

COUNTY COUNCIL – 17 February 2016
PUBLIC QUESTIONS

<p>1. Questioner's name: Nigel Wise</p>	<p>Respondent's name: Cllr Vernon Smith</p>
<p>The County Council allow consideration of motorists' informal representations against the Council's penalty charge notices to be undertaken and decided by a private commercial company APCOA without any involvement of the Council. Please advise the specific item of legislation not guidance (if there is any) which provides the necessary power and authority that enables a commercial company to undertake such a quasi-judicial activity on behalf of the Council. Please advise the specific item of legislation not guidance (if there is any) which provides the necessary power and authority for the Council to delegate this local authority function to a private commercial company</p>	<p>The Council has carefully reviewed its legal position following concerns raised by Mr Wise. Officers are confident that we fully comply with all relevant statute and the council is acting legally.</p>
<p>2. Questioner's name: Nigel Wise</p>	<p>Respondent's name: Cllr Vernon Smith</p>
<p>The County Council permits consideration of motorists' formal representations against the Council's Notices to Owner (which follow the serving of penalty charge notices) to be undertaken and decided by a private commercial company APCOA prior to APCOA's decision being referred to the Council for approval, amendment or rejection by the Council and subsequently presented to motorists falsely purporting to be a fresh and impartial consideration and decision of the Council. Please advise the specific item of legislation not guidance (if there is any) which provides the necessary power and authority for a commercial company to undertake such a quasi-judicial consideration on behalf of the Council. Please also advise how the eventual decision which is purported to be the fresh and impartial decision of the Council can actually be a fresh and impartial decision on the motorists' representations when it manifestly is not.</p>	<p>The decision on any formal appeal is taken by the County Council, not Apcoa. We have made this clear on a number of occasions. Council officers are confident that we are acting entirely within the law.</p>

3. Questioner's name: Nigel Wise	Respondent's name: Cllr Vernon Smith
<p>It was confirmed unequivocally by the Traffic Penalty Tribunal in July 2015 that the delegation by the Council to APCOA of such considerations of motorists' representations against penalty charge notices and Notices to Owner is in clear breach of the public and common law duties incumbent on the Council, and that the Council's contract with APCOA is fatally deficient in this respect. Why has the Council failed to amend its contract with APCOA to remedy this material deficiency promptly after July 2014? Why has the Council failed to amend its improper operating procedures which are contrary to law promptly after July 2014?</p>	<p>We listen closely to the position of the Traffic Penalty Tribunal, but they are neither an administrative law courts, nor do their decisions set binding precedent. On a number of occasions the County Council's arrangements have been successfully upheld by the tribunal.</p>
4. Questioner's name: Nigel Wise	Respondent's name: Cllr Vernon Smith
<p>What specific formal training have all of the relevant County Council's officers undergone and passed to enable them to process motorists representations to the Council's penalty charge notices and Notices to Owner? Have all such officers obtained the requisite City & Guilds Level 3 NVQ qualification?</p>	<p>All County Council staff concerned have been through an interview process and satisfied the County Council as to their skills, experience and ability to carry out their respective jobs.</p>
5. Questioner's name: Nigel Wise	Respondent's name: Cllr Vernon Smith
<p>Why do the County Council's formal Job Profiles specified for those officers employed to process such motorists' representations fail to include any specified qualification whatsoever necessary to fulfil their assigned duties?</p>	<p>The Council is confident that it employs suitably trained staff to fulfil these roles.</p>
6. Questioner's name: Nigel Wise	Respondent's name: Cllr Vernon Smith
<p>Neither the penalty charge notices nor the Notices to Owner issued by (or on behalf of) the County Council comply with the clear mandatory requirements all of which are prescribed to be stated on them by the relevant legislation, either for fatal omissions or for erroneous content which conflicts with the mandatory content prescribed by the legislation. As has been made known to the</p>	<p>I was keen that the council looked seriously at the points that you have made in this question, and in direct representations to councillors. I'm afraid that council officers, after checking carefully and seeking legal advice, do not agree with your argument that our notices are invalid. As a result, no further action is necessary at</p>

<p>Council, these fatal defects render these notices not to be the valid enforcement they purport to be and are, accordingly, not lawfully unenforceable notices. Which officer(s) of the Council are responsible for approving the content of these fatally-defective notices? Why has the Council not taken prompt action to correct these notices into lawful good order? What actions are in hand to refund all motorists' penalty charge payments that have been made in the mistaken belief that these notices were lawful penalty charge notices and Notices to Owner which complied with the legislation.</p>	<p>this time.</p>
<p>7. Questioner's name: Alison Hume</p>	<p>Respondent's name: Cllr Vernon Smith</p>
<p>A40 Corridor Bus Priority will widen the Gloucester Road westbound carriageway westwards from the Tennyson Road junction. Pedestrians from the Kingsley Gardens side of Gloucester Road will now have to cross four lanes of 40mph two-way traffic to gain access to the westbound 'Tennyson Road' bus stop. Noting that Gloucestershire County Council removed the pedestrian refuge in Gloucester Road near Kingsley Gardens when the previous (eastbound) bus lane was introduced during 2008, what and where will be the safe, convenient, accessible walk route to and from the westbound 'Tennyson Road' bus stop?</p>	<p>As part of the scheme's detailed design, works to install a right turn lane into Tennyson Road are being investigated. As part of the design at this junction, we are looking at the opportunity of installing pedestrian refuges at the start and end of the right turn lane to assist those crossing within the locality and protect those vehicles waiting to turn. Further details of what can be achieved at this location will be submitted as part of the detailed design within the Full Business Case.</p>
<p>8. Questioner's name: Jacky Fletcher</p>	<p>Respondent's name: Cllr Vernon Smith</p>
<p>Proposed A40 Bus Lane</p> <p>When will the results of the Public consultation on the above be made available to the many interested parties and the public in general?</p>	<p>The public consultation report will be submitted to the LEP as part of the scheme's Full Business Case. I would expect the LEP will publish this, although it is a matter for them.</p>

