

# MORAY COUNCIL

## Minute of Meeting of the Moray Council

Wednesday, 6 December 2023

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

### **PRESENT**

Councillor James Allan, Councillor Peter Bloomfield, Councillor Neil Cameron, Councillor Tracy Colyer, Councillor Theresa Coull, Councillor John Cowe, Councillor John Divers, Councillor Amber Dunbar, Councillor Jérémie Fernandes, Councillor Donald Gatt, Councillor David Gordon, Councillor Juli Harris, Councillor Sandy Keith, Councillor Scott Lawrence, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Paul McBain, Councillor Neil McLennan, Councillor Shona Morrison, Councillor Bridget Mustard, Councillor Kathleen Robertson, Councillor Derek Ross, Councillor John Stuart, Councillor Draeyk Van Der Horn, Councillor Sonya Warren, Councillor Ben Williams

### **IN ATTENDANCE**

The Chief Executive, Depute Chief Executive (Economy, Environment and Finance), Depute Chief Executive (Education, Communities and Organisational Development), Chief Officer, Health and Social Care Moray, Head of Governance, Strategy and Performance, Chief Financial Officer, Head of Housing and Property Services, Head of Economic Growth and Development, Head of HR, ICT and Organisational Development, Head of Service/Chief Social Work Officer, Gary Templeton, Principal Planning Officer, Sport and Culture Manager, Jeanette Netherwood, Senior Project Officer and the Democratic Services Manager.

#### **1. Chair**

The meeting was chaired by Councillor Kathleen Robertson.

#### **2. Declaration of Group Decisions and Members Interests**

In terms of Standing Orders 21 and 23 and The Councillors' Code of conduct the Council noted the following declarations:

Councillors Gatt and Warren declared that they were substitute members of the Moray Integration Joint Board.

Councillors Cameron, Gordon and Macrae declared that they were members of the Board of Moray Leisure Centre.

The Head of Governance, Strategy and Performance advised the Council and in particular those Councillors who are members of the Moray Integration Joint Board and Moray Leisure Centre that in terms of Section 5 of the Councillor's Code of Conduct has a 2 part test with regards to declarations, firstly whether there is a connection and secondly if that connection leads to a declarable interest.

He stated that paragraph 5.4 of the codes states that a connection does not include being a member of an Outside Body to which a Councillor has been appointed on behalf of the Council unless there is a particular personal conflict. The advice note issued by the Standards Commission for Integration Joint Board (IJB) members mentioned the potential for conflicts of interest particularly in the relation to finances and para 4.4 states that as a member of an IJB Councillors will have to manage such conflicts of interest. He further added that the advice note did not give guidance on the line at which a declaration should be made but stated that in relation to the scrutiny of the budget there may come a point where Councillors may feel that they get to that line and a declaration needs to be made. In the aspect of normal scrutiny and the interests of the IJB and Council are still aligned there is no issue with participating in discussion and not declaring an interest.

There were no other declarations for Group Leaders or Spokesperson in regard to any prior decisions taken on how members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

### **3. Resolution**

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Items 17 - 19 of business on the grounds that it involves the likely disclosure of exempt information of the class.

Para number of the minute	Para Number of Schedule 7a
23	Para 1 Information in relation to staffing matters
24	Para 6 Information in relation to the financial affairs of any particular person/s
25	Para 12 Information in relation to instructions to counsel any opinion of counsel and any advice received, information obtained or action to be taken in connection with any legal proceedings

### **4. Minutes of Meeting of Moray Council on 27 September 2023**

The minute of the meeting of Moray Council on 27 September 2023 had been submitted.

Councillor Mustard had prior to the meeting notified the Clerk of 2 typos within the minute which would be corrected prior to final publication.

The Chair further advised that there had been a change to the wording in paragraph 16 under Points of Accuracy. The first paragraph would be changed to state 'Councillor McLennan sought to identify points of accuracy with the

Minute. The Chair allowed Councillor McLennan to raise a point of accuracy on the minute as the opportunity had not been given earlier'.

Councillor McLennan, thanked the Chair for agreeing to the amendment, however sought clarification on why Point of Order raised by Councillor Macrae at the meeting was not minuted.

