



Moray Council

Wednesday, 05 September 2018

NOTICE IS HEREBY GIVEN that a Meeting of the **Moray Council** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Wednesday, 05 September 2018 at 09:30.**

BUSINESS

1 Sederunt

**Economic Development and Infrastructure Services
Committee - Change of Date**

2 Declaration of Group Decisions and Members Interests

*

3 Resolution

Consider, and if so decide, adopt the following resolution:
"That under 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 16 and 17 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."

4 Minutes

- | | |
|--|----------------|
| 4(a) Minute of Special Meeting dated 28 June 2018 | 7 - 24 |
| 4(b) Minute of Special Meeting dated 2 July 2018 | 25 - 26 |
| 4(c) Minute of Policy and Resources Committee dated 7 August 2018 | 27 - 32 |

5	Written Questions **	
6	Revenue Budget Monitoring to 30 June 2018	33 - 52
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11	Review of Moray's Leisure Estate	109 - 112
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12	Moray Leisure Centre - Internal Audit Overview	113 - 120
	Report by Chief Executive	
13	Relocation of Polling Place - Cullen and Rathven Rural	121 - 124
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14	Appointments to Committees and Outside Bodies	125 - 134
	Report by Corporate Director (Corporate Services)	
15	Question Time ***	
	Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.	

Item(s) which the Committee may wish to consider with the Press and Public excluded

16 Moray Leisure Centre - Governance and Staffing

- Information relating to staffing matters;

17 Cullen Town Hall - Proposed Sale

- Information relating to the financial or business affairs of any particular person(s);
- Information on proposed terms and/or expenditure to be incurred by the Authority;

Any person attending the meeting who requires access assistance should contact customer services on 01343 563217 in advance of the meeting.

GUIDANCE NOTES

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

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THE MORAY COUNCIL

Moray Council

SEDERUNT

Councillor Shona Morrison (Chair)
Councillor Graham Leadbitter (Depute Chair)
Councillor George Alexander (Member)
Councillor James Allan (Member)
Councillor David Bremner (Member)
Councillor Frank Brown (Member)
Councillor Theresa Coull (Member)
Councillor John Cowe (Member)
Councillor Gordon Cowie (Member)
Councillor Paula Coy (Member)
Councillor Lorna Creswell (Member)
Councillor John Divers (Member)
Councillor Tim Eagle (Member)
Councillor Ryan Edwards (Member)
Councillor Claire Feaver (Member)
Councillor Donald Gatt (Member)
Councillor Louise Laing (Member)
Councillor Marc Macrae (Member)
Councillor Aaron McLean (Member)
Councillor Maria McLean (Member)
Councillor Ray McLean (Member)
Councillor Amy Patience (Member)
Councillor Derek Ross (Member)
Councillor Ron Shepherd (Member)
Councillor Sonya Warren (Member)
Councillor Walter Wilson (Member)

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MORAY COUNCIL**MINUTE OF MEETING OF MORAY COUNCIL****THURSDAY 28 JUNE 2018****COUNCIL CHAMBERS, ELGIN****PRESENT**

Councillors S Morrison (Convener), G Leadbitter (Council Leader), G Alexander, J Allan, D Bremner, T Coull, J Cowe, G Cowie, P Coy, L Creswell, J Divers, T Eagle, R Edwards, C Feaver, D Gatt, L Laing, M Macrae, A McLean, M McLean, A Patience, D Ross, R Shepherd, S Warren and W Wilson

APOLOGIES

Apologies for absence were intimated on behalf of Councillors F Brown and R McLean.

IN ATTENDANCE

The Chief Executive, the Acting Corporate Director (Corporate Services), the Corporate Director (Economic Development, Planning & Infrastructure), the Acting Corporate Director (Children & Young People's Services), the Head of Legal and Democratic Services, the Head of Financial Services, the Head of Direct Services, the Head of Development Services and the Democratic Services Manger as Clerk to the Council.

ALSO IN ATTENDANCE

Maggie Bruce and Kyle McAuley, Audit Scotland, External Audit

1. DECLARATION OF GROUP DECISIONS

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Patience declared an interest in Item 20 "Moray Leisure Centre Developments" as a Board Member of the Moray Leisure Centre Board of Management, Councillor Macrae, as a Board Member, also declared an interest in this item and also declared a personal interest in Item 13 "Community Asset Transfer Request: Former Abbeylands Primary School, Kinloss". Councillor Cowe and Councillor Allan respectively declared a personal interest in Item 6 "Notice of Motion by Councillors Edwards and Macrae".

Councillor Leadbitter, on behalf of the SNP Group declared that the SNP Group had discussed the agenda and that the Group had reached agreement in regard to some of the items. The Meeting noted that there were no further 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.

2. EXEMPT INFORMATION

The Council 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 during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

<u>Paragraph Number of Minute</u>	<u>Paragraph Number of Schedule 7A</u>
17	1
18	1
19	1 & 6
20	9
21	1 & 9
22	6

3. MINUTES

(a) MORAY COUNCIL – MINUTE OF MEETING DATED 6 JUNE 2018

The Minute of the meeting of the Moray Council dated 6 June 2018 was submitted and approved.

(b) MORAY COUNCIL – MINUTE OF SPECIAL MEETING DATED 6 JUNE 2018

The Minute of the special meeting of the Moray Council dated 6 June 2018 was submitted and approved.

(c) MORAY COUNCIL – MINUTE OF SPECIAL MEETING DATED 6 JUNE 2018

The Minute of the special meeting of the Moray Council dated 6 June 2018 was submitted and approved.

(d) MORAY COUNCIL – MINUTE OF SPECIAL MEETING DATED 13 JUNE 2018

The Minute of the special meeting of the Moray Council dated 13 June 2018 was submitted and approved.

4. WRITTEN QUESTIONS

The meeting noted that no written questions had been submitted.

5. ADDITIONAL EXPENDITURE ADVICE

The Chief Executive advised the Meeting that in light of Agenda Item 12 “Corporate and Financial Planning 2018/19” that he wished to provide Members with the following warning in respect of Agenda Items 6, 17(a) and 17(b) (paragraphs 6 and 20 respectively of the minute refer) about the use of council expenditure for essential items or items of investment:

The Council has a predicted budget deficit for 2019/20 that is greater than the level

of reserves available to supplement revenue spending. Although work to identify further savings has begun, so far these fall significantly short of the sums required. In the absence of an agreed plan to reduce spending to an affordable level it is vital that only essential additional expenditure is agreed. In making this determination the Council should consider:

- Is there a statutory requirement to incur the expenditure?
- Are there any alternative actions available to avoid or reduce the cost?
- Are there alternative ways in which the service could be provided?
- What are the risks and consequences of not allocating the funding?
- Does the expenditure contribute to long term financial stability?

Essential investment that provides longer term returns should not be lost in the drive to ensure short term savings. Some spend will continue to be necessary to enable future stability and sustainability of the council and its services.

The council is urged to consider whether in light of these factors the additional expenditure proposed is essential.

This warning will be given in abbreviated form* for all additional expenditure proposed from this point along with a recommendation from Corporate Management Team.

This will be described as the “additional expenditure warning” and the factors for consideration along with Corporate Management Team’s recommendation will be given on each occasion.

Councillor Feaver sought clarification as to the reason for the bold text in relation to essential investment and whether this was used to direct how things should be taken.

In response the Chief Executive advised that it was simply advice. One of the paradox in the current financial situation public services are facing is having to make savings whilst also to encourage essential investment. He had highlighted this as it was often not understood and a very difficult message to get across to the public who see reductions in some areas of the service but growth in others.

6. NOTICE OF MOTION

Councillors Allan and Cowe, having declared a personal interest in this item left the meeting at this juncture taking no part in the discussion or decision.

There was submitted a Notice of Motion by Councillor Edwards, seconded by Councillor Macrae in the following terms:

“Councillors are asked to note that the core path route MCT11 along the beach on the East side of the town is only accessible via the Seatown bridge.

Councillors will note that the Lossiemouth Community Development Trust (LCDT) has had a long running campaign to secure continuous access to the East Beach and have recently taken the opportunity to remind all Council Members of the condition of the Bridge and the possibility of its closure. They have, via email correspondence sought Councillors support in this matter. Councillors have

received detailed engineering and legal information from LCDT on the uncertain state of the Seatown Bridge in Lossiemouth.

Council agrees to:

Support the Lossiemouth Community Development Trust in its campaign to secure continuous pedestrian access to the East Beach in Lossiemouth via the Seatown Bridge.

1. Through Officer Expertise in Funding applications and pathways to funding streams.
2. With letters of support from both Members and officers of this council in order to help with the funding application.
3. Logistics – Storage facilities for materials in order to repair bridge.
4. Financial – Contribute up to £25,000 from reserves to assist with the cost of a feasibility study.”

In presenting the Notice of Motion Councillor Edwards stated that in his opinion there was a real need to address the future of the bridge providing pedestrian access to the East Beach in Lossiemouth. He stated that it was integral to Lossiemouth and its community as the only access route to Moray core path route MCT11. He further stated that last year the council sold an area of land in Seatown in Lossiemouth close to the bridge and that the proceeds from the sale went to the Elgin Common Good Fund as the land was owned by that Fund. He was of the opinion that if the proceeds from the sale had stayed in Lossiemouth it could have been used for the purpose of securing the future of the bridge. He further suggested that Elgin Common Good could consider granting this money to the LCDT should that be possible. In conclusion he asked that the Council consider supporting the LCDT in its campaign to ensure the links to the East Beach and beyond remain.