9. Questioner's name: Ken Jones	Respondent's name: Cllr Vernon Smith
<p>Will the proposed A40 Corridor Bus Priority Scheme require the granting of planning permission, if so how is that progressing and what is the likely date that the A40 Bus Priority Scheme will be at the Cheltenham Borough Council's Planning Committee?</p>	<p>All of the proposed construction works lie within the highway boundary and do not require planning permission.</p>
10. Questioner's name: Geoff Lane	Respondent's name: Cllr Vernon Smith
<p>How will the proposed A40 Corridor Bus Priority be safely and practically constructed without entering and / or damaging the green spaces beyond the current Highway Boundary.</p>	<p>The Works Contract will specify areas of vegetation and trees that are to be protected during the works. The contractor will be instructed to erect temporary fencing around those areas. Prior to any activities taking place near to those areas the Contractor will be expected to produce method statements detailing their proposed activities and the precautions they intend to take to avoid damaging the green areas. During any activities potentially affecting the green areas an Environmental Specialist will be in attendance to monitor and supervise site staff.</p>
11. Questioner's name: Martin Morley	Respondent's name: Cllr Vernon Smith
<p>In December, County Councillor Will Windsor-Clive response to questions to Full Council included this statement "The County Council is promoting the A40 corridor bus priority scheme jointly with Stagecoach. If it is approved, both scheme promoters will be responsible for any cost overruns." The Finance Director of Stagecoach Group has since stated "If upon commencement of the scheme, costs increase above budget then Gloucestershire County Council would be responsible for any cost overruns." Who is right, Stagecoach Group or Gloucestershire County Council on the matter of cost overruns?</p>	<p>GCC will be responsible for any cost overruns. As part of the detailed design works, a risk/contingency allocation of funds is contained within the scheme budget.</p>

<p>12. Questioner's name: Owen Adams, <i>Frack Off Our Forest (grassroots community campaign)</i></p>	<p>Respondent's name: Cllr Vernon Smith</p>
<p>As Council is aware, there is considerable and growing anxiety amongst Council Tax payers about the granting of PEDLs (Petroleum Exploration and Development Licences) in Gloucestershire. Evidence from areas in the US, Canada and Australia, where exploratory and development activities are already underway, confirm that water contamination (Pilliga Forest, NSW), ground movements (Alberta, Canada) and methane leakage, (Porter Ranch, California), have all been observed and linked to unconventional gas exploration or extraction.</p> <p>In light of such concerns, other mineral planning authorities and Councils have been forthright in asserting their local democratic responsibility to ensure that their communities and environments are properly protected against erosion of long established and trusted planning processes.</p> <p>Will the elected members of this Council assure residents of Gloucestershire that they:</p> <ul style="list-style-type: none"> a) will fulfil their democratic responsibility by ensuring that they remain in control of key decisions that impact the local environment, communities and economy? b) demand that the Oil and Gas Authority revoke or suspend existing PEDLs and the Government initiates a comprehensive independent risk assessment? c) confirm that this risk assessment will take into account local conditions, knowledge and evidence of impacts from existing unconventional gas exploration sites globally? d) confirm that, to ensure impartiality, this risk assessment will be conducted by experts who are free of influence from Government or the oil and gas industry? 	<p>I agree entirely with the questioner on his first point. My key concern has been making sure that, if a planning decision is taken on this sort of development in Gloucestershire, it is taken by locally elected councillors if at all possible. That is why I've listened carefully to the concerns of the chairman of planning and others about expressing a general opinion before a specific planning application is received. This is particularly so given that other councils in Gloucestershire have already been able to express strong views on behalf of local residents.</p> <p>The specifics for any advice to be taken by the planning committee would be a matter to be determined once an application is received, and would be something that councillors on the committee would scrutinise carefully. It would certainly be independent.</p>

13. Questioner's name: Peter Clark	Respondent's name: Cllr Mark Hawthorne
<p>To: Cllr Mark Hawthorne</p> <p>The County Council and the Trade Unions representing its employees have worked closely together for many years to resolve staffing issues – this is a valuable relationship which has helped ensure that the voice of the staff is heard and taken into account. This ensure that the Council delivers its services effectively and with the minimum of disruption while respecting the rights and dignity of its employees.</p> <p>Given that the Order of St John Care Trust, a major service provider commissioned by GCC, are seeking to derecognise UNISON and remove the union's voice from the workplace, will the County Council ensure that, allowing for legal procurement restrictions, it is a requirement that the organisations it commissions to deliver services recognise the important contribution that unions make to fair treatment of workers and effective running of the services they provide and ensure that unions are recognised within those commissioned organisations?</p>	<p>We have an excellent working relationship with trade union colleagues in Gloucestershire – it's something that both sides can take pride in. As a result, I've always advocated the benefits of good working relationships to others, because I've seen the benefits myself here.</p> <p>That said, the council is not legally allowed to set procurement requirements specifying what industrial relations a bidder ought to have.</p>