In response, the Head of Governance, Strategy and Performance confirmed that he had discussed the issue with the Democratic Services Manager when the minutes were being drafted and took a view that it was not necessary for the incident to be detailed in the minute as it had been addressed with the apology from Councillor Macrae and the recording of the apology at the subsequent meeting on 4 October 2023.

Subject to the amendment above, the Council agreed the minutes of the meeting.

#### **5. Minutes of Special Meeting of Moray Council on 4 October 2023**

The minute of the Special Meeting of Moray Council on 4 October 2023 was submitted and approved.

#### **6. Minute of Special Meeting of Moray Council on 25 October 2023**

The minute of the Special Meeting of Moray Council on 25 October 2023 was submitted and approved.

#### **7. Minute of meeting of Joint Consultative Committee on 31 October 2023**

The minute of the Joint Consultative Committee on 31 October 2023 was submitted and noted.

#### **8. Written Questions**

The Council noted that no written questions had been submitted.

#### **9. Notice of Motion - Lift the Ban**

In terms of Standing Order 35a there was submitted a Notice of Motion by Councillor Fernandes, seconded by Councillor Leadbitter in the following terms:

##### **Right to work for asylum seekers**

[Lift the Ban](#) is campaigning to restore the right to work for everyone waiting for more than 6 months for a decision on their asylum claim.

People seeking protection in the UK should be able to work and make the most of their potential, to provide for themselves and their families, similar to Ukrainian refugees who do already have the right to work.

Restrictions on right to work can lead to extremely poor mental health outcomes and waste of potentially invaluable talents and skills, both for the local economy and wider society.

The Council's own risk register lists Human Resources (People) at [Very High](#) with a likelihood of 5 out of 5, and that it is "difficult to recruit in a range of areas including certain subject teachers, vehicle technicians, specialist professional posts, senior management, clerical and administrative roles, temporary and relief staff, and community care employees."

Allowing people seeking asylum the right to work would lead to positive outcomes for individuals as well as benefiting public and private sector organisations in the region who are struggling with recruitment and retention.

A [majority of Scots](#) believe that Scotland needs to attract more people through immigration to work in key industries and public services.

In 2022 the [Shortage Occupational List was expanded](#) to include positions like social care, nursing, opening the possibility of employment for people seeking asylum. Council welcomes the [UK Migration Advisory Council report in March 2023 into labour shortages in the construction and hospitality sectors](#) and the potential use of the immigration system as a response, with a further report following a call for evidence due to be published this autumn.

### **Action**

Council therefore agrees:

- To confirm support for the Lift the Ban campaign and our belief that the right to work is a fundamental human right;
- To formally join the Lift the Ban coalition alongside other local authorities, following the lead of Glasgow who joined earlier this year; and
- To instruct the Council Leader to write to the UK Government urging that they introduce legislation giving people seeking asylum the right to work, setting out the significant workforce pressures Moray is currently facing.

Draft Letter:

"Dear

I am writing on behalf of the Moray Council to ask that the UK Government restore the right to work for people seeking asylum who have been waiting for a decision on their asylum claim for six months.

Under the UK Government's current system people seeking asylum are effectively banned from working. They can only apply to the Home Office for permission to work if they have been waiting for a decision for over 12 months and only for jobs that are on the Government's restricted Shortage Occupation List.

This policy is in nobody's interest.

At present, people who have risked everything to find safety in the UK are forced to live on just £8.24 per week to meet all essential living costs, forcing them into destitution. Instead, people could be using their skills, contributing to the economy through increased tax revenue and consumer spending, and saving money spent on asylum support.

This is particularly the case in Moray where we are experiencing workforce shortages in various sectors such as transport, agriculture and the food and drink industry, as well as in the Moray Council itself, where we are struggling to recruit in a range of areas including certain subject teachers, vehicle technicians, specialist professional posts, senior management, clerical and administrative roles, temporary and relief staff, and community care employees.

You will be aware that there are currently around fifty people seeking asylum hosted in the Eight Acres Hotel in Elgin. They are not allowed to work while they are waiting for their claim to be processed.

There is significant public support for reform and the UK is currently a major outlier compared to other countries across North America and Europe, as in almost all other cases people are able to support themselves at an earlier stage with fewer restrictions.

