

MORAY COUNCIL

Minute of Special Meeting of the Moray Council

Monday, 07 November 2022

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

PRESENT

Councillor James Allan, Councillor Peter Bloomfield, 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

APOLOGIES

Councillor Neil Cameron

IN ATTENDANCE

Chief Executive, Depute Chief Executive (Economy, Environment and Finance), Depute Chief Executive (Education, Communities and Organisational Development), Chief Financial Officer, Head of Education Resources and Communities, Head of Education, Mrs Bruce, Senior Audit Manager and Mr Howarth, Audit Director, both from Audit Scotland.

1 Chair

The meeting was chaired by Councillor Robertson.

2 Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons 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.

During discussion of item 5 "Audited Annual Accounts 1 April 2021 to 31 March 2022", the debate moved to local authority funding from COSLA, at which point Councillor Morrison declared an interest being the President of COSLA, left the meeting and took no further part in the consideration of this item.

3 Learning Estate Strategy and Delivery Programme

Under reference to paragraph 4 of the Minute of the special meeting of the Education, Children's and Leisure Services Committee, a report by the Depute Chief Executive (Education, Communities and Organisational Development) sought a decision on the priority to be allocated to the submissions to Scottish Government for Learning Estate Investment Programme (LEIP) Phase 3 funding in October 2022.

During discussion surrounding the decision reached at the earlier special meeting of the Education, Children's and Leisure Services Committee where, following a vote, it had been agreed that the Forres Academy Project is identified as the priority project in the LEIP Phase 3 funding bid process, Councillor Macrae asked that his dissent be noted in relation to this decision. Likewise, Councillors Warren and Gatt also wished that their dissent be noted.

In terms of Standing Order 67, the Monitoring Officer advised that dissent could only be noted by any Member of the Council who at any meeting of the Council had taken part in a vote or had proposed a competent motion or amendment which had not been seconded may at such meeting enter their dissent for the resolution adopted provided that resolution has a financial or legal implication for the Council, which dissent shall be recorded in the Minute of the meeting, without giving reasons therefor. As such, dissent could not be noted at this meeting as no motion or amendment had been put forward.

Having considered the advice from the Monitoring Officer, Councillor Warren moved as an amendment to the recommendation, that the Council agree that the Buckie High School Project is identified as the priority project in the LEIP Phase 3 funding bid process. This was seconded by Councillor Stuart.

The Chair moved the recommendations as printed in the report, that the Council agree that the Forres Academy Project is identified as the priority project in the LEIP Phase 3 funding bid process. This was seconded by Councillor Lawrence.

Councillor McLennan moved, as a further amendment to the recommendation, that the Council requests, as a matter of urgency, up to date reports on condition and suitability of both Buckie and Forres High Schools alongside financial risks to the Council with regard to the proposed LEIP applications so that decision making can happen aligned to the approved Learning Estate Strategy, national expectations and up to date and accurate information on the matters that will allow Councillors to complete decision making on prioritisation. This was seconded by Councillor Allan.

In response to the amendment proposed by Councillor McLennan, the Depute Chief Executive (Economy, Environment and Finance) advised that the decision for the LEIP funding was based on capacity and condition and that up to date reports were already in place in regard to both. With regard to financial information, all information had been provided in relation to the potential value of these builds and as the funding process is associated with LEIP funding, this could not be provided at this time as the percentage awarded by the Scottish Government would not be known until the whole life costing of the project is available.

The Monitoring Officer further advised that, in terms of Standing Order 49 (b) there were questions over the competency of Councillor McLennan's amendment, given that a summary of the information requested was already available to the Council.

Having considered the advice from the Monitoring Officer, Councillor Allan withdrew his second for Councillor McLennan's amendment and on failing to find another seconder, Councillor McLennan's motion fell.

On a division there voted:

For the Motion (17):	Councillors Robertson, Lawrence, Coull, Cowe, Divers, Dunbar, Fernandes, Gordon, Harris, Keith, Leadbitter, McBain, Morrison, Mustard, Ross, Van Der Horn and Williams
For the Amendment (8):	Councillors Warren, Stuart, Allan, Bloomfield, Colyer, Gatt, Macrae and McLennan
Abstentions (0):	Nil

Accordingly, the Motion became the finding of the Council and, following on from the decision of the Council on 28 September 2022 to submit two bids for Scottish Government Learning Directorate Learning Estate Investment Programme (LEIP) Phase 3 funding, in accordance with the bid criteria, it was agreed:

- (i) that the Forres Academy Project is identified as the priority project in the LEIP Phase 3 funding bid process; and
- (ii) to endorse the decision made at the Special Education, Children's and Leisure Services Meeting on 7 November 2022.

In terms of Standing Order 67, Councillors Warren, Stuart, Allan, Bloomfield, Gatt, Macrae and McLennan asked that their dissent be noted.

4 External Audit - Annual Report to Members on 2021-22 Audit

A report by the Depute Chief Executive (Economy, Environment and Finance) provided the Council with a copy of the External Auditor's Annual Audit Report to Council on the 2021/22 audit.

During discussion surrounding the revised equality outcomes for 2021-25 it was queried why disability had been removed from the outcomes.

In response, the Head of Governance, Strategy and Performance advised that he would be happy to provide a briefing for Members explaining the process whereby the revised themes in the equalities outcomes were selected.

During further discussion, the Depute Chief Executive (Economy, Environment and Finance) noted that during his introduction, Mr Howarth had made reference to alternative wording at paragraph 78 of the External Auditors Annual Report which had been suggested by the Administration Group however it had not been shared with the wider Council and asked that this be considered.

