

# Supplementary Questions and Answers

## City of Edinburgh Council

10.00 am Thursday, 16th December, 2021

Virtual Meeting - via Microsoft Teams

### Supplementary Questions and Answers

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# Agenda Annex

## Item no 10.5

### QUESTION NO 5

**By Councillor Neil Ross for answer  
by the Convener of the Regulatory  
Committee at a meeting of the  
Council on 16 December 2021**

#### Question

Following the passing of my motion on the Amplification of Sound on 28 October, has the convener written to Ben Macpherson MSP, the Minister for Local Government in Scotland, as requested, and, if so, can she publish the text of her letter and indicate the date it was sent?

#### Answer

I wrote to the Minister on 8 November 2021. A copy of that letter is included below.

Ben Macpherson MSP  
St Andrews House  
Regent Road  
EDINBURGH  
EH1 3DG

By email

Date 8 November 2021

Dear Ben,

#### Amplification of Sound in Public Spaces

Noise from busking and street entertainment has been a significant concern for some of the city's residents for some time. On 28 October the City of Edinburgh Council discussed the amplification of sound in public spaces. Councillor Neil Ross moved a motion (attached) with respect to the impact of amplified sound from buskers and street entertainers in public spaces in Edinburgh.

As a result I was asked to write to you to highlight the negative impact of amplified sound from buskers and street entertainers in public spaces in Edinburgh; and to request that Scottish Government considers whether new powers are required to allow the Council to effectively control the amplification of sound in public spaces under the Civic Government (Scotland) Act 1982, whether through an extension of the arrangements governing the licensing of public entertainment or by other means.

#### Background

In conjunction with their Police partners, Council officers in the City Centre Neighbourhood Team previously ran a campaign in an attempt to minimise disturbance by buskers. This included the development of a 'Good Practice Guide', including a request system where the use of amplification was intended whilst

busking in the city centre. This was discontinued after the first summer due to a lack of resources and enforcement powers.

Some years ago, the Council trialled temporary street signage regarding busking in the city centre and has adopted an informal role responding to initial complaints and advising buskers on the guidelines drafted by that team in 2015. In the vast majority of cases, they have to be forwarded to Police Scotland, who can use their legal enforcement powers in this respect.

Current position

Under the Civic Government (Scotland) Act 1982, Police officers may seize sound-making equipment (no matter where located) if a person fails to stop the noise on being asked to do so. Police Constables may also serve Fixed Penalty Notices for this offence.

Although Police Scotland may use these powers in the relevant circumstances, use of these must be balanced against other priorities. The Council would welcome the provision of further enforcement powers in order to support Council officers to encourage best practice.

Statutory provisions under the Environmental Protection Act 1990 allow for local authorities to require the abatement of a noise nuisance if the noise amounts to a Statutory Nuisance. However, 'Statutory Nuisance' is not defined. It is normally determined by reference to the noise itself and its duration, volume, character, time of day and frequency. This means that the disturbance must be long-term and sustained. The noise must also be affecting an individual in a domestic property. This legislation is used when noise is emanating from a premise or from a vehicle, machine or equipment in the road. It is not applicable to street noise such as buskers, as it is often difficult to establish that there is a sustained problem from the same person.

I would appreciate the opportunity to discuss opportunities to develop a way forward in this regard.

Yours sincerely  
Cathy

Councillor Catherine Fullerton  
Convener – City of Edinburgh Council Regulatory Committee

**Supplementary  
Question**

Can the Convener confirm that she will robustly pursue the case for regulation of amplified sound from buskers and street entertainers in her discussions with Mr Macpherson?

**Supplementary  
Answer**

Yes, I can confirm that I will follow up with Mr Macpherson.

## Item no 10.14

### QUESTION NO 14

**By Councillor Whyte for answer by the Council Leader at a meeting of the Council on 16 December 2021**

#### Question

Who took the decision, and under what authority, that the approach to the appraisal of the Chief Executive would change to being the sole responsibility of the Council Leader as opposed to the approach with all previous Chief Executives where appraisal was undertaken by a small committee made up of the political group leaders?

#### Answer

To repeat a part of my answer to Councillor Whyte from November 2018 and again in March 2021 “the Chief Executive is uniquely accountable to the whole Council, in its capacity as employer, **through the Leader of the Council**” which is the normal approach in local government.

This accords fully with the Council’s approved performance management framework and policy, which is applicable to all employees, including the Chief Executive. This policy was approved by the Corporate Policy and Strategy Committee in 2016.

Councillor Whyte may also wish to be aware that the Chief Executive’s job description, which forms part of his contract of employment, makes explicit that he is responsible to the Council, through the Council Leader. The job description for the Chief Executive was approved by Group Leaders in early 2015, again as reported to the Corporate Policy and Strategy Committee. Councillor Whyte may wish to reconsider asking such questions at Full Council, when these answers are already known to members of his group, including his colleague who was the Conservative Group Leader at that time.

**Supplementary  
Question**

Lord Provost, the Council Leader told me in March and in answer to a question on this topic and I quote:

“Councillor Whyte wasn’t Group Leader before I became Group Leader and I wasn’t Group Leader before I became Council Leader, so in terms of the practice before that, I don’t think either of us can speak with authority.”

End of quote.

Given the conversations we’ve had again today about the tone of debate in the Chamber, with exhortations to do better including from the Council Leader, why has he chosen to write such a dismissive and derogatory conclusion to the answer he placed before the Council? Does he not recognise that we all have an interest in determining whether the Chief Executive is achieving his agreed objectives regardless of whether we voted for the exact detail of how they were set out?