In seconding the Motion Councillor Macrae stated that Members would be aware of the background to this issue and the continued uncertainty over the ownership of the bridge since the dissolution of the private harbour companies some 80 years ago and with the Crown Estate having disclaimed ownership there is no clear owner of the bridge. He referred to the Council having a duty of care to the public and should the bridge be deemed unsafe would have to close it with the issue of a dangerous buildings notice. Closure would in effect cut off the East Beach and would, in his opinion, have a significant impact to the local economy along with reputational damage to Moray as a whole. He stated that the sum of money referred to in the Motion was an ‘up to amount’ and that clearly the help and support of council officers could be considered as a contribution in itself when seeking match funding from other agencies to assist with the funding of the feasibility study. In supporting the motion he asked that Members consider the bigger picture beyond that of the bridge itself.

Councillor Leadbitter commended the efforts of Councillors Edwards and Macrae in bringing forward the Motion and stated that it clearly was a significant part of tourism infrastructure. In terms of what the Council agrees to he had no issue with the first three options listed, however in terms of the financial implications, he referred to the earlier warning given by the Chief Executive, and in that respect he did not consider at this stage it appropriate to commit to any funding up to £25,000, he was

personally more than happy to meet with the Community Development Trust, other local members and potential funders to see if other funding arrangements can be found. He therefore moved approval of the first three options within the motion but to remove the fourth option.

In response to the question raised relating to the Elgin Common Good Fund and the proceeds from the sale of land at Seatown, Lossiemouth the Head of Legal and Democratic Services advised of the background to the original purchase of the land by the Elgin Common Good and that as the land had belonged to the Elgin Common Good it was for the Elgin Ward Members who are the Keepers of the Elgin Common Good Fund to determine how to spend the proceeds from the sale but that they would have to have due regard to the residents of the Burgh of Elgin. Whilst it was a decision that this Council could legally take, he advised that no detailed research had been undertaken in regard to this but in theory it may be possible.

Councillor Divers stated that whilst he understood the reason why Councillor Edwards was asking the question in regard to the proceeds of the sale, he was of the opinion that it was something that would require to be considered by the 6 Elgin Ward Members in conjunction with the Elgin Community Council. He further stated that whilst he personally would look upon the request favourably, he would need to see the fine detail and the legal advice on whether this was possible before taking a final decision.

Following further discussion Councillor Alexander stated that as the Council do not own the bridge nor does it have a responsibility for it, he was of the opinion that the LCDT should take over the ownership and then look to raise funds towards its repair and upkeep. He stated that he was aware that the LCDT had recently had an officer appointed which provides them with an excellent opportunity to take ownership and had already written to the LCDT advising them that he would be happy to make a personal contribution towards its repair as soon as they had taken over ownership but that they should not expect the Moray tax payers to contribute towards a bridge that the Council does not own. He therefore moved that the Council reject all four options in the Motion. Councillor Creswell seconded the amendment.

Councillor Macrae suggest that in terms of Option 4 that this could be amended to the Council providing support to the LCDT to investigate all avenues of funding, including the Elgin Common Good, and or others rather than seeking a contribution up to £25,000.

Councillor Edwards stated that he would be willing to amend the terms of the Motion accordingly.

Councillor Leadbitter stated that he would be willing to withdraw his amendment as he was content that the financial issue was now dealt with in the terms of the amended motion. He further stated that he would be happy to help in any way as he previously stated and also supported of the comments made by Councillor Divers in respect of looking further at the Common Good Fund aspect.

The Corporate Director (Economic Development, Planning and Infrastructure) sought clarification on the nature of the storage facility being sought and the financial parameters around that.

In response Councillor Edwards stated that the storage facility would be a car park close to the bridge with a lay down area if required for perhaps specialist equipment or materials.

In response to a query regarding timescale Councillor Edwards advised that this would not be required immediately, but would be for the future following the outcome of a feasibility study. No materials would be bought until this was completed, reported on and funding sought.

On a division there voted:

For the Motion (17) Councillors Edwards, Macrae, Bremner, Coull, Coy, Divers, Eagle, Edwards, Feaver, Laing, Leadbitter, A McLean, M McLean, Morrison, Patience, Ross, Warren and Wilson.

For the Amendment (3) Councillors Alexander, Creswell and Shepherd.

Abstentions (2) Councillors Cowie and Gatt

Accordingly the Motion became the finding of the meeting and the Council agreed to support the Lossiemouth Community Development Trust in its campaign to secure continuous pedestrian access to the East Beach in Lossiemouth via the Seatown Bridge.

1. Through Officer Expertise in Funding applications and pathways to funding streams.
2. With letters of support from both Members and officers of this council in order to help with the funding application.
3. Logistics – Storage location in the form of ground for a lay down area in the car park close to the bridge for specialise equipment or materials in order to repair bridge.
4. Financial – the Council assist the LCDDT in investigating all avenues of funding, including looking further at the use of the Common Good funding as discussed.

Councillors Allan and Cowe re-joined the meeting at this juncture.

7. UNAUDITED ANNUAL ACCOUNTS FOR 2017/18

A report was submitted by the Acting Corporate Director (Corporate Services) asking the Council to consider the unaudited Annual Accounts for the year to 31 March 2018 for both Moray Council and the Connected Charity Trust Funds administered by the council.

Councillor A McLean asked why the Councillors' annual committee attendance record had not been included within the Annual Accounts.

In response the Democratic Services Manager advised that the annual committee attendance records for Members had been prepared for publication with the Members' Expenses which were published on the website but did not form part of the Annual Accounts. Unfortunately due to an oversight the attendance record was not uploaded at that time for which she apologised. However, she advised that the

attendance record would be published on the website and circulated to Members following the meeting.

Councillor A McLean asked if the attendance record would be published in the same format next year.

In response the Democratic Services Manager advised that Committee Services were currently in the process of implementing a new committee management system and a function of that system is to keep records of attendance. On reviewing how other local authorities publish this information, it was possible to publish individual attendance records for each elected member. The system will allow the public when looking at information relating to a particular member to not only see which committees they sit on but also their attendance record. Therefore Members have a choice to either have attendance records published annually or to have them listed individually on a continuously updated basis.

Following consideration the Council approved:

- (i) the unaudited Annual Accounts for Moray Council for the year ended 31 March 2018; and
- (ii) the Moray Council Connected Charity Trust Funds Trustees' Report and Financial Statements for the year ended 31 March 2018.

8. 2017/18 REVENUE OUT-TURN

A report was submitted by the Acting Corporate Director (Corporate Services) advising the council of the actual out-turn for 2017/18 and the major variances from the approved budget for that year; to seek approval of release of the provision made within the budget for 2018/19 to meet expenditure where budget pressures are forecast to continue into 2018/19, and to seek approval to fund projects from reserves where there has been a slippage in 2017/18 but projects will be completed in 2018/19.

Following consideration the Council noted:

- (i) the actual out-turn for 2017/18 of a deficit of £4,615,000 on the general fund;
- (ii) the major variances from the approved budget for that year totalling £1,897,000 as detailed in Appendix 2; and
- (iii) general reserves at 31 March 2018 of £17,095,000 million of which £4,726,000 are already committed.

The Council also approved:

- (i) adjustments amounting to a net savings of £137,000 for variances which are anticipated to continue into 2018/19, as detailed in the table in paragraph 3.7; and
- (ii) one-off budget provision for 2018/19 of £521,000 as detailed in paragraph 4.1, to be funded from the General Fund reserve.

9. CAPITAL PLAN 2017/18

A report was submitted by the Acting Corporate Director (Corporate Services) advising Council of the expenditure to 31 March 2018 under the capital plan for financial year 2017/18 and to recommend budget adjustments for inclusion in the 2018/19 Capital Plan and future years.

Following consideration the Council agreed to:

- (i) note expenditure to 31 March 2018 of £50,624,000;
- (ii) approve carry forwards to 2018/19 and future years totalling £1,131,000 as summarised in paragraph 5.1;
- (iii) approved 2018/19 budget deferral of £1,452,000 as detailed in paragraph 5.3.3;
- (iv) approve budget transfers in 2018/19 capital plan relating to bridges projects as detailed in paragraph 5.3.4; and
- (v) approve inclusion in 2018/19 capital plan of a new project at Arthurs Bridge budgeted at £114,000 as detailed in paragraph 5.2.5.

10. COMMON GOOD FUNDS – SUMMARY EXPENDITURE FOR 2017/18 AND ESTIMATED DISPOSABLE INCOME FOR 2018/19

A report was submitted by the Acting Corporate Director (Corporate Services) informing the Council of the final position of Common Good Funds at 31 March 2018 and the estimated income available for disbursement in 2018/19.

During discussion Councillor Gatt stated that he would wish to see more detail being provided in regard to the individual funds, in particular in relation to those within his Ward he would wish to see a list of assets within each of the common good funds and asked if this could be provided in future reports. This was agreed.

Thereafter the Council agreed:

- (i) to note the disbursements approved for 2017/18 for each of the Common Good Funds shown in Appendix 1;
- (ii) to approve the carry forward of the undisbursed balances for 2017/18 for the Buckie, Dufftown, Elgin, Forres, Portknockie and Keith Funds to be made available in 2018/19; and
- (iii) the Estimated Income available for disbursement in 2018/19 shown in Appendix 2, and
- (iv) that future reports include more detail in regard to individual funds within each ward.

11. TRUST FUNDS – SUMMARY EXPENDITURE FOR 2017/18 AND ESTIMATED DISPOSABLE INCOME FOR 2018/19

A report was submitted by the Acting Corporate Director (Corporate Services) informing the Council of the disbursements made from Trusts in 2017/18 and the estimated disposable income for 2018/19.

Following consideration the Council agreed:

- (i) to note the disbursements approved from the Trust Funds in 2017/18, as detailed in Appendix 1;
- (ii) the estimated income available for disbursements in 2018/19, as detailed in Appendix 2; and
- (iii) to note the position of a number of Trust Funds with declining reserves as detailed in paragraph 5.3 of the report.

12. CORPORATE AND FINANCIAL PLANNING 2018/19

A report was submitted by the Acting Corporate Director (Corporate Services) updating the Council on the progress being made on short, medium and long term financial planning for 2019/20 onwards.

Following consideration the Council agreed:

- (i) to note the continuing budget situation and predictions for future years, the very broad parameters within which this may fluctuate and the continuing environment within which the Council must now operate as the balance of reserves continues to diminish to a minimum level;
- (ii) to note that work continues to identify short, medium and longer term financial plans and that while officers have been developing options, the financial plans will require political review and approval from the Council;
- (iii) to note the statutory requirement for the Council to set a balanced budget each year and that at this point in time there remains an over-reliance on reserves to fund core services which is not sustainable;
- (iv) to note that based on current predictions, the Council's balance of reserves will be insufficient to fund the gap between expenditure and income in 2019/20 and so if nothing changes it will not be possible to set a balanced budget for 2019/20 and retain a sufficient balance of reserves to manage risk; to address this savings in the order of £12.4m that can be delivered during the course of 2019/20 require to be identified and approved;
- (v) to note work needs to proceed with some urgency to ensure that financial planning advances aligned to the corporate priorities, this may require review and refinement of priorities based on recent political change;
- (vi) to note, critically, whilst some potential savings for 2019/20 have been identified, at present these fall well short of the £12.4m required and so more comprehensive short term plan will require to be identified and approved for consultation by October 2018 to ensure that the Council is in a viable financial position for 2019/20;

- (vii) to note, should it not be possible to achieve this, the Chief Executive and Chief Financial Officer will have to consider taking appropriate action in terms of the statutory responsibilities under the Local Government Finance Act 1992 (section 93) in relation to setting a balanced budget and the Local Government (Scotland) Act 2003 (section 35) in terms of the duty on local authorities to manage their capital expenditure;
- (viii) to note the outcome of Community engagement (Appendix A); and
- (ix) that, in order to prepare for the financial situation from 2019/20 onwards, agreed to undertake ongoing communication and consultation with the community on a range of areas for consideration to be determined by the Administration group with the consultation on specific options to be considered following a further report to the Council.

13. COMMUNITY ASSET TRANSFER REQUEST: FORMER ABBEYLANDS PRIMARY SCHOOL, KINLOSS

Councillor Macrae, having declared a personal interest in this item, left the meeting at this juncture taking no part in the discussion or decision.

A report was submitted by the Acting Corporate Director (Corporate Services) inviting the Council to consider an asset transfer request from Morayvia for the former Abbeylands Primary School, North Road, Kinloss.

Following consideration the Council agreed to:

- (i) approve the transfer at nil consideration of the former Abbeylands Primary School, North Road, Kinloss to Morayvia; and
- (ii) remit the matter to the Estates Manager and the Legal Services Manager (Property and Contracts) to complete the transfer of title.

Councillor Macrae re-joined the meeting at this juncture.

14. REGENERATION CAPITAL GRANT FUND

A report was submitted by the Corporate Director (Economic Development, Planning & Infrastructure) asking the Council to authorise funding applications to the Regeneration Capital Grant Fund for a Heritage Visitor attraction, which is part of the Cultural Quarter Growth Deal proposal.

Following consideration the Council agreed to authorise the submission of stage I and if successful stage II applications to the Regeneration Capital Grant Fund on the condition that:

- (i) the applications are clearly submitted as subject to additional funding being attracted through the Growth Deal Bid; and
- (ii) that a further report to Council will be submitted to enable consideration of any final offer of grant, the estimated financial implications for the Council being confirmed at that time.

15. EUROPEAN STRUCTURAL INVESTMENT FUNDS

A report was submitted by the Corporate Director (Economic Development, Planning & Infrastructure) seeking permission to extend and/or submit new applications from the European Structural Investment Funds.

Following consideration the Council agreed:

- (i) to extend the current phase 1 for the Employability and Poverty & Social Inclusion projects by 3 months to 31 March 2019 whilst still staying within overall agreed budgets;
- (ii) to authorise the submissions for phase 2 for the proposed expanded Employability and Poverty & Social Inclusion projects at an increased intervention rate of up to 80%;
- (iii) to the employment of 4.5 new staff to deliver the projects from April 2019 to March 2023 and provide 20% match funding, which will be met from existing budgets;
- (iv) to authorise for Business Gateway to use its operational budget as match funding for the Highland Council led continuation of the Local Growth Accelerator Programme phase 2; and
- (v) that for the Small and Medium Enterprise loan fund phase 2, Business Gateway will work with the future operator to facilitate applications.

16. MORAY COUNCIL LOCAL SCRUTINY PLAN 2018/19

A report was submitted by the Chief Executive asking the Council to consider the Local Scrutiny Plan and Appendix which sets out the planned scrutiny activity of the Council during 2018/19.

Following consideration the Council agreed to note:

- (i) the one risk where specific scrutiny is required during 2018/19;
- (ii) in addition the scrutiny comments in respect of financial sustainability of education and children's services; and
- (iii) that these findings are reflective of the Council's own self-evaluation of its leadership, strategic direction and financial standing. As a result the areas of improvement identified are integrated into the Council's current and planned improvement activities.

17. QUESTION TIME

Councillor Alexander asked what discussions had taken place between the Council Leader and Derek MacKay, Cabinet Secretary for Finance and the Constitution at their meeting on 11 June 2018 and that the Council Leader was continuing to get the message across that more money is needed for Moray. He further asked for

reassurance the Council Leader is putting forward the case for Moray to the Minister and making sure that he understands that we need more cash?

In response the Council Leader advised that he had met with the Cabinet Secretary on the 19 June 2018 and felt that the meeting was very productive and had a full and frank discussion about the issues facing Moray, about the population increase as a result of the MOD expansion and how that impacts on Moray which will result in an additional increase of around 2% above the general trend. He further stated that this is a point he has also made in letters to the local MP and two local MSPs all in similar terms in regard to the areas that we could work together and the issues that will affect Moray. He further stated that in terms of the finances and issues around council tax, these are issues that he discussed with the Cabinet Secretary and it was his aim to have further regular meeting when he can get them with any Minister that is prepared to listen.

Councillor Creswell asked whether any consideration could be given to the position of Chair of the Moray Integrated Joint Board in terms of representation on the NHS Grampian Board as when she was Chair of the IJB had found it frustrating that there was separate meetings being held within NHS Grampian in terms of joint services and found this a bit disjointed.

In response the Convener advised that the current NHS Board member was Councillor Brown but that the appointments to outside bodies would be discussed at an upcoming meeting of the Council where this matter could be raised.

18. ORDER OF BUSINESS

Prior to discussion of Agenda Items 17(a) 'Emergency Notice of Motion by Councillor Eagle and Councillor Cowie' and 17(b) 'School Crossing Patrollers' the Convener advised the meeting that due to the subject matter being the same and with the agreement of Councillor Eagle and Councillor Cowie, discussion of these items would be combined.

19. EMERGENCY NOTICE OF MOTION/SCHOOL CROSSING PATROLLERS [PARA 1]

Prior to discussion the Convener advised the Meeting that in terms of Standing Order 81 and 22 relating to the alteration or revocation within 6 months of a decision of the Council, in this case a decision taken by the Council at its meeting on , two thirds of the Members of the Council present and entitled to vote must agree that there has been a relevant and material change of circumstances and that the agreement of the Council to a suspension should be confirmed before the relevant suspension is debated.

In terms of the Emergency Notice of Motion the meeting Councillor Eagle stated the installation of a new set of traffic lights at the junction of West Cathcart Street and High Street, Buckie, in the vicinity of Cluny Primary school had caused additional vehicle movements around the area of the school and as the original budget decision was taken less than 6 months ago, in terms of Standing Order 82 considered this information to be a relevant and material change in circumstances.

In terms of the Report it was noted that with the recent change in administration differing views are likely on policy which were reflected in the alternative budgets put forward by each group and an area where there differing views had been specifically raised is the provision of School Crossing Patrollers and this was considered to be a relevant and material change in circumstances.

The Convener therefore asked if there was anyone otherwise minded to the relevant and material change of circumstances as specified in the terms of the motion and the report.

Councillor Cowie, as seconder to the Emergency Notice of Motion stated that in his opinion there was no financial implication within the terms of the Notice of Motion, it was simply asking for a review of the traffic movements following the installation of traffic lights and that this was a relevant and material consideration. He further stated, however, that he did not consider that this applied to the reason given in terms of the report.

Councillor Alexander stated that in terms of the reasons given within the Notice of Motion in relation to the increased traffic movement and the fact that there had been no formal count taken in this regard, he was not convinced that there had been a relevant and material change.

The Convener reminded the meeting that it had been agreed to take both the Notice of Motion and the Report together and therefore the meeting should look to agreeing a suspension of standing orders jointly and not as two separate issues.

Councillor Leadbitter, in order to move the matter forward, moved the suspension of standing orders as there had been a relevant and material change, that being the change in Administration which is clearly a change in the policy direction of the Council as there would be in any change in Administration and in his option was a reasonable position to allow consideration of both these papers.

Following further lengthy discussion during which the Head of Legal and Democratic Services advised of the procedure relating to whether the meeting wished to consider the two papers separately and the suspension of standing order requirements this would entail, the Convener sought clarification from the Meeting that there was a consensus to allow discussion to proceed on the matter and to agree a suspension of standing orders in order to do this and asked if there was anyone otherwise minded.

Councillor Alexander sought clarification that the material or relevant change in circumstances being proposed in order to suspend Standing Orders was that there has been a change of Administration.

The Convener confirmed that this was the case.

Councillor Alexander stated that if a change in Administration was considered as a relevant and material change in circumstances that this would then mean that every decision taken within the last 6 months could be reconsidered and was of the opinion that this would cause a lot of unnecessary uncertainty.

The Convener stated that for this item, that would be the case.

In response Councillor Alexander stated that he was of the opinion that this be put to the vote.

Councillor Leadbitter stated that the Suspension of Standing Orders related only to this particular item and following the special meeting due to be held on Monday 2 July, there will be no further meetings for a further 6 weeks, after which time most of the decisions that the Council has taken will be out with the 6 months period and therefore suspension of standing orders will no longer be relevant.

Thereafter the Convener asked that the vote in relation to the suspension of Standing Orders be taken.

On a division there voted:

For the Motion (19) Councillors Bremner, Coull, Coy, Divers, Eagle, Edwards, Feaver, Gatt Laing Leadbitter, A McLean, McLean, Macrae, Morrison Patience, Ross, Shepherd, Warren and Wilson.

For the Amendment (5) Councillors Alexander, Allan, Cowe, Cowie and Creswell.

Abstentions (0)

Accordingly, in terms of Standing Order 82, as 2/3rd majority of those members present had been achieved, there was agreement to suspend Standing Orders and accordingly discussion of the combined issues as outlined in the Notice of Motion and the report could take place.

Thereafter Councillor Eagle addressed the terms of his Emergency Notice of Motion which sought the Council's agreement to a re-assessment being carried out at the intersection between South Pringle Street and West Cathcart Street, Buckie and subject to the outcome of that assessment consideration be given to reversing the budget decision for this site in relation to the removal of the school crossing patroller.

Councillor Leadbitter stated that the Administration Group had asked for a report on this issue as they had not agreed with the decision made at the time of the budget setting and that in light of the comments that have been received from schools and parents there was something that potentially could be done that still retains most of the savings that were achieved in the budget. He therefore moved that Option 2 - reinstate sites deemed non-viable as outlined in paragraph 5.6 and Appendix 1 of the report. Councillor Laing seconded the motion.

As an amendment, Councillor Alexander, seconded by Councillor Cowe, moved Option 1 – Status Quo.

On a division there voted:

For the Motion (18) Councillors Leadbitter, Laing, Bremner, Coull, Coy, Divers, Eagle, Edwards, Feaver, Gatt A McLean, McLean, Macrae, Morrison Patience, Ross, Warren and Wilson.

For the Amendment (6) Councillors Alexander, Allan, Cowe, Cowie Creswell and Shepherd.

Accordingly the Motion became the finding of the Meeting and the Council agreed:

- (i) to note the contents of the report; and
- (ii) Option 2 – Reinstate sites deemed non-viable as outlined in paragraph 5.6 and Appendix 1 of the report.

20. IMPLEMENTATION OF BUDGET SAVINGS [PARAS 1 & 6]

A report was submitted by the Acting Corporate Director (Corporate Services) providing an update on progress being made in relation to Community Asset Transfers (CATs) for town halls and community centres.

Following consideration the Council:

- (i) noted the updates on the progress towards Community Asset transfers (CATs) for town halls and community centres; and
- (ii) approved the arrangements for Longmore Hall in paragraph 3.5.8 of the report in their capacity as trustees.

Councillor Shepherd left the meeting at this juncture.

21. SUSPENSION OF STANDING ORDERS

Under the terms of Standing Order 82 the meeting agreed to suspend Standing Order 74 and continue the meeting beyond 5 pm in order to conclude the business on the Agenda.

22. MORAY GROWTH DEAL – PROGRESS UPDATE [PARA 9]

A report was submitted by the Corporate Director (Economic Development, Planning & Infrastructure) providing a progress update on the development of a growth funding proposal for Moray and seeking endorsement by the Council of the work completed to date as well as agreement to the next steps proposed.

Following consideration the Council:

- (i) noted the progress made on the Moray Growth Deal and that the next stage in the process is agreeing Heads of Terms;
- (ii) agreed that the projects detailed in the Strategic Outline Programme in Appendix 1 will form the basis for ongoing discussion and negotiation with both governments;
- (iii) delegated authority to the Corporate Director (Economic Development, Planning and Infrastructure) in consultation with the Moray Growth Deal Board, the Council Leader and Group Leaders to make such changes to the Strategic Outline Programme and the projects within it as are necessary to enable negotiations on Heads of Terms to progress effectively;

- (iv) noted that a further update report will be submitted before Heads of Terms are finalised; and
- (v) approved expenditure of up to £20,000 during the remainder of 2018/19 to enable further development of the deal programme as detailed in paragraph 10 of the report, to be drawn down by the Corporate Director (Economic Development, Planning and Infrastructure) in consultation with the Council Leader, Group Leaders and the Head of Financial Services only if and to the extent required.

23. MORAY LEISURE CENTRE (MLC) DEVELOPMENTS [PARAS 1 & 9]

Councillors Patience and Macrae, having declared an interest in this item left the meeting taking no part in the discussion or decision.

Councillor Alexander left the meeting during discussion of this item.

A joint report was submitted by the Corporate Directors (Children and Young People's Services) and (Corporate Services) providing an update regarding Moray Leisure Limited's development plan and informing the Council of the recommended procurement method for related works at the leisure centre and recommending amendment of the capital plan for 2018/19 to accommodate these works.

In response to queries raised in regard to the introduction of the FitLife Scheme and the progress relating to the recovery plan it was agreed that the Educational Resources Manager provide members with the implementation date the Fit Life Scheme as soon as this is known and that Members be provided with interim updates prior to the next formal update.

Following lengthy discussion Councillor Gatt moved that the Council reject the recommendations. On failing to find a seconder the motion fell. Councillor Gatt asked that his dissent be recorded.

Thereafter, there being no-one otherwise minded the Council approved:

- (i) addition to the capital plan of £500,000 for construction works at Moray Leisure Centre and the lease of replacement gym equipment to be used in Moray Leisure Centre;
- (ii) that this is funded by reduction of the revenue grant made to Moray Leisure Limited for the running of Moray Leisure Centre, and
- (iii) that the Educational Resources Manager provide members with the implementation date of the Fit Life Scheme as soon as this is known and that Members be provided with interim updates prior to the next formal update.

Councillors Patience and Macrae re-joined the meeting at this juncture.

24. MODERNISATION AND IMPROVEMENT PROGRAMME [PARA 6]

A report was submitted by the Corporate Director (Corporate Services) asking the Council to allocate budget provision for initial diagnostic work on a possible efficiency project that will contribute to the development of the Modernisation and Improvement Programme that is part of the Council's Corporate Plan.

Following discussion Councillor Cowe moved approval of the recommendations as detailed in the report. Councillor Edwards seconded the motion.

As an amendment Councillor Eagle moved that consideration of this report be deferred for a further report to be provided outlining the bigger picture in regard to the approach being taken in the development of the Modernisation and Improvement Programme.

On a division there voted:

For the Motion (16) Councillors Cowe, Edwards, Allan, Bremner, Coull, Cowie, Coy, Divers, Laing, Leadbitter, A McLean, Morrison, Patience, Ross, Warren and Wilson

For the Amendment (6) Councillors Eagle, Feaver, Creswell, Gatt, M McLean and Macrae

Abstentions (0)

Accordingly the motion became the finding of the meeting and the Council agreed to approve initial funding to engage external expertise to undertake and facilitate diagnostic work on efficiency improvements which will form part of the proposed Modernisation and Improvement Programme.

THE MORAY COUNCIL

**MINUTE OF MEETING OF THE MORAY COUNCIL
APPOINTMENTS COMMITTEE**

MONDAY 2 JULY 2018

COUNCIL OFFICE, ELGIN

PRESENT

Councillors S Morrison (Convener), G Leadbitter (Council Leader), D Bremner, T Coull, J Cowe, P Coy, J Divers, L Laing, A McLean, A Patience, D Ross and S Warren.

APOLOGIES

Apologies for absence were intimated on behalf of Councillors G Alexander, J Allan, F Brown, L Creswell, G Cowie, T Eagle, R Edwards, C Feaver, D Gatt, M Macrae, M McLean, R McLean, R Shepherd and W Wilson

IN ATTENDANCE

The Chief Executive and the Democratic Services Manager as Clerk to the Meeting.

ALSO IN ATTENDANCE

Liz McQue SOLACE as Technical Adviser.

1. EXEMPT INFORMATION

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 during consideration of the Item of Business appearing at paragraph 2 of this Minute so as to avoid disclosure of exempt information of the class described in Paragraph 1 of Part I of Schedule 7A of the Act.

Prior to the commencement of the interview Members expressed their concern regarding the number of apologies for absence received stating that it was disrespectful to the candidate.

**2. APPOINTMENT OF CORPORATE DIRECTOR (CORPORATE SERVICES)
(PARA 1)**

Under reference to paragraph 2, of the Minute of the Meeting of the Moray Council dated 6 June 2018, the meeting noted that there were four candidates (numbered 1, 5, 8 and 9)

selected for the second stage of the recruitment process for the post of Corporate Director (Corporate Services).

The Meeting was provided by Liz McQue with a summary of the assessment centre which carried out a range of assessments to test the candidates' suitability in terms of personality, leadership style and critical thinking and of the professional interview each candidate took part in which had been carried out by Councillors G Alexander, M Macrae, S Morrison and S Warren.

Noting the recommendations of the Assessment Centre and the professional interviews the meeting agreed to proceed to interview candidate 9 in accordance with the agreed arrangements.

Following lengthy discussion, during which the Chief Executive and Liz McQue responded to Members questions, the Council unanimously agreed to offer the post of Corporate Director (Corporate Services) to Candidate 9.

On formally being offered the post, the candidate, Denise Whitworth accepted the post.

MINUTE OF MEETING OF THE POLICY AND RESOURCES COMMITTEE

7 AUGUST 2018

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors A McLean (Chair); G Alexander; F Brown; J Cowe, L Creswell; J Divers; T Eagle; R Edwards; L Laing; M Macrae; S Morrison; and S Warren.

APOLOGIES

Apologies were intimated on behalf of Councillor G Leadbitter.

IN ATTENDANCE

The Chief Executive; the Corporate Director (Corporate Services); the Head of Legal and Democratic Services; the Head of Financial Services; the Head of Development Services; Frances Garrow, the Joint Acting Head of Human Resources and ICT; Phil McDonald the Joint Acting Head of Human Resources and ICT, the Payments Manager; the Educational Resources Manager, the Environmental Health Manager, the Customer Services Manager and the Democratic Services Manager as Clerk to the Meeting.

1. EXAM RESULTS

In noting that it was exam results day the Meeting joined the Chairman in wishing all the pupils and all the parents and teachers and support staff who supported them good luck and highlighted the Skills Development Scotland line which is available to offer help and advice to anyone who may have not done as well as expected.

2. CONGRATULATIONS

The Meeting joined the Chairman in congratulating Councillor Leadbitter and his wife Louise on their recent marriage.

3. DECLARATION OF GROUP DECISIONS AND MEMBER'S 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.

4. EXEMPT INFORMATION

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 during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to

avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

<u>Paragraph No. of Minute</u>	<u>Paragraph No. of Schedule 7A</u>
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18

1 and 11

**5. MINUTE OF THE POLICY AND RESOURCES COMMITTEE DATED
8 MAY 2018**

The minute of the meeting of the Policy and Resources Committee dated 8 May 2018 was submitted and approved.

The Chairman expressed his thanks to Councillor Alexander for his time as Chair.

6. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

7. EFFICIENCY STATEMENT FOR 2017/18

A report was submitted by the Corporate Director (Corporate Services) providing the Committee with a copy of the Council's Annual Efficiency Statement for 2017/18.

During discussion Councillor Cowe congratulated the Estates staff for the work undertaken in relation to the Industrial Estates.

Thereafter following further discussion the Committee agreed to note the annual Efficiency Statement for 2017/18.

8. PROCUREMENT ANNUAL REPORT

A report was submitted by the Corporate Director (Corporate Services) providing the Committee with an updated report on Procurement in Moray and in particular report on procurement performance for 2017/2018.

Following consideration the Committee agreed to note the overall procurement performance for 2017/2018 set out in the Annual Report as summarised in Appendix 1 and in Section 4 of the Report.

**9. AUDIT SCOTLAND'S REPORT ON THE HOUSING BENEFIT SERVICE IN
MORAY**

A report was submitted by the Corporate Director (Corporate Services) informing the Committee of the findings from an external audit of the Council's Housing Benefit Service. The report also provided the Service's response to mitigate "risks to continuous improvement" identified through the audit.

Following consideration, the Committee noted the findings in Audit Scotland's report and noted the actions and response to the highlighted risks to continuous improvement as detailed in the Report.

The Chair congratulated staff on the improvement made.

10. DIGITAL PUBLIC SERVICES – PROGRESS REPORT

A report was submitted by the Corporate Director (Corporate Services) inviting the Committee to consider progress against the Digital Public Services project.

Following consideration the Committee agreed to note:-

- (i) the general progress for the period to June 2018;
- (ii) the risks being managed by the Digital Services Working Group and actions being taken to mitigate these risks; and
- (iii) that development work will be mainstreamed into the ICT project workload and the project manager will work with the service areas to document the benefits arising from the new solutions as they are implemented.

11. ICT AND DIGITAL STRATEGY AND PLAN

A report was submitted by the Corporate Director (Corporate Services) inviting the Committee to consider and approve the ICT and Digital Strategy (2018-23) and the associated Action Plan.

During discussion clarification was sought in regard to the uptake of the use of video conferencing equipment in schools and also whether it would be possible to enable students to link to UHI courses through the use of this equipment and it was agreed that these issues be raised through Children and Young People's Services Committee by Councillor Warren in her capacity as Chair of the Committee.

Thereafter the Committee agreed to:-

- (i) approve the ICT and Digital Strategy (2018-23) and the associated Action Plan; and
- (ii) note that the Action Plan is to be reviewed 6 monthly by the Corporate and Senior Management Team to ensure it continues to reflect priorities.

12. CORPORATE SERVICES: SERVICE PLANS 2018-19

A report was submitted by the Corporate Director (Corporate Services) inviting the Committee to consider the Corporate Services Department Service Plans for 2018-19.

Following consideration the Committee approved the Service Plans within the Corporate Services Department.

13. COMMUNITY ASSET TRANSFER: RENTAL SUPPORT

A report was submitted by the Corporate Director (Corporate Services) inviting the Committee to consider the level of rental concessions granted to community bodies occupying Council property and to identify any arrangements that it requires to be reviewed in relation to rental support during the 2019/20 financial year.

Following consideration the Committee agreed to note the extent of ongoing rental support provided to community bodies as listed in Appendices 1 and 2 of the Report and the arrangements planned for review.

14. WATER INTENDED FOR HUMAN CONSUMPTION (PRIVATE SUPPLIES) (SCOTLAND) REGULATIONS 2017

A report was submitted by the Corporate Director (Economic Development, Planning and Infrastructure) informing the Committee of the new legislation in relation to private water supplies and associated updated charges.

During discussion the Chairman advised the Committee that for clarification the wording in relation to recommendations 2.1(ii) and (iii) had been amended and the amendments were agreed.

Thereafter the Committee agreed to:-

- (i) note the changes in the legislation;
- (ii) approve the proposed sampling and risk assessment charges of £186 and £100 respectively with effect from 1 September 2018 in relation to the legislative requirements contained in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 with immediate effect; and
- (iii) approve that charges be thereafter increased until full cost recovery is achieved in a time scale to be determined as part of the Council's financial planning process.

15. LOSSIEMOUTH HIGH SCHOOL REPLACEMENT PROJECT

A report was submitted by the Acting Corporate Director (Education and Social Care) updating the Committee on the cost and funding arrangements for the Lossiemouth High School project and seek approval to enter in to the design and build agreement.

During discussion the Head of Legal and Democratic Services advised the Committee of some minor changes to the recommendation in relation to the signing of documentation required for the project which has to be undertaken in Edinburgh by amending it to read that authorisation be given to the Head of Legal and Democratic Services to sign all documentation (or in his absence any other of the Council's authorised signatories), as this would allow flexibility in that should any one of those signatories already be required to be in Edinburgh at that time they could combine their business and undertake the sign off of the documentation. This was agreed.

Thereafter the Committee agreed to:-

- (i) note the cost and funding arrangements set out in paragraph 3 of the Report;
- (ii) authorise the Head of Legal and Democratic Services to consider and agree any further minor amendments to the Lossiemouth High School project documents after the date of this meeting;
- (iii) authorise the Head of Legal and Democratic Services (or in his absence any of the other council authorised signatory namely the Chief Executive, a Member of the Corporate Management Team, the Head of Financial Services, the Legal Services Manager (Property & Contracts) or the Legal Services Manager (Litigation & Licensing)) to:
 - (a) sign all documentation required for the Lossiemouth High School project on behalf of the Council including:
 - the Design and Build Development Agreement between (1) the Council and (2) hub North Scotland Limited;
 - the Contractor's Collateral Agreement between (1) the Council and (2) Balfour Beatty Construction Limited;
 - the Designers Collateral Agreements among (1) the Council and (2) each of (one) JMArchitects Limited; (two) DSSR; and (three) Fairhurst; and
 - any additional or ancillary documents in relation to the Project to which the Council is required to be a party
- (iv) note that the commercial close is targeted for 14 September 2018; and
- (v) that in order to meet the targeted the commercial close date of 14 September 2018 and due to the requirement for a signed copy of the ratified minute being required as verification, it is agreed that the minute of this meeting be submitted to the next meeting of Moray Council on 5 September 2018 for ratification and thereafter the Chair of this Committee signs a copy of the ratified minute as verification that approval has been granted.

16. CORPORATE SERVICES PERFORMANCE REPORT – OCTOBER 2017 TO MARCH 2018

A report was submitted by the Corporate Director (Corporate Services) outlining the performance of the service for the period from October 2017 to March 2018.

Following consideration the Committee agreed to note the performance outlined in the report and the actions being taken to seek improvements where required.

17. CHIEF EXECUTIVE'S OFFICE PERFORMANCE REPORT – OCTOBER 2017 TO MARCH 2018

A report was submitted by the Chief Executive outlining the performance of the service for the period from 1 October 2017 to 31 March 2018.

Following consideration the Committee agreed to note the performance outlined in the report and the actions being taken to seek improvements where required.

18. QUESTION TIME

Councillor Alexander stated that over the past 6 years the council has done its utmost to get its message across to the public in regard to the financial situation it is facing and whilst he was of the opinion that the public of Moray have got that message he was disappointed with the recent headline in the Press and Journal relating to the school clothing grant which suggested that the Moray Council had doubled the grant. This in his opinion was misleading the public in thinking that whilst the council are reporting that it is facing a financial crisis it is spending money by increasing the grant. In truth the Council is in fact only increasing its contribution towards the grant by £5 from £45 to £50 with the Scottish Government contributing the remaining £50. He therefore asked that the Chairman support his plea in urging the press to report the full facts in future.

In response the Chairman agreed and that it be noted that the Scottish Government have increased their contribution by £50 and which now brings Moray in line with other local authorities.

Councillor Creswell sought an update on when the briefing for Member on the Transform Process was due to take place.

In response the Corporate Director (Corporate Services) advised that some dates were being planned for later in September.

19. BUDGET 2019/20 – WORKFORCE IMPLICATIONS [PARAS 1 AND 11]

A report was submitted by the Acting Corporate Director (Corporate Services) asking the Committee to consider applications under the terms of the agreed Voluntary Early Retirement (VER) Scheme.

Following consideration the Committee agreed to approve the applications for Voluntary Early Retirement contained within Appendix 1 of the Report.



REPORT TO: MORAY COUNCIL ON 5 SEPTEMBER 2018

SUBJECT: REVENUE BUDGET MONITORING TO 30 JUNE 2018

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

- 1.1 To advise Council of the revenue budget monitoring position to 30 June 2018.
- 1.2 This report is submitted to Council in terms of Section III A(8) of the Council's Administrative Scheme relating to monitoring current revenue expenditure against approved budget.

2. RECOMMENDATION

2.1 It is recommended that Council considers and notes:

- (i) **the budget monitoring position of £156,000 under budget for 2018/19 as at 30 June 2018;**
- (ii) **that this position consists of an underspend on Devolved School budgets of £186,000, an overspend on Social Care services delivered on behalf of the Moray Integration Joint Board (MIJB) of £478,000 and an underspend on other services of £448,000;**
- (iii) **movement of £678,000 in the General Revenue Grant, as detailed in paragraph 3.4;**
- (iv) **emerging budget pressures as summarised in paragraph 6.2;**
- (v) **the position regarding Moray Integration Joint Board (MIJB) as described in paragraph 6.10, with cost implications of £1.3 million for the Council, and**
- (vi) **further commitments of £5.11 million against reserves as summarised in section 8.**

3. BACKGROUND

- 3.1 When the revenue budget for 2018/19 was approved by Moray Council on 14 February 2018 (paragraph 10 of the minute refers), General Revenue Grant of £154,879,000 was estimated for the year, based on the latest amount notified to the Council and including estimates for further distributions of grant during

the year. Council Tax receipts of £39,500,000 were anticipated. Budgeted expenditure of £199,105,000 was agreed, and this required projected use of £4,726,000 of the Council's General Reserves to balance the budget.

- 3.2 On 28 June 2018 Council approved adjustments to the base budget to reflect variances during 2017/18 which were projected to continue into 2018/19. The net effect of these adjustments was to reduce budgeted expenditure by £137,000. At the same meeting additional expenditure of £521,000 to be funded from General Reserves was also approved. All of these adjustments bar one for the Syrian resettlement program have been posted to departments as at 30 June 2018.
- 3.3 In addition to the Council's core budget, monies allocated to schools through the Devolved School Management (DSM) scheme and not spent are brought forward from previous years. The balance brought forward in 2018/19 is £448,000 (2017/18 £804,000). In addition to this, unused funding of £196,000 received in 2017/18 for the expansion of Early Learning and Childcare has been carried forward into 2018/19 in accordance with the grant conditions.
- 3.4 A variation to General Revenue Grant (GRG) of £678,000 has been notified. This relates to the expansion of Early Learning and Childcare. Additional budget will be allocated as required according to the Council's approved Early Learning and Childcare Expansion Delivery Plan.
- 3.5 The Council's overall General Services revenue budget currently stands at £200,954,000.
- 3.6 Reconciliation of the movements in the base budget from that which was approved by the Moray Council on 14 February 2018 is shown in **APPENDIX 2** and allocations to departments from the provisions for Inflation and Contingencies, Additional Costs and Savings are listed in **APPENDIX 3**.

4. BUDGET POSITION

- 4.1 **APPENDIX 1** summarises the current position for each service area, comparing the actual expenditure for the year to 30 June 2018 with the budget to 30 June 2018.
- 4.2 Overall the budget position at 30 June 2018 is expenditure under budget to date of £156,000 or 0.3% of budget to date (including services delivered on behalf of the Moray Integrated Joint Board).
- 4.3 The principal areas of overspend and underspend across the Council are summarised below:
 - 4.3.1 In Integrated Children's Services, Out of Area placements are £60,000 over budget to date. An increase in the number of children cared for and of expenditure since 2016/17 was recognised when the budget for 2018/19 was set and provision of £1,200,000 made to accommodate this. The overspend in quarter 1 of this year reflects further continued increase which is expected to continue throughout 2018/19. A report was presented to Children and Young Peoples Services Committee on 27 June 2018 (paragraph 14 of the minute refers).

- 4.3.2 Devolved School budgets are underspent by £186,000 at the end of the first quarter, £67,000 in primary schools and £119,000 secondary schools.
- 4.3.3 In the Education budget, the pupil equity funding for the academic year is £51,000 underspent to date and the central supply budget is underspent by £51,000.
- 4.3.4 The Building Services were budgeted to return a deficit at the end of quarter one, but have returned a surplus, showing a favourable variance of £275,000. This is due to additional income being generated, primarily on response and void repairs. Any surplus from internal trading (i.e. with other parts of the Council) falls due to be reallocated to the department charged for building services, in this case the Housing Revenue Account (HRA) and so the General Service account will not benefit from this surplus if it continues to the year end.
- 4.3.5 Property Services show an underspend to date of £60,000 relating to staffing. However, this budget is usually offset against any shortfall in fee income levied at year end. Budgeted fees are currently set at historic levels which are too high for the current capital plan and are being reviewed.
- 4.3.6 The recycling budget is overspent by £76,000 due to market fluctuations in the cost of recycling mixed paper. The income budget for this is not being met since the Council are now incurring costs to have the paper taken away (see paragraph 6.5).
- 4.3.7 There is an insurance recovery of £80,000 relating to a fire damaged property in Buckie. No expenditure against this is anticipated.

5. BUDGET PRESSURES

- 5.1 Budget pressures recognised when the budget was approved on 14 February 2018 are released when the pressure crystallises to the extent that it can be accurately quantified. Provisions to meet budget pressures and new duties totalling £3,452,000 have been released in quarter 1.
- 5.2 Provisions still held centrally at the end of quarter 1 total £3,627,000 and are detailed in **APPENDIX 4** and given a RAG assessment for likelihood of requirement.
- 5.3 Two provisions are assessed as red or unlikely to be needed: £50,000 for deferred income for permanent care and £60,000 for the teachers' pay award 2017/18 full year effect. The amount of deferred income received is still expected to decrease, but no budget is retained for this income and so no budget pressure remains to be mitigated. The teachers' pay award is already budgeted for in full.
- 5.4 Three provisions are assessed as amber, for uncertainty of requirement: increased costs of transportation from restructuring the school week (£143,000); transition costs into adult social care (£200,000); implementation of the Gaelic plan (£40,000). There is high uncertainty about the need for the first provision, pending the re-tendering of the school transportation contract,

and high uncertainty about the level of need for expenditure on the last two items. Any increased funding to MIJB for children transitioning into adult social care will require a business case and will be the subject of a report to Policy and Resources Committee.

5.5 All other provisions are expected to be required in full at this juncture.

6. **EMERGING BUDGET PRESSURES**

6.1 During the first quarter a number of budget pressures have emerged. Those which can be quantified at present are listed in the table below:

	Para Ref	Estimated full year effect £000s
Out of area placements	6.2	328
Water charges increase	6.3	30
Waste paper charge increase	6.4	134
Employers liability insurance	6.5	14
EDRMS extension	6.6	70
Children's services	6.7	86
Meals on Wheels	6.8	78
		740
		=====

6.2 Expenditure on out of area placements in Integrated Children's Services continues to exceed budget, despite the budget increase of £1,200,000, as reported to Children and Young People's Services Committee on 27 June 2018. The estimated cost for the year based on the current placements is £328,000.

6.3 Expenditure on metered water is expected to be £30,000 above budget. This situation is being monitored.

6.4 The market for recyclates is very volatile and the Council is inevitably exposed to changes in market conditions. After the budget for 218/19 was set, the contractor for paper recyclates confirmed that from March 2018 there would be a charge for waste paper of £27.04 per tonne for mixed paper due to the current deterioration in the market situation. The previous contract price had been for income to the Council of £1.26 per tonne. Estimated volume is 4,750 tonnes per year, which gave a total anticipated budget pressure of £134,000 for the year. Since then prices have dropped to £9.51 in June and to £1.54 in July. The recent reductions in price are encouraging but are no guarantee that the trend will not reverse.

6.5 The council's insurers have notified a 5% increase in the Employers liability premium due to several large claims on employer's liability following accidents at work. This increase is in addition to the budget pressure regarding insurance premium tax included when the 2018/19 budget was approved.

6.6 The EDRMS project team was originally planned to be disbanded in 2018/19. In order to complete the project contracts were extended for 5 fte during

2018/19 and a team of 4 fte will continue from 2019/20 onwards for ongoing support. This represents an additional cost to the council of £70,000 in 2018/19, which is considered to be an investment to achieve the full benefit of savings in staff time from more efficient working.

- 6.7 Emerging pressures now include £86,000 in 2018/19 and £25,000 in 2019/20 for pressures relating to Child Protection highlighted by Children's services and agreed at the Community Planning Partnership Chief Officers Group on 2 March 2018.
- 6.8 Following WRVS withdrawal from the contract to deliver meals on wheels, that service is being delivered in different ways eg individual purchases a frozen meal and home carers support thereafter. Consequently meals are no longer being purchased from the Council's catering service. This represents a loss of £78,000 budgeted income. There will be a reduction in food purchased, and this is being calculated, but no impact on staff time, consequently there will remain a budget pressure on the service.
- 6.9 All these emerging pressures will be reviewed at the end of quarter 2 and recommendations made as to funding when the first estimated actual for 2018/19 is developed and reported to Policy and Resources Committee in November 2018.
- 6.10 When MIJB set its budget for 2018/19 it noted a shortfall estimated to amount to £4.6 million, after identified savings of £1.06m. Following further consideration by the Board additional savings of £0.4 million have been identified, and the Board has agreed to use £0.85m reserves to part-fund the shortfall. This leaves a residual shortfall of £3.35m. It would appear to be unlikely that the Board would be able to implement savings to balance the budget within the next seven months, particularly given the overspend across both Council and NHS services during quarter 1. The Council at its special meeting on 28 June 2018 considered a report on Corporate and Financial Planning (paragraph 12 of the minute refers) which included consideration that MIJB was likely to require further funding of £1.3m to meet its budget shortfall (based on 40% of £3.2m deficit). On the basis of the current position as reported to MIJB on 30 August 2018 that continues to be the case, and there is clearly also a risk that Council may have to fund a share of both the £3.35m deficit and a further overspend against allocated budgets. This is by far the highest emerging budget pressure faced by the Council. However, it is important that in recognising this pressure the Council does not lose sight of the need to keep tight control over its own finances.

7. SAVINGS

- 7.1 Savings of £6,253,000 were approved when the budget was set on 14 February 2018. These savings comprised increased income of £62,000 from charges for services; one-off savings of £638,000 and other permanent savings of £5,553,000.
- 7.2 To date budgets for charges have been adjusted by £59,000. The remaining balance of £3,000 will be reviewed as part of the estimated actual process and budgets adjusted accordingly. Temporary savings of £643,000 have been posted to departmental budgets, £5,000 more than the target.

7.3 Of the originally approved permanent savings, a balance of £644,000 remains in central provisions as at the end of June. These are detailed in **APPENDIX 5** and given a RAG assessment for anticipated achievement.

7.3.1 Three savings totalling £118,000 are assessed as amber. Rental income for new industrial estates units is now not expected to come on stream until 2019/20. The provision for increased income from estates rental reviews has not been posted as rental for industrial estates is below budget at 30 June 2018, due to voids. The situation will be kept under review. The other relates to savings from restructure of Fleet Services. Jobs are currently being evaluated, therefore timing indicates that full savings will not be achieved during this financial year.

7.3.2 The other unposted savings are assessed as green - these are expected to be achieved or substantially achieved during this financial year, although there were still issues of detail to be clarified as at 30 June 2018. Nine of the approved savings, totalling £188,000, relate to the closure/ CAT of the town halls. The other projects comprise public conveniences (£31,000); the move to 3 weekly waste collections (£83,000); management restructure (£50,000) and reduction in borrowing costs for reprofiling capital spend (£200,000). These are expected to be agreed in detail and allocated during quarter 2.

7.4 On 28 June 2018 Council agreed to reverse £33,000 savings from reduction in school crossing patrollers. This sum is consequently recorded as red.

8. GENERAL RESERVES

8.1 The balance on general reserves (excluding DSM and ear-marked reserves) as at 1 April 2018 was £17,095,000. Use of reserves totalling £4,726,000 was approved to balance the 2018/19 budget.

8.2 The Moray Council on 28 June 2018 approved a net budget reduction of £137,000, reducing the underlying need to use reserves, and also additional funding from reserves for specific items, totalling £521,000. Budget released in quarter 1 totals £501,000 leaving a balance of £20,000 yet to be allocated. Commitments of £5,110,000 against general reserves are detailed in **APPENDIX 6**.

8.3 The free balance of £11,985,000 is likely to be reduced to meet the budget pressures identified in paragraph 6.1 and almost by at least the underlying MIJB overspend of £1,300,000. This would reduce the free balance in general reserves to £9,945,000.

9. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Effective budget management is an essential component of delivery of council priorities on a sustainable basis.

(b) Policy and Legal

No policy or legal implications arise directly from the contents of this report.

(c) Financial implications

The financial implications are addressed throughout the report.

(d) Risk Implications

There are no risk implications arising directly from this report. Budget managers are aware of their responsibilities for managing their budgets in accordance with the Council's Financial Regulations. There is a risk to the council arising from the agreement that if the Moray Integrated Joint Board overspends the council will meet half of the additional costs incurred.

(e) Staffing Implications

No staffing implications arise directly from this report.

(f) Property

No property implications arise directly from this report.

(g) Equalities

No equalities implications arise directly from this report.

(h) Consultations

Consultation concerning Revenue Budget Monitoring is an on-going process with budget managers across the Council. CMT and Heads of Service have also been consulted in the preparation of this report and any comments incorporated.

10. CONCLUSION

10.1 The financial position of the Council at the end of June 2018 is an underspend against General Services Revenue Budget of £156,000 (including services delivered on behalf of the Moray Integration Joint Board).

10.2 Variations in General Revenue Grant totalling £678,000 have been notified to the council.

10.3 Additional budget pressures of £740,000 for Council services and £1,300,000 relating to MIJB have been recognised. These are likely to result in a call on general reserves.

10.4 The Council has previously approved use of £5.11 million from general reserves.

Author of Report: Deborah O'Shea, Principal Accountant

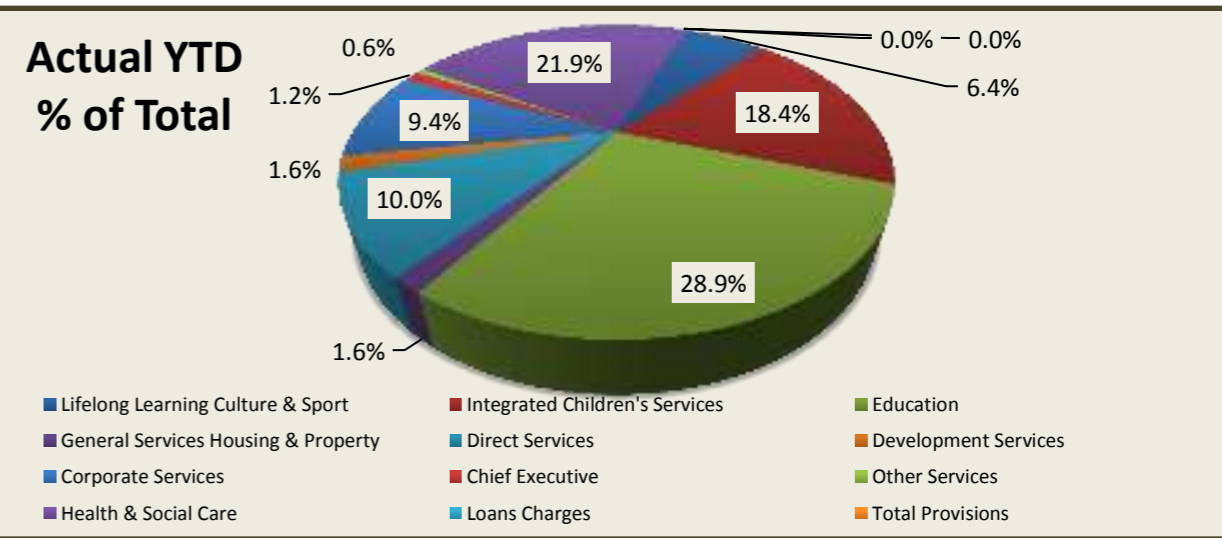
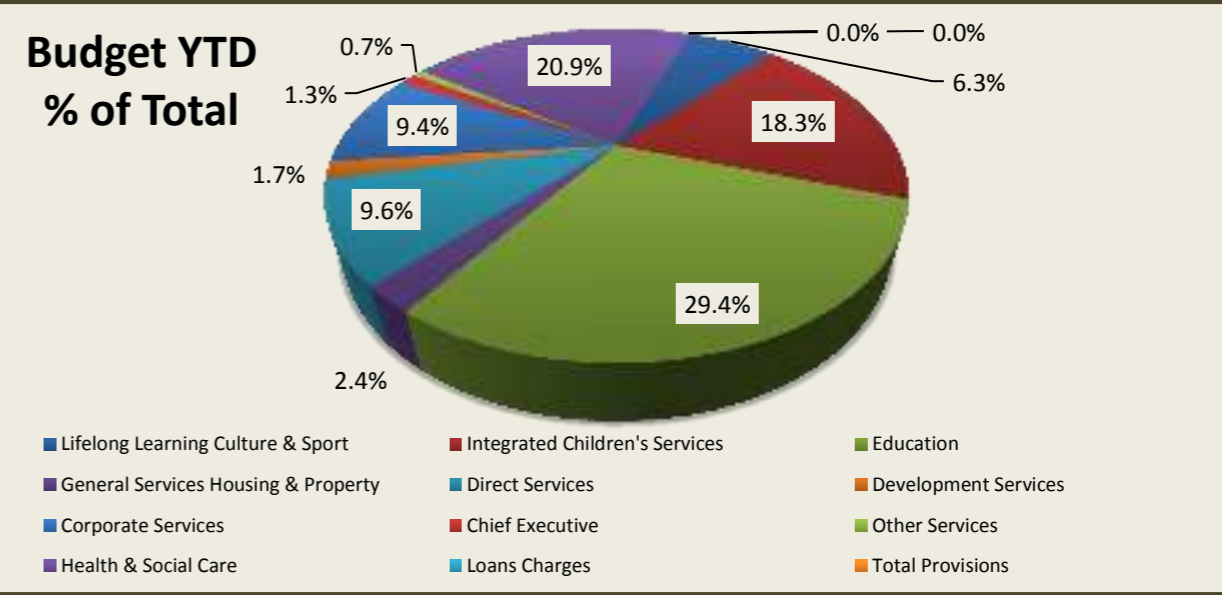
Background Papers: Held by author

Ref: DOS/LJC/259-2534/239-2520/239-2522/239-2524/
239-2527/239-2530/239-2532

MORAY COUNCIL
BUDGET MONITORING REPORT
QUARTER 1 to 30th JUNE 2018

Item 6

Service	Budget 2018/19 £000s	Budget to 30 June 2018 £000s	Actual & Committed to 30 June 2018 £000s	Year to date variance £000s
Lifelong Learning Culture & Sport	10,438	3,079	3,100	(21)
Integrated Children's Services	30,140	8,903	8,918	(15)
Education	57,705	14,293	14,018	275
General Services Housing & Property	3,063	1,190	760	430
Direct Services	23,169	4,684	4,827	(143)
Development Services	3,486	819	794	25
Corporate Services	10,900	4,557	4,569	(12)
Chief Executive	1,968	609	579	30
Other Services	2,009	334	269	65
SERVICES excl HEALTH & SOCIAL CARE	142,878	38,468	37,834	634
Health & Social Care	38,088	10,135	10,613	(478)
TOTAL SERVICES incl HEALTH & SOCIAL CARE	180,966	48,603	48,447	156
Loans Charges	14,725	0	0	0
Provision for Contingencies and Inflation	2,308	0	0	0
Additional Costs	3,627	0	0	0
Unallocated Savings	(644)	0	0	0
TOTAL PROVISIONS	5,291	0	0	0
TOTAL GENERAL SERVICES EXPENDITURE	200,982	48,603	48,447	156

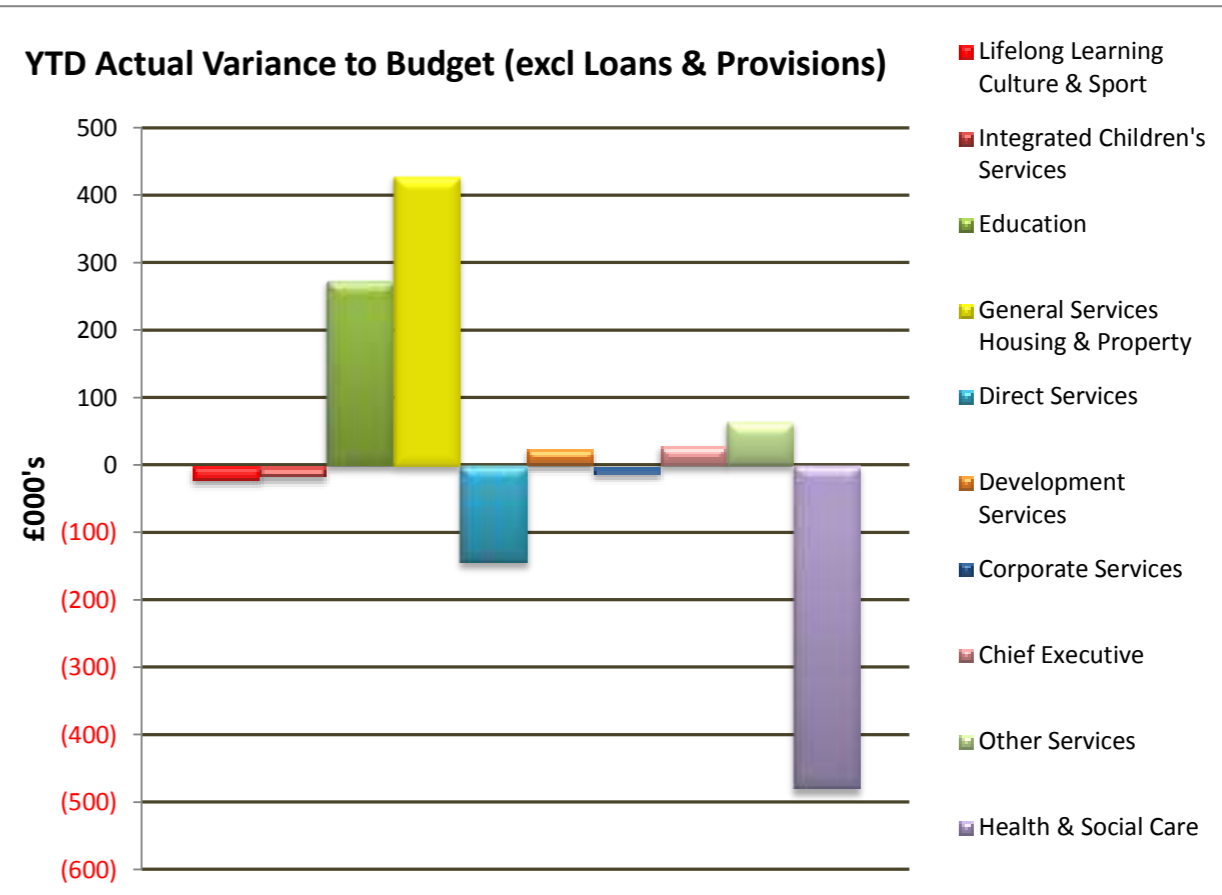


Commentary on Quarter 1 Performance

Devolved school budgets are underspent for both primary and secondary schools

Moray Integration Joint Board is overspent to date, the figure reported here is the Council's Social Care service only. This overspend is above the overspend budgeted for.

The majority of the budgets for the other service areas are underspent



£000s	Allocated Budget	Provisions for Contingencies and Inflation	Additional costs	Savings	Budget	Loan Charges	Depreciation	Total Budget
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
14 February 2018	182,089	3,000	6,264	(6,253)	185,100	14,005		199,105
School carry forwards	448				448			448
Additional GRG			678		678			678
Variance review			137					
Adjustment 1	(2,130)	(692)	(3,452)	5,609	(665)	720		55
Funded from reserves - approved MC 28/06/18	500				500			500
Funded from reserves ELC	196				196			196
Moray Council 5 September 2018	181,103	2,308	3,627	(644)	186,257	14,725	0	200,982

Adjustment 1 - MC 05/09/18

APPENDIX 3

ALLOCATIONS FROM PROVISIONS

Item 6

Provision for Contingencies and Inflation	Committee reference	£000s	£000s
Approved when budget set:			3,000
Care home fee uplift	P&R 8/05/2018	(222)	
PPP indexation	N/A	(95)	
Highlife Highland	MC 20/12/2017	(26)	
Other contract Increases	N/A	(172)	
Job sizing	N/A	(18)	
Regradings / career progression	N/A	(69)	
Building Financial Resilience match funding	N/A	(116)	
Scottish Welfare Fund	N/A	(10)	
Nursery roll numbers	N/A	21	
Maximum Basic Scale (MBS) Primary & Secondary	N/A	64	
DSM adjustment (Inveravon)	N/A	34	
Other DSM	N/A	32	
Tobacco legislation	MC 22/11/2017	(40)	
GVJB increase	N/A	(82)	
Landfill tax	N/A	(40)	
Legal expenses recovered	N/A	55	
Other	N/A	(8)	

Balance at 30 June 2018	(692)	2,308
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Additional Costs	£000s	£000s
Approved when budget set:		6,264
Movements in General Revenue Grant		
ELC expansion redetermination	678	
ELC expansion	(24)	
		654

Movements approved when budget set		
Temporary Accommodation		(243)
Class contact hours increase		(371)
Unitary charge for Elgin High School		(294)
Additional ASN from longer school day		(47)
School roll numbers (2017 census)		113
Out of Area placements	MC 28/6/2018	(1,200)
Additional social worker posts		(78)
DWP Admin subsidy		(24)
Digital Services		(10)
Upgrade MS 2010		(40)
Scottish Welfare fund		(12)
Plastic waste income reduction		(15)
Teachers' pay award full year effect		(407)
Loan Charges		(800)

	(3,428)	
Approved following variance review	MC 28/6/2018	137

Balance at 30 June 2018		3,627
--------------------------------	--	--------------

Savings & Charges	Committee reference	£000s	£000s
Approved when budget set:			(6,253)
Permanent savings	MC 14/02/18	4,863	
Additional savings from NI threshold increase		38	
Additional savings from timing of retirements		31	
School Crossing Patrollers - partial reinstatement		(33)	
Charges for service -Annual Review	MC 14/02/18	59	
One-off savings	MC 14/02/18	643	
Additional savings identified			
Restructures		8	
		<hr/>	
		5,609	
Balance at 30 June 2018			(644)

BUDGET PRESSURES AND NEW DUTIES

Ref	Description	Amount £000s	Reasons
BUDGET PRESSURES RECOGNISED WHEN BUDGET SET			
	Energy		
1	Energy performance certificates	80	Costs are as yet unknown although preparatory work taking place.
	Schools		
4	Elgin High School - facilities management	15	Costs are as yet unknown and the provision will continue to be held centrally
5	Elgin High School increase in NDR costs	120	NDR appealed - awaiting results of appeal
6	Increase in NDR costs for refurbished primaries	77	NDR appealed - awaiting results of appeal
7	Change in school roll numbers	542	Held until school pupil census, for release in September / October
10	Restructuring school week - transport	143	Held as contingency during contract extension and re-tender
10	Restructuring school week catering	67	Costs are as yet unknown and the provision will continue to be held centrally
11	Teachers pay award	57	Provision not required in full.
	Social Work		
	Transition costs into adult social care services	200	Business case not yet received from MIJB and the provision will continue to be held centrally
	Income		
17	Deferred income relating to permanent care pre inception of MIJB	50	Pressure no longer required as there is no income budget in Social Work
18	Tipping charges continued reduction	100	The provision will continue to be held centrally until an accurate assessment of likely income for 2018/19 can be made.
	Corporate Services		
20	Insurance premium tax	40	Still to be posted but needed in full and covers increased costs
21	Gaelic plan	40	Costs are as yet unknown and the provision will continue to be held centrally
		137	
FUNDING FOR NEW DUTIES			
	Implementing Carers' Act	1,186	Need to agree split with MIJB
	British Sign Language	11	Held developing approved BSL plan
	Temporary accommodation	102	Balance of funding held pending identification of need
	Sensory impairment	6	Continue to hold centrally pending identification of need.
	ELC expansion	654	Release as required to match Delivery Plan
	Total	3,627	

SAVINGS

Ref	Description	Amount £000s	Reason for balance
RECOGNISED WHