

**MINUTES of MEETING of ARGYLL AND BUTE COUNCIL held in the COUNCIL CHAMBER,
KILMORY, LOCHGILPHEAD
on THURSDAY, 22 OCTOBER 2015**

Present: Councillor Len Scoullar (Chair)

Councillor John Armour	Councillor Robert E Macintyre
Councillor Gordon Blair	Councillor Robert G MacIntyre
Councillor Michael Breslin	Councillor Iain Stewart MacLean
Councillor Rory Colville	Councillor Donald MacMillan
Councillor Maurice Corry	Councillor Alex McNaughton
Councillor Robin Currie	Councillor James McQueen
Councillor Vivien Dance	Councillor Aileen Morton
Councillor George Freeman	Councillor Ellen Morton
Councillor Anne Horn	Councillor Gary Mulvaney
Councillor Donald Kelly	Councillor Douglas Philand
Councillor David Kinniburgh	Councillor Elaine Robertson
Councillor John McAlpine	Councillor James Robb
Councillor Roderick McCuish	Councillor Isobel Strong
Councillor Iain Angus MacDonald	Councillor Sandy Taylor
Councillor Alistair MacDougall	Councillor Richard Trail
Councillor Neil MacIntyre	Councillor Dick Walsh

Attending: Sally Loudon, Chief Executive
Douglas Hendry, Executive Director of Customer Services
Cleland Sneddon, Executive Director of Community Services
Pippa Milne, Executive Director of Development and Infrastructure Services
Charles Reppke, Head of Governance and Law
Kirsty Flanagan, Head of Strategic Finance
Martin Caldwell, Chair of the Audit Committee
Geoff Urie, Head Teacher of Hermitage Academy

The Council received a petition from parents with regard to the Service Choices item and in particular Additional Support Needs which will be available in the Members Room. The Provost was also made aware of an on-line petition with regard to the same subject.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Devon, D MacIntyre and Marshall.

The Provost, on behalf of the Council, advised that Councillor Mary Jean Devon would be off due to illness for a number of weeks and wished her all the best in her recovery.

2. DECLARATIONS OF INTERESTS

Councillor McCuish declared a non-financial interest in item 6 (Planning Our Future).

Councillors A Morton, Robb and Corry each declared a non-financial interest in item 7 (Notice of Motion – Hermitage Academy), and in each case also advised that in

terms of the objective test they regarded the interest to be so remote and insignificant as to have no influence on their consideration of the matter.

* **3. MINUTES OF COMMITTEES**

The Minutes of the Special Policy and Resources Committee of 8 October 2015 were noted. Arising under item 3 (Planning Our Future) it was noted that this item will be discussed at item 6 of this Minute.

4. AUDITED ANNUAL ACCOUNTS 2014-15

The Council considered a report which advised that the external auditors, Audit Scotland, had completed their audit of the Council's Annual Accounts for 2014-15 together with its Charitable Trusts. The audited accounts and its Charitable Trusts, incorporating the audit certificates were also submitted along with a set of summary accounts and a financial snapshot of the 2014-15 financial year and the audit certificate contained no qualifications.

Decision

The Council approved the annual accounts, charitable trusts and the audit certificate.

(Ref: Report by Head of Strategic Finance dated 22 October 2015, submitted)

5. AUDIT COMMITTEE ANNUAL REPORT 2014-15

The Council considered a report presented by the Chair of the Audit Committee which provided an overview of the Audit Committee's activity during the financial year 2014/15 and which gave Members assurance that the Committee continued to discharge its duties in accordance with published guidance. The Leader of the Council thanked the Chair and the Vice-Chair for all their hard work and effort in leading the Council's Audit Committee.

Decision

The Council noted and endorsed the terms of the report by the Chair of the Audit Committee.

(Ref: Report by Chair of the Audit Committee dated 22 October 2015, submitted)

* **6. PLANNING OUR FUTURE**

The Committee considered a report by the Executive Director of Customer Services which outlined the recommendations by the Special Policy and Resources Committee of 8 October 2015.

(Ref: Report by Executive Director of Customer Services dated 13 October 2015, submitted)

(a) **SERVICE CHOICES**

A report updating Members on the progress to date with the Service Choices process was considered. The report outlined recommendations from the Project Board on the savings options to go out to public consultation and also provided an update on the budgetary outlook.

(Ref: Report by Head of Strategic Finance dated 1 October 2015, submitted)

(b) **SERVICES CHOICES - SUBSTITUTED SAVINGS**

The Council considered a follow-up report to the Service Choices report presented to the Policy and Resources Committee on 8 October and provided information on the alternative savings options requested from Departments.

(Ref: Report by Head of Strategic Finance dated 14 October 2015, submitted)

(c) **INNOVATION, INCOME GENERATION AND GROWING THE ECONOMY**

The Council considered a report which set out a proposal to capture ideas through staff and Services that can be appraised and evaluated to be taken forward as possible projects to deliver innovation, income generation, efficiencies and wider benefit to the communities of Argyll and Bute and growth in the economy and population.

(Ref: Report by Executive Director of Customer Services dated 1 September 2015, submitted)

(d) **PUBLIC CONSULTATION**

The Council considered a report which set plans for carrying out a public consultation exercise as part of our planning our future process. The consultation will seek the views of our communities on options for making savings, so that their views contribute to taking ideas on the right choices for Argyll and Bute asking for community suggestions on innovation, efficiencies and income growth.

(Ref: Report by Executive Director of Customer Services dated 22 October 2015, submitted)

Motion

The Council:

Commits to continuing to work together positively with our communities, other agencies and our political colleagues at all levels in addressing the financial challenges facing Argyll and Bute;

Welcomes constructive contributions and ideas from our communities, our staff and their representatives, other agencies and our political colleagues at all levels as we plan for our future;

Notes the concerns being expressed by parents and others with regard to the options on Special Educational Needs (SEN) provision and confirms that a commitment is given to consider this particular issue early within the Service Choices process to avoid a lengthy period of uncertainty for them;

Notes the detail in the briefing paper prepared by MSPs Michael Russell and Mike MacKenzie and Brendan O'Hara MP;

Notes that while this paper contains a number of points which we would wish to clarify and others with which we do not agree, it acknowledges that the current situation is not of the Council's making in terms of current required expenditure and available finances;

Endorses the recommendations of the Policy and Resources Committee agreed at their meeting on 8th October;

Approves the substituted savings identified in the paper at item 6b for inclusion within the options to be the subject of public consultation;

Agrees to constitute an innovation development fund as outlined in paper 6c

Approves the approach to public consultation as set out in the paper at item 6d, with any minor amendments on the narrative required by members to be advised to the Executive Director of Customer Services by close of business on Friday 23rd October.

Moved by Councillor Walsh, seconded by Councillor E Morton.

Councillor Taylor submitted an amendment, seconded by Councillor Trail.
Councillor Kelly submitted an amendment, seconded by Councillor RE MacIntyre.

Councillor Breslin submitted an amendment, seconded by Councillor Dance.

The Provost advised that he would be adjourning the meeting for 30 minutes to receive Officer advice on the legalities of the amendments. The Provost adjourned the meeting at 12.30pm and re-convened at 1.00pm.

Having heard from Council Officers in respect of the amendments, the Provost ruled that the amendment by Councillor Kelly, seconded by Councillor RE MacIntyre was not competent and would therefore not be considered by the Council. The Provost then ruled that the other two amendments were competent and would be considered by the Council.

Amendment 1

That the Council

- Notes that the reduction in the block grant from the UK Government to the Scottish Government has had consequential effects on Local Authority funding which the Scottish Government has been able to mitigate only in part.
- Notes, with regret the passage of time since the Council first started to address the anticipated funding gap in 2013, when we first began to look for the kind of innovation in Arms-length External Organisations which we hope can help reduce our expenditure in the years to come, but not until next year at the earliest.
- Notes the voiced concerns of many elected members who find a large

number of these savings options to be unacceptable in terms of their impacts on the young, the elderly and the vulnerable.

- Regrets the unnecessary angst and anxiety which many people, employees, parents of vulnerable children and their families amongst others, have suffered since the publication of the Service Choices – Savings Options, stress which could have been avoided for some, had Officers had adequate time to undertake the necessary equalities impact and personal risk assessments in respect of certain saving options prior to their inclusion in the consultation list.
- Agrees the **substituted savings** identified in the paper at item 6b for inclusion within the options to be the subject of public consultation.
- Agrees the recommendation of the Policy and Resources Committee to constitute an **innovation development fund**, as outlined at the Policy and Resources Committee on the 8th October 2015.
- Welcomes the incorporation of some of the changes to the **public consultation** proposed by the SNP amendment at the Policy and Resources Committee on the 8th October, 2015, and instructs the Head of Strategic Finance to make the following changes to the Public Consultation paper as follows:
 - I. To replace the statement on page 25 “This means a savings target of around £9m million in both 2016/17 and 2017/18 with further savings in future years” with a statement of the best estimate of the actual funding gap for those years.
 - II. To further develop the commentary provided on each saving option to promote the best understanding of the impact and resultant change in the delivered service for the end user(s).

Moved by Councillor Taylor, seconded by Councillor Trail.

Amendment 2

1 To reject recommendations a, b, and c.

2 To ask the Scottish Government to carry out an independent and urgent evaluation of the council's financial projections over the next 5 years and also to consider the long standing need for the council to receive special islands needs allowance.

3 To agree that the council as currently structured is wasteful of resources and to agree on the principle of maximum decentralisation of decision making and service delivery.

4 To convene a series of 1 day meetings of all elected members, on at least a weekly basis, from November onwards to examine the budget line by line, with no budget lines excluded, in order to establish a new range of options for savings. Wherever possible these meetings will be open to press and public.

Moved by Councillor Breslin, seconded by Councillor Dance.

The requisite number of Members required the vote to be taken by calling the roll, and Members voted as follows:-

Motion	Amendment 1	Amendment 2	No Vote
Cllr Colville	Cllr Armour	Cllr Breslin	Cllr Kelly
Cllr Corry	Cllr Blair	Cllr Dance	Cllr McAlpine
Cllr Currie	Cllr Horn		Cllr RE Macintyre
Cllr Freeman	Cllr MacDonald		Cllr Philand
Cllr Kinniburgh	Cllr N MacIntyre		
Cllr McCuish	Cllr MacLean		
Cllr MacDougall	Cllr Robb		
Cllr RG MacIntyre	Cllr Strong		
Cllr MacMillan	Cllr Taylor		
Cllr McNaughton	Cllr Trail		
Cllr McQueen			
Cllr A Morton			
Cllr E Morton			
Cllr Mulvaney			
Cllr Robertson			
Cllr Scoullar			
Cllr Walsh			

Decision

With the Motion receiving 17 votes, Amendment 1 10 votes, Amendment 2 2 votes and 4 No Votes, the Motion became the finding of the Meeting.

The Provost adjourned the Meeting at 3.10pm and re-convened at 3.20pm.

Councillors McAlpine, MacDonald, RE Macintyre, MacDougall and MacLean left the meeting at this point.

The Provost advised that there were three motions on the agenda for today's meeting. As is normal practice, and had haven taken advice from officers in regard to competency and related matters, he understand that it may be possible to raise issues with each of the three motions, his view as Provost was that, in the interests of transparency, and without creating any precedent he was prepared to accept that all three motions should be considered by the Council.

7. NOTICE OF MOTION UNDER STANDING ORDER 13

The following Notice of Motion was before the Council for consideration:-

Motion

Hermitage Academy - The Council:

Notes that the pass rate at Hermitage Academy for the first S5 exams under the new Senior Phase Model is below the national average for Higher and substantially below the national average for National 5.

Notes the Hermitage Academy Senior Phase Model has pupils embarking on a 2 year course in S4/S5, bypassing certification in S4 and being presented at the appropriate level in S5.

Agrees pupils at Hermitage Academy shall have the option to undertake up to eight qualifications at National 5 level in S4. This does not preclude the substitution of higher or lower grade qualifications, vocational qualifications or other awards if appropriate to a pupil's ability and maturity.

Agrees that additional resources be made available from within the education budget to Hermitage Academy as required to implement that change and improve overall academic attainment.

Moved by Councillor Robb, seconded by Councillor Trail.

Amendment

The Council:

- Notes the concerns expressed about the current curricular model in place at Hermitage Academy and the possible impact of that model on the 2015 academic results for the school
- Reaffirms that the education of our children and young people is a key priority for the Council
- Notes that the Council's Education Service has commenced a review of the curricular model in conjunction with the Hermitage Academy Management Team following the publication of the first year of results
- Agrees that the review will consult staff, parents and pupils with immediate effect to ensure their views are reflected in the evaluation and its outcome
- Notes that the design of a curricular model for schools, firmly embedded in the Curriculum for Excellence, is an operational matter based on education professional judgement
- Notes that it would be inappropriate for the council to direct the design of a school curriculum which is not based on a professional evaluation and prior to the conclusion of the current review
- Agrees that any changes to the curricular model at Hermitage Academy should take account of the needs of all pupils at the school, including those currently in the senior phase
- Endorses the view of the Education Service that any critical adjustments found to be necessary during the review will be implemented immediately to minimise potential disruption to learners
- Agrees that regular updates on the ongoing review, and any resulting changes to the curriculum model, are reported to the Helensburgh and Lomond Area Committee and the Community Services Committee.
- Agrees that any policy implications or changes required as a consequence of the review are reported to the Community Services Committee and Policy and Resources Committee for consideration.

Moved by Councillor Colville, seconded by Councillor Mulvaney.

Councillor Blair left the meeting at this point.

The requisite number of Members required the vote to be taken by calling the role, and Members voted as follows:-

Motion

Cllr Armour
Cllr Breslin
Cllr Dance
Cllr Horn
Cllr Robb
Cllr Strong
Cllr Taylor
Cllr Trail

Amendment

Cllr Colville
Cllr Corry
Cllr Currie
Cllr Freeman
Cllr Kelly
Cllr Kinniburgh
Cllr McCuish
Cllr N MacIntyre
Cllr RG MacIntyre
Cllr MacMillan
Cllr McNaughton
Cllr McQueen
Cllr A Morton
Cllr E Morton
Cllr Mulvaney
Cllr Philand
Cllr Robertson
Cllr Scoullar
Cllr Walsh

Decision

With the Amendment receiving 19 votes and the Motion 8 votes, the Amendment became the finding of the meeting.

Councillors Robertson and Robb left the meeting at this point.

8. NOTICE OF MOTION UNDER STANDING ORDER 13

The following Notice of Motion was before the Council for consideration:-

Motion

Preamble

Some councillors have continuing concerns about the tender process for the Alcohol & Drugs Partnership and the award of a contract to a single supplier. The Audit Scotland report into this was critical of aspects of the process and the manner in which the ADP had been managed in the past but it did not establish clearly why the service specification in the Invitation to Tender (ITT) was so radically altered within weeks of the new contract starting. The Audit Scotland report did not look at the subsequent issues of former addictions staff not being employed by the new contractor and the TUPE issues which remain outstanding.

Motion

This motion calls for a fully independent enquiry to be set up to examine in detail the competence of the ITT, the competence of the contract that was then awarded, the

variations to that contract, the reasons, justifications and timing for and of those variations and the resulting TUPE implications for the former addictions staff. The enquiry will also look at the internal approval process for the tender and any other matters the enquiry considers relevant to the ADP and its operation. The enquiry will be carried out by a Scottish law firm that has internal expertise in both contract law and employment law. This work will be openly tendered in line with the council's procurement policy and using Public Contracts Scotland. It is essential that the enquiry produces a final report at the full council meeting scheduled for 26 November 2015.

Moved by Councillor Breslin, seconded by Councillor Strong.

Amendment

The Council:

- Notes that the Council undertook a tendering exercise on behalf of the Argyll and Bute Alcohol and Drug Partnership (ADP) whose decision it was to commission four area contracts through a tendering process.
- Notes that the tendering process has been the subject of an internal review and an audit conducted by Audit Scotland and the validity of the contracts has been tested through external legal advice.
- Notes that the Audit Scotland report was considered and accepted by the ADP Executive Group, the Council's Audit Committee and subsequently the Council's Performance, Review and Scrutiny Committee.
- Notes that the matter is referred to in the Audit Scotland's Annual Audit Report (September 2015) which states that "we note the conclusions of the legal adviser and in these circumstances feel it is reasonable for the council to conclude that the contract with Addaction Scotland remains valid".
- Notes that any issue regarding the applicability of the TUPE regulations to any individual case is a matter of law which is ultimately determined by an employment tribunal or court.
- Agrees that the matter has been the subject of rigorous and exhaustive examination, both internal and external, and that no further action in regard to this matter should be taken by council officers other than to comply with the accepted recommendations from Audit Scotland.

Moved by Councillor Walsh, seconded by Councillor Mulvaney.

Decision

On a show of hands vote, the Amendment received 17 votes and the Motion received 7 votes and accordingly, the Amendment became the finding of the meeting.

Councillor RE Macintyre rejoined the meeting at this point.

9. NOTICE OF MOTION UNDER STANDING ORDER 13

The following Notice of Motion was before the Council for consideration:-

Motion

Democratic accountability and scrutiny should be a key aim of this council. The Alcohol and Drugs Partnership (ADP) and the forthcoming integration of health and social care do not allow for sufficient democratic scrutiny and we propose the following to remedy this:

1. One elected member of the Council should be nominated to be on the Executive Group of the ADP.
2. All members of this Council should be able to attend all meetings of the ADP and IJB, and any sub groups, with the same rights as they have to attend any Council meeting as laid down in the Council's constitution.

Moved by Councillor Breslin, seconded by Councillor Strong.

Amendment

The Council:

- Notes that the ADP Executive Group membership is set out within its constitution along with arrangements for request to attend meetings.
- Notes that a variation to the membership of the ADP as envisaged by the motion would not be a unilateral decision for the Council to make and would require agreement from the other members of the ADP.
- Notes that the Council has no authority to change the ADP constitution regarding the attendance and participation of elected members in the various meetings of the ADP.
- Agrees that no further action be taken by the council.

Moved by Councillor Walsh, seconded by Councillor E Morton.

Decision

On a show of hands vote the Amendment received 17 votes and the Motion received 7 votes, and accordingly the Amendment became the finding of the meeting.