**Supplementary  
Answer**

I repeat that Councillor Whyte should reconsider asking the same question multiple times, wasting Council time. This request is not the same as the aggressive, personalised comments (and often direct attacks on officers) that we have seen increasingly from Conservative colleagues.

## Item no 10.15

### QUESTION NO 15

**By Councillor Whyte for answer by the Council Leader at a meeting of the Council on 16 December 2021**

#### Question

Given that he has recognised in his response to previous questions on this topic that the Chief Executive is responsible to the whole Council and not just the Administration why he has not shared the Chief Executive's objectives with other Group Leaders and when he will do so?

#### Answer

I have previously answered a similar question from Councillor Whyte in March 2021.

Therefore, I restate that the Chief Executive's objectives are focused on dealing with the consequences of a global pandemic for both the Council and the City, including the Council's statutory responsibilities arising from the Civil Contingencies Act and providing direct leadership of the Council's Incident Management Team, which continues to operate.

Regular reports provided to the Policy and Sustainability Committee on the Adaptation and Renewal Programme ensure that progress within these objectives are not only shared, but that they are in the public domain.

In addition to these objectives, the Chief Executive continues to discharge the responsibilities of his role, as set out in his job description and aligned to the delivery of the Council's approved business plan.

I understand that Councillor Whyte doesn't support the Chief Executive in delivering the settled will of Council to improve the wellbeing of our residents and tackle climate change and poverty in our City- which Cllr Whyte and his party colleagues have consistently voted against. I further note that Cllr Whyte has failed to raise this for discussion at Group Leaders meetings since his last questions in March 2021- although I would also point out that while Group Leaders is a useful forum on some issues, it is not a forum to try and frustrate the settled will of Council.

**Supplementary  
Question**

Lord Provost, the Council leader says he looks to the Adaptation and Renewal Framework and the Council Business Plan as the Chief Executive's objectives. So, I wonder how he is monitoring the aspects of the Chief Executive's Job Description that relate to Culture, Leadership, and Change and transformation? I ask because these are critically important to the Review we discussed earlier today and on which we have 50 recommendations from an independent review. Do these feature in the objectives?

**Supplementary  
Answer**

Yes.



**QUESTION NO 16**

**By Councillor Booth for answer by the Convener of the Education, Children and Families Committee at a meeting of the Council on 16 December 2021**

**Question** (1) Please can the Convenor clarify what Scottish Government funding was received for the refurbishment of the Darroch annex, and what conditions were attached to that funding?

**Answer** (1) The Scottish Government contribution was £4million.

**Question** (2) If the Darroch annex reverts to English Medium Education in the future, what are the implications of this for the funding received?

**Answer** (2) At the time the Scottish Government granted the funding the intention was that the Darroch Annexe would be suitable for a GME primary school in the longer term. If that does not transpire then discussions would need to be had with the Scottish Government about the status of the funding.

**Supplementary Question** I thank the Convener for his answer, which seems to be at odds with the response that I've received from Scottish Government officials, who have told me, I quote, "We have been reassured by CEC officers that if Darroch reverted to English Medium Education, this would be taken into account and transferred to [another] GME project in the city."

Please can the Convenor clarify: will the £4m be transferred to another GME project, or won't it?

**Supplementary Answer** It is not yet clear whether there will be a continued use of Darroch for GME in the long term. If it isn't used for GME in the longer term then the funding can be transferred to another project. The details of this would required to be discussed with the Scottish Government.

## Item no 10.17

### QUESTION NO 17

**By Councillor Bruce for answer by the Convener of the Edinburgh Integration Joint Board at a meeting of the Council on 16 December 2021**

Can the Convener confirm

#### Question

The number of Care Package requests that are currently outstanding for each locality?

#### Answer

The number of care package requests outstanding at 9 December 2021 in each locality are as follows:

- North-East – 163
- North-West – 210
- South-East – 231
- South-West – 191

The above number of requests includes those for people in hospital and at home.

#### Supplementary Question

What are the estimated timescales for delivering the outstanding requests for Care Packages?

#### Supplementary Answer

The health and social care system is in an unprecedented crisis in terms of its delivery of care, including care at home. There is not nearly enough carers to cover the essential care we are being asked to deliver. A paper was presented by the HSCP at the Council's Policy and Sustainability Committee on 5 October 2021 outlining the scale of the challenge we are facing and the significant pressures being put on our services

We currently have no timescales for delivering the outstanding packages of care. Actions taken to address the situation include:

- We are working with the independent care sector to increase their capacity and stabilise. A single recruitment portal and advertising campaign was

launched on 4 October 2021 and work is also underway with Edinburgh College on supporting more students into part time work.

- The recruitment work is part of a wider Home Based Support plan that is working to optimise the care already available where we are working with providers to prioritise care in line with people's critical need.
- We are in the process of recruiting more carers to our internal Homecare Service
- We are engaging with the 3<sup>rd</sup> sector on opportunities to work with volunteers in a way that is safe and appropriate.
- We are enhancing multi-disciplinary teams already in place including increasing staffing into District Nursing in-reach, Home First and Discharge to Assess models.
- To support people's discharge from hospital, we have contracted with care homes to provide interim beds for people that are waiting on a package of care. This means that rather than waiting in hospital for a package of care, they can be in a more homely environment.

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