In response, the Chair read out the revised wording as follows:

'However, there have been a number of changes to the leadership and makeup of the council in the five months since the election. Two members left the administration group and the Convener resigned from their post resulting in the need to approve a

new structure consisting of a Leader, Depute Leader and Civic Leader. In addition a by-election is due to be held in early November following the resignation of one of the new intake of councillors from an opposition party in May. Since then, the committee have been running with vacancies which it is anticipated will be filled at the first Full Council meeting in December.'

Councillor McLennan asked that this wording be amended to remove the word "need" as there was no need to approve a new structure, this was a decision that had been taken and also that political balance would require to be considered prior to any vacancies being filled.

In response, the Head of Governance Strategy and Performance advised that political balance would be considered and a report brought to the Council at the earliest opportunity.

The Chair proposed the revised wording of paragraph 78, taking into consideration Councillor McLennan's comments which was unanimously agreed by the Council:

"However, there have been a number of changes to the leadership and makeup of the council in the five months since the election. Two members left the administration group and the Convener resigned from their post resulting in a decision to approve a new structure consisting of a Leader, Depute Leader and Civic Leader. In addition a by-election is due to be held in early November following the resignation of one of the new intake of councillors from an opposition party in May. Since then, the committees have been running with vacancies which it is anticipated will be filled at the first Full Council meeting in December whilst taking into consideration political balance".

Thereafter, the Council joined the Chair in thanking the External Auditors and the Finance service for their work in this regard and thereafter agreed:

- (i) to note the contents of the report from the Council's External Auditors as set out in Appendix 1 and 2 of the report subject to the following change to paragraph 78 in Appendix 2:

"However, there have been a number of changes to the leadership and makeup of the council in the five months since the election. Two members left the administration group and the Convener resigned from their post resulting in a decision to approve a new structure consisting of a Leader, Depute Leader and Civic Leader. In addition a by-election is due to be held in early November following the resignation of one of the new intake of councillors from an opposition party in May. Since then, the committees have been running with vacancies which it is anticipated will be filled at the first Full Council meeting in December whilst taking into consideration political balance".

- (ii) that a briefing be arranged to provide an explanation on how the revised themes in the equalities outcomes were selected.

5 Suspension of Standing Orders

The Chair sought the agreement of the Committee to suspend Standing Order 75 to allow the meeting to continue beyond 12.45 pm. This was agreed.

6 Audited Annual Accounts 1 April 2021 to 31 March 2022

Councillor Ross left the meeting at this juncture.

During discussion of this item, the debate moved to local authority funding from COSLA, at which point Councillor Morrison declared an interest being the President of COSLA, left the meeting and took no further part in its consideration.

Under reference to paragraph 26 of the Minute of the meeting of Moray Council dated 29 June 2022, a report by the Depute Chief Executive (Economy, Environment and Finance) submitted to the Council the Audited Annual Accounts for the Moray Council for the year ended 31 March 2022.

During discussion surrounding funding to Local Authorities from the Scottish Government, Councillor Keith noted that this had been reduced over the past 11 years and that Moray receives £168 less per person compared to the Scottish average and moved that the Council agree to add a further recommendation that the Council write to the Scottish Government noting that Moray receives less funding per person compared to the Scottish average and demand that Moray is funded in line with the Scottish average from 2023 onwards. This was seconded by Councillor Macrae.

The Chief Financial Officer explained that Councillor Keith's calculations had been based on a per capita basis however this was not how funding is distributed but rather by a complicated set of formulas that are regularly reviewed by the Scottish Government with input from COSLA.

Councillor Leadbitter was of the view that Councillor Keith's motion was asking that the Scottish Government interfere in the distribution methodology of funds that has been agreed by COSLA and that it would be more productive for Councillors to liaise with colleagues at COSLA asking for a change in the distribution methodology and moved the recommendations as printed in the report.

The Chief Executive further advised that it may be in the best interest of the Council, if Councillors jointly approached COSLA expressing their concerns in relation to the distribution methodology as this was due for review within COSLA in the near future.

After considering the advice from the Chief Executive, Councillor Keith sought the agreement of his seconder, Councillor Macrae to amend his motion asking that the Council write to COSLA expressing its concerns in relation to the distribution methodology. Councillor Macrae agreed to this.

Councillor Leadbitter suggested that Councillors may benefit from a workshop in relation to the funding distribution methodology for Local Authorities.

In response, the Chief Financial Officer agreed to provide a workshop/briefing in relation to the funding distribution methodology for Local Authorities for all Elected Members.

After considering the advice from both the Chief Executive, Chief Financial Officer and following further debate, both Councillors Keith and Leadbitter withdrew their motions.

Thereafter, the Council agreed:

- (i) to note the Audited Annual Accounts for the financial year 2021/22;

(ii) to approve that the Annual Accounts are signed, having regard to the Annual Report from the external auditor considered earlier at the meeting; and

(iii) that a workshop/briefing be provided for Elected Members in relation to the funding distribution methodology for Local Authorities.

7 Connected Charities Audited Annual Accounts 1 April 2021 to 31 March 2022

Councillor Morrison re-joined the meeting at this juncture.

A report by the Depute Chief Executive (Economy, Environment and Finance) submitted to the Council the audited Annual Accounts for Moray Council's Connected Charities for the year ended 31 March 2022.

During discussion, it was pointed out that the list of Trustees would require to be updated following the recent Buckie By-Election. This was noted.

Thereafter, the Council agreed to approve the audited Annual Accounts for the Connected Charities for the financial year 2021/22 subject to the list of Trustees being updated to reflect the election of Councillor John Stuart at the recent Buckie By-Election.