People who have risked everything to find safety in the UK to have the best chance of contributing to society and integrating into our communities. It is not effective to waste the talents of our population.

I would be grateful to hear your views on this matter, and I am looking forward to your response.”

Councillor Williams sought agreement from Councillor Fernandes to remove the wording 'a majority of Scots' as he felt that it looks like the Notice of Motion is being proposed because it is a popular topic rather than because it is the right thing to do.

Councillor Fernandes confirmed that he was happy to remove the phrase.

The Head of Governance, Strategy and Performance provided some guidance to Council with regards the correct person to write letters as detailed in this item on the agenda and the following item. Where the letter is regarding executive issues, the letter should be sent by the Chief Executive and where the letter seeks political type pressure the letter should be sent by the Council Leader.

Following further consideration the Council agreed the notice of motion and the letter as stated below with the deletion of 'majority of scots'.

Dear Minister

### **Right to Work for Asylum Seekers: Lift the Ban**

I am writing on behalf of the Moray Council to ask that the UK Government restore the right to work for people seeking asylum who have been waiting for a decision on their asylum claim for six months.

Under the UK Government's current system people seeking asylum are effectively banned from working. They can only apply to the Home Office for permission to work if they have been waiting for a decision for over 12 months and only for jobs that are on the Government's restricted Shortage Occupation List.

Moray Council is of the view that this policy is in nobody's interest.

At present, people who have risked everything to find safety in the UK are forced to live on £9.58 per week to meet all essential living costs, forcing them into destitution. Instead, people could be using their skills, contributing to the economy through increased tax revenue and consumer spending, and saving money spent on asylum support.

This is particularly the case in Moray where we are experiencing workforce shortages in various sectors such as transport, agriculture and the food and drink industry, as well as in the Moray Council itself, where we are struggling to recruit in a range of areas including certain subject teachers, vehicle technicians, specialist professional posts, senior management, clerical and administrative roles, temporary and relief staff and community care employees.

You will be aware that there are currently around 38 people seeking asylum hosted in the Eight Acres Hotel in Elgin. They are not allowed to work while they are waiting for their claim to be processed.

There is a significant public support for reform and the UK is currently a major outlier compared to other countries across North America and Europe, as in almost all other cases people are able to support themselves at an earlier stage with fewer restrictions.

People who have risked everything to find safety in the UK to have the best chance of contributing to society and integrating into our communities. It is not effective to waste the talents of our population.

I would be grateful to hear your views on this matter, and I am looking forward to your response.

## **10. Notice of Motion - Business Rates Incentivisation Scheme**

In terms of Standing Order 35a there was submitted a Notice of Motion by Councillor Gordon, seconded by Councillor McBain.

### **Preliminary issues**

None.

### **Background**

The non-domestic Business-Incentivisation-Scheme (BRIS/NDRIS) was suspended in 2021 (due to Covid) and has not been re-instated.

This can (and did) generate extra cash for local authorities, who exceeded a business rates target as set by the Scottish Government. Anything gained over that target was split 50/50 between the local authority and the Scottish Government.

This could generate typically for an authority of our size anything from £1 - £2m (2019/21).

### **Action**

We ask the Council to send the attached letter to the Deputy First Minister in her capacity for Cabinet Secretary for Finance; which requests that the non-domestic rates incentivisation scheme is reinstated.

### **Financial implications to Moray Council in producing this report and sending the attached letter.**

None.

*References:*

<https://www.gov.scot/publications/report-barclay-review-non-domestic-rates/>

Proposer: Councillor Gordon

Seconder: Councillor McBain

“Draft Letter:

To the Deputy First Minister (and Cabinet Secretary for Finance).

Dear Deputy First Minister,

In 2021 the Business Rates Incentivisation Scheme (BRIS) was suspended (due to Covid) and has not been re-instated. It was established in 2012 and revised in 2015.

This scheme enabled local authorities to benefit with extra cash if they exceeded a target set for them. It was an incentive for local authorities to raise their NDR tax base without any resulting deduction from grant aid.

The extra cash generated by a LA in this way was then split 50/50 with the Scottish Government.

The generation of more business rates and such a scheme does not affect businesses in any way; it does not affect the non-business taxpayer; and it is money that the Scottish Government does not have to find from the block grant; money that could provide much needed extra support to local authorities in these cash-restricted and inflationary times.

Moray Council ask you to re-instate the Business Rates Incentivisation Scheme.”

Councillor Leadbitter stated that he had no issue with the letter but understood that the 50/50 split is between the Local Authority and the National Rates Pool but sought clarification from the Chief Financial Officer.

The Chief Financial Officer confirmed that this was correct.

Councillor Gordon stated that he was happy to amend the wording.

Councillor Keith sought to add to the letter a request to review Business Rates in general as the current system of Business Rates is based on Land Valuation Scotland Act 1854 which underpins the current calculations of business rates. Councillor Keith proposed adding – “Moray Council notes the outmoded business rates legislation in Scotland and calls upon the Scottish Government to undertake a wholesale review of Business Rates recognising the important role that thriving High Streets can have on local communities.”

Councillor Gordon confirmed he was happy to accommodate the change and would agree wording with Councillor Keith prior to sending the letter.

Following further consideration the Notice of Motion was agreed subject to the agreed amendments to the letter:

Dear Deputy First Minister

## **Business Rates Incentive Scheme**

I write to you on behalf of the Moray Council to ask that the Scottish Government considers reinstating the Business Rates Incentive Scheme.

In 2021 the Business Rates Incentive Scheme (BRIS) was suspended (due to Covid) and has not been re-instated. It was established in 2012 and revised in 2015.

This Scheme enabled local authorities to benefit with extra cash if they exceeded a target set for them. It was an incentive for local authorities to raise their NDR tax base without any resulting deduction from grant aid.

The extra cash generated by a Local Authority this way was then split 50/50 with the Rates Pool.

The generation of more business rates and such a scheme does not affect businesses in any way; it does not affect the non-business taxpayer; and it is money that the Scottish Government does not have to find from the block grant; money that could provide much needed extra support to local authorities in these cash-restricted and inflationary times.

Moray Council also notes the outmoded Business Rates legislation in Scotland and calls upon the Scottish Government to undertake a wholesale review of business rates, recognising the important role thriving high streets can have in local communities.

Moray Council ask you to re-instate the Business Rate Incentivisation Scheme.

I look forward to hearing from you.

Councillor McLennan left the meeting during the consideration of this item.

### **11. Varying Order of Business**

With reference to Standing Order 29, the Chair sought agreement to vary the order of the agenda due to Officer availability. Items 8, 8a and 9 would be taken as near to 11am as possible.

This was unanimously agreed.

### **12. Capital Plan 2023-24 Quarter 2**

The meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) advising Council of expenditure to 30 September 2023 under the capital plan for financial year 2023/24 and of estimates of projected expenditure profiled into quarters.

Following lengthy consideration the Council unanimously agreed to:

- i) note expenditure to 30 September 2023 of £8,120,000
- ii) notes the current plan, prior to amendment of £63,531,000 for 2023/24 based on approved expenditure adjusted for known differences in planned expenditure which have been identified to date, profiled into quarters, as set out in Appendix 1;

- iii) notes the projected overall expenditure for projects spanning more than one financial year, as set out in Appendix 2;
- iv) notes the amended projected expenditure in the year as detailed in section 7.1; and
- v) approves amendments to the 2023/24 and 2024/25 capital plan as detailed in section 6.1 of this report.

### **13. Smarter Working Project - Progress Update**

The meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) providing an update on progress with the Smarter Working project.

Following consideration the Council unanimously agreed to:

- i) note the progress on the project to date;
- ii) note the overall recurring reduction in revenue budgetary requirements of £56k for 2023/24 and recurring savings of £115k from 2025/26 as set out in paras 4.14 to 4.23; and
- iii) approve the additional one-off £30k outlined in para 4.11 for telephony and communication equipment for Buckie Phoenix House.

### **14. Monitoring Officer Report from 1 November 2022 to 31 October 2023**

The meeting had before it a report by the Monitoring Officer informing the Council on the range of activities undertaken by the Monitoring Officer.

Following consideration the Council unanimously agreed to note the contents of the report.

### **15. Review of Outside Body Appointments**

The meeting had before it a report by the Depute Chief Executive (Education, Communities and Organisational Development) informing the Council of vacancies which have arisen due to the resignation of several Councillors from Outside Body Appointments and agree appointments to the vacancies where it is deemed necessary.

Councillor Gordon proposed himself as the representative for the North East Scotland Pension Fund, this was seconded by Councillor Gatt.

Councillor Gatt proposed Councillor Mustard for the position of Equalities Champion and Councillor Bloomfield for the role of joint Older Person's Champion, this was seconded by Council Dunbar.

Following consideration and there being no one other wise minded the Council unanimously agreed to appoint:

- i) Councillor David Gordon to the North East Scotland Pension Fund from 19 December 2023;
- ii) Councillor Bridget Mustard as Equalities Champion; and
- iii) Councillor Peter Bloomfield as joint Older Person's Champion.

Councillor Van Der Horn sought agreement for the Council to appoint a Younger Person's Champion.

In response, the Chair confirmed that this could be added to a future agenda as she felt members did not have enough information before them on the role and remit of a Younger Person's Champion to allow them to make a decision at this meeting.

## **16. Moray Integration Joint Board Summary**

The meeting had before it a report by the Chief Officer, Health and Social Care Moray informing the Council of the latest approved minutes of the meetings of the Moray Integration Joint Board.

The Chief Officer acknowledged that consideration will be given to amending the format of the report following concerns raised by a number of Councillors.

Following consideration the Council agreed to note the report.

Councillor McLennan re-joined the meeting during the consideration of this item.

## **17. Annual Report of the Chief Social Work Officer 2022-23**

The meeting had before it a report by the Chief Social Work Officer informing Council of the annual report of the Chief Social Work Officer on the statutory work undertaken on the Council's behalf during the period 1 April 2022 to 31 March 2023.

Councillor Gatt expressed concern about the delay in receiving the report as it had taken 9 months to be reported to Council. The Chief Social Work Officer acknowledged the delay and confirmed that the report will be presented to Council earlier next year.

Following consideration the Council unanimously agreed to note the contents of the report.

## **18. Revenue Budget Monitoring - 30 September 2023**

The meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) advising Council of the revenue budget monitoring position to 30 September 2023 and the current estimated out-turn for 2023/24.

Following consideration the Council agreed to note:

- i) the budget monitoring position of £332,000 over budget for 2023.24 as at 30 September 2023;
- ii) that this budget position consists of an underspend on Devolved School budgets of £613,000, an underspend of £459,000 on Children's Services, an underspend of £505,000 on Environmental Services and an overspend on Social Care services delivered on behalf of the Moray Integration Joint Board (IJB) of £1,995,000 and an underspend on other services of £86,000;
- iii) movement of a £2,873,000 increase in General Revenue Grants, as detailed in paragraph 3.5;
- iv) the current estimated out-turn for 2023/24 of an overspend in Council services including Health and Social Care of £1,235,000 after adjusting for the cost sharing agreement with NHS for MIJB, with underspends in load charges of £885,000 and slippage in use/reduction in requirement of provisions of £786,000 resulting in an overall £436,000 underspend and a decrease in the planned use of Council reserves by £463,000 from that budgeted for; and
- v) the emerging budget pressure noted in paragraph 6.2.

## **19. Petitions Procedure - Under 18 Year olds**

The meeting had before it a report by the Depute Chief Executive (Education, Communities and Organisational Development) asking the Council to agree the inclusion of an addendum to the Petitions Guidance/Procedure to allow young people up to the age of 18 to make representations to the Council.

Councillor Warren welcomed the report and moved the recommendations in the report.

Councillor Van Der Horn confirmed he was pleased to see the report but sought clarification on Appendix 1 as to what is considered a group.

The Depute Chief Executive (Education, Communities and Organisational Development) confirmed that a group is a collective of people with similar views but confirmed she would be happy to look at alternative wording.

Councillor Mustard raised concern about using the term 'up to the age of 18' as some senior pupils could be 18 before leaving school.

Having heard the concerns raised by a number of Councillors, the Head of Governance, Strategy and Performance suggested deferring the report to the January meeting of Council to allow some further consultation on the process to take place with Councillors Warren, Van Der Horn and Mustard.

Councillor Robertson sought agreement from Council to defer the report and bring back to the January meeting.

Having heard the concerns of other Councillors, Councillor Warren withdrew her motion to agree the recommendations in the report.

There being no one otherwise minded Council agreed to defer the report until the meeting of Moray Council in January 2024.

## **20. Information Reports - if called in**

The Council noted that no Information Reports had been called in.

## **21. Question Time**

In terms of Standing Order 85 the Chair sought agreement to suspend Standing Order 77 to continue the meeting past 12.45pm to conclude this item on the agenda.

Under reference to paragraph 20 of the minute of the meeting of 27 September 2023 Councillor Mustard sought an update on the report that was requested for the Education, Communities and Organisational Development on the Business Administration Support for Early Learning and Childcare and Primary Schools due on 28 November 2023.

In response, the Depute Chief Executive stated that the full review had not yet been completed and that it would be 6 - 12 months before a report could be presented to Committee however was happy to discuss with Councillor Mustard outside the meeting to determine whether an update report could be considered.

## **22. Resumption of Meeting**

### **PRESENT**

Councillor James Allan, Councillor Peter Bloomfield, Councillor Neil Cameron, Councillor Tracy Colyer, Councillor Theresa Coull, Councillor John Cowe, Councillor John Divers, Councillor Amber Dunbar, Councillor Jérémie Fernandes, Councillor Donald Gatt, Councillor David Gordon, Councillor Juli Harris, Councillor Sandy Keith, Councillor Scott Lawrence, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Paul McBain, Councillor Neil McLennan, Councillor Shona Morrison, Councillor Bridget Mustard, Councillor Kathleen Robertson, Councillor John Stuart, Councillor Draeyk Van Der Horn, Councillor Sonya Warren, Councillor Ben Williams

### **APOLOGIES**

Councillor Derek Ross

### **IN ATTENDANCE**

The Chief Executive, Depute Chief Executive (Economy, Environment and Finance), Depute Chief Executive (Education, Communities and Organisational Development), Head of Governance, Strategy and Performance, Chief Financial Officer, Head of Economic Growth and Development, Head of HR, ICT and Organisational Development, Gary Templeton, Principal Planning Officer, Sport and Culture Manager and the Democratic Services Manager.

## **23. Professional Fees [Para 1]**

The meeting had before it a report by the Depute Chief Executive (Education, Communities and Organisational Development) asking Council to consider options

for professional fees with reference to a previous Council decision on solicitors practicing certificate costs.

Following consideration the Council agreed:

- i) note the content of the report; and
- ii) Option 4 (iii).

#### **24. Moray Leisure Centre Expansion Proposal Update**

The meeting had before it a report by the Depute Chief Executive (Education, Communities and Organisational Development) to update the Committee on progress made in relation to the Moray Leisure Centre (MLC) expansion proposal.

Following consideration the Council unanimously agreed to note:

- i) the progress in regards to the conditional points associated with this proposal; and
- ii) that a further report is provided to the Council within 6 months upon further resolution of the key conditional points.

#### **25. Levelling Up Fund Round 3 - Elgin City Centre Masterplan [Para 12]**

The meeting had before it a report informing the Council that on 20 November the UK Government announced that Moray Council has been provisionally awarded up to £18,291,000 for the Elgin City Centre Masterplan - Levelling Up Moray project as part of the third round of the Levelling Up Fund (LUF).

Councillor Robertson moved, in reference to recommendation (iv) that 6 monthly updates be reported to Council. The Head of Economic Growth and Development confirmed that this would be possible.

Following consideration and there being no one otherwise minded the Council unanimously agreed:

- i) to note the provisional award of £18,291,000 funding for Elgin City Centre Masterplan from LUF round 3;
- ii) that authority be delegated to the Head of Economic Growth and Development to work with the UK Government on validation of the bid;
- iii) that upon confirmation of the funding the Head of Economic Growth and Development in consultation with CMT establishes suitable governance and staffing structures to progress the LUF round 3 projects; and
- iv) that 6 monthly progress reports be considered by Council.