local Authorities, which allows the Council to impose restrictions on street trading and could restrict car sales to permit holders across Coventry.

Can the Cabinet Member please confirm what progress is being made on this possible solution to a problem that is causing a nuisance for a number of residents in Sewall Highway, Upper Stoke, and other areas of the City.

**ANSWER:**

The adoption of schedule 4 the Local Government (Miscellaneous Provisions) Act 1982 for licensing street trading is currently being evaluated. If the provisions are adopted it is likely that individuals selling cars on the highway would be covered by the legislation and would require a licence from the City Council. Conditions could be set on the licence which would prevent display for sale of vehicles in a manner which causes nuisance for residents and obstruction of the highway and verges. Members will be advised should this legislation be formally adopted.

In the meantime, the Environmental crime Team in Public Safety and Housing will continue to use existing legislation in order to curb the activity. The Clean Neighbourhoods and Environment Act 2005 makes it an offence for an individual to leave two or more vehicles, less than 500m apart, for sale on the highway. Proof of ownership is a significant barrier to the effective use of this legislation.

5. **QUESTION SUBMITTED BY: Councillor Foster**

**TO BE ANSWERED BY: Councillor Townshend (Cabinet Member – Community Safety and Equalities)**

**TEXT OF QUESTION:**

What action will the Cabinet Member be taking in response to the problems that surrounded the election count on the evening of 5th/6th May 2011, in particular those in the count for Cheylesmore Ward?

**ANSWER:**

As members know, the Returning Officer has ultimate responsibility for local elections and ensuring accurate results; this is not a matter that any individual Cabinet Member or Cabinet can adjudicate upon. However, I do have a keen interest in ensuring the elections run smoothly. One of my Cabinet Member advisory panels has a watching brief on these matters, the Electoral Arrangements Advisory Panel.

By way of background for those members who aren't aware, Cllr Foster is referring to events at the local elections count on 5 May this year, relating to the Cheylesmore Ward.

I understand that although no formal complaint was made to the Returning Officer, there were a number of Councillors (from both the Conservative and Labour Parties) who were understandably very disappointed that this has occurred and wanted a review to be undertaken immediately to establish what had happened.

Cllr Foster also raised his concerns about the processes being used at the count for his particular ward, Cheylesmore, in a local radio interview on 6 May. The radio station subsequently contacted the council to ask whether a statement would be made.

I have looked into this matter. The concerns of candidates and agents within the Cheylesmore ward was taken very seriously at the time, and a thorough review was carried out by the Returning Officer. Following this review, the Returning Officer gave a statement to the press on the same day, 6 May, which outlined factually what had happened.

Within Cheylesmore ward, unfortunately, candidates incorrectly thought that the process was nearing conclusion and that an outcome was imminent.

From their visual assessment of ballot papers counted, they thought that a particular candidate had won with the corresponding disappointment and joy. However, it turned out that this wasn't the case, with a reversal of fortunes for

candidates. This, understandably, caused disappointment.

From the evidence taken by the Returning Officer from count staff, it does appear that at one point in the proceedings, there was a breakdown in the process at Supervisor level. However, the checks and balances, which are in place to ensure that an incorrect result is not declared, identified that all the ballot papers had not been sorted and counted. Corrective action was taken. At no time was a result informally or formally declared. Unfortunately, as there was a short gap in proceedings we regret that candidates and agents could have thought that the count had moved to the final stage (preparation of a draft result), when it hadn't; this was what caused the confusion.

However, it is clear that there is need for further clarification and training for supervisors to ensure that there are no gaps in the process which may cause confusion to the candidates and agents and if there are such gaps an explanation should be provided to the candidate and agents at the time.

The findings were summarised in a press statement made by the Returning Officer, wherein it was acknowledged that human error had led to this unfortunate and avoidable situation occurring. The statement also made it clear that at no point was the ultimate result in question nor any dispute on the fairness and lawfulness of the process or outcome.

It is important that a review was undertaken, which it was and that lessons are learnt for next elections, which they will be. The contents of the press release are at the end for information and transparency.

In terms of the future, we will be heeding the lessons from this unfortunate incident. The Electoral Arrangements Advisory Panel will shortly be considering the evaluation report for the 2011 elections and referendum. The report reviews the issue, considers the checks and balances which are in place, and includes reference to this particular example. The report includes recommendations to ensure that the procedures and training of staff prevent gaps in the process which caused confusion to candidates and agents at this year's count.

The Panel will be taking further monitoring and planning reports in relation to next year's elections in due course and the Returning Officer will be working with council staff to ensure these actions are implemented and that any such recurrence is avoided.

Original press statement made by the Returning Officer:

I can confirm that no ballot box was lost. All 322 boxes arrived at the Ricoh and were accounted for and verified in the presence of candidates and agents.

All ballot boxes in the Cheylesmore Ward arrived and were emptied in the presence of candidates and agents. They were then verified prior to being counted. They were stored in open topped boxes on the senior counting assistant's table. One of the boxes was counted and led candidates to assume a final result. Another box of ballot papers had been left on the senior counting assistant's table and not counted at this stage. When the senior counting assistant realised that all the ballot papers had not been counted, the additional box of papers was added to the count.

No informal or formal declaration of the result for Cheylesmore had been made to candidates or agents.

The oversight of the second box delayed the final count and led to some confusion and an assumed result that was subsequently incorrect.

Martin Reeves, Returning Officer said: "this clearly should have been avoided, however, at no point was the integrity and/or accuracy of the result at Cheylesmore in question and this has not been suggested by any of the candidates or agents.

"I appreciate that the oversight led to raised expectations of one of the candidates and obvious disappointment of others and I will be apologising personally to all of those affected.

"As Returning Officer I am satisfied that the result is accurate. We will of course ensure that this oversight is considered as part of our overall evaluation of the event. As far as I am concerned this matter is now closed."

**6. QUESTION SUBMITTED BY: Councillor Foster**

**TO BE ANSWERED BY: Councillor Townshend (Cabinet Member – Community Safety and Equalities)**

**TEXT OF QUESTION:**

Can the Cabinet Member update Council as to the current state of progress with the refurbishment work in the War Memorial Park. In particular how do the currently expected completion dates for work contrast with the original estimated time for completion and are any further delays expected?

**ANSWER:**

See attached briefing note.

**7. QUESTION SUBMITTED BY: Councillor Noonan**

**TO BE ANSWERED BY: Councillor Townshend (Cabinet Member – Community Safety and Equalities)**

**TEXT OF QUESTION:**

The Council's Plan 2011/12 - 2013/14 states; "Information will be readily available and easy to understand". How does this statement fit in with the refusal of my request for a detailed breakdown of Councillor's service request enquiries made with the contact centre for the last 12 months given that this information has been available in the past?



**ANSWER:**

Following a request from Councillor Noonan, the total number of councillor service request enquiries for 2010/11 was provided however the additional information requested of a detailed breakdown of each councillor has not been provided.

This information is caught by the exemption to disclosure in Section 40 (2) of the Freedom of Information Act 2000 and the related first condition of Section 40 (3) which relates to personal information (or "personal data"). The Council considers that the requested information meets the definition for personal data set out in Section 1(1) of the Data Protection Act 1998 ("DPA") as:

*"data which relate to a living individual who can be identified - (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual"*

An option, however, is to seek the consent of individual members for their data to be disclosed.

Of course I have no idea for what purpose Councillor Noonan was requesting this information, but I would point out that there is a concern in treating this information in isolation as it does not provide a complete or accurate picture of the number of actual service request enquiries made to the contact centre by elected members. For example, Councillor's use a number of methods to report service requests these include using members support, ward forums and going directly to service areas to report specific issues. On the Customer Relationship Management (CRM) system the service request is recorded against the person reporting it rather than the name of the person who is making the request i.e. members support rather than the specific councillor. As a consequence again in isolation this information could be very misleading.

A number of elected members have previously expressed concern that the disclosure of this information is a breach of their confidentiality and their rights under the data protection act.

In terms of the availability of this information in the past the contact centre itself and the Directorate of Customer & Workforce Services have never provided this information to elected members. It is my understanding that in the past this information was provided by another directorate in my opinion in error, on this particular occasion the request was forwarded directly to the source of the information Customer & Workforce Services and they have dealt with this within the parameters of the legislation.

8.

**QUESTION SUBMITTED BY: Councillor Nellist**

**TO BE ANSWERED BY: Councillor Walsh (as lead Member for questions on West Midlands Fire and Rescue Authority,**

**TEXT OF QUESTION:**

Are there are plans for a review of staffing levels in the Coventry Fire Service to ensure all major items of equipment are fully staffed when required?

**ANSWER:**

West Midlands Fire Service has been handed the toughest financial settlement of any fire and rescue service in the country. Therefore we are undertaking reviews of all areas in order to find savings to meet this financial challenge, while minimising the impact on front line services.

Part of the way that we have delivered the required savings in years one and two of the Comprehensive Spending Review is to introduce dual crewing for the hydraulic platform in Coventry. This has been achieved by reducing the number of fire fighting posts by 12. There are currently no plans to introduce further changes to staffing levels in Coventry.

However, WMFS have been given no indication of how large a cut we face in 2013/14 and 2014/15. As such we cannot rule out the possibility of further changes in the future. We will always endeavour to provide the best service possible to the people of the West Midlands.



Coventry City Council

## Briefing note

---

APPENDIX

To Cllr Philip Townshend

Date 24 June 2011

Subject Memorial Park

---

### 1 Purpose of the Note

To provide information on the contract dated 25<sup>th</sup> May 2011 made with Thomas Vale Construction PLC for works at the Memorial Park for the sum of £2,481,416.08

### 2 Contract Terms

The contract is the Standard Building Contract with quantities known as the JCT 2005 conditions of contract.

The date for completion of the works defined in the contract is 20<sup>th</sup> May 2011.

There is provision for liquidated damages in the amount of £3500 per week.

The briefing note from Ces Edwards suggests there have been a number of extensions of time awarded to the Contractor due to the inclement weather in December 2010.

The contract does provide for notification by the Contractor of delay in progress of the works and the Contract Administrator for the Council can grant an extension of time. This would prevent the Council obtaining any liquidated damages as the works completion date would be extended.

The contractor has submitted an application for an extension of time to 25 July 2011. This being for events beyond their control and for which they have express entitlement under the contract.

The contract administrator has reviewed the application in that capacity. He considers the contractor to be entitled to an extension of the contract until to 25 July 2011 due to adverse weather and variations. The contract completion date has been amended accordingly.

No further application for an extension of time and the completion date (as amended) remains as 25 July 2011.

If the works are not completed by 25 July 2011; and the contractor has no justifiable grounds for a further extension of time, the Contract Administrator is required to issue a

non-completion certificate. The Council as employer then has the discretionary right to deduct liquidated damages for the period between 25 July 2011 and the actual certified date for practical completion.

The Council employer has taken beneficial possession of various parts of the works; eg Leamington Road car park, Café Pavilion, West Pavilion, footpaths, benches and the like. In view of this any liquidated damages will reduce pro rata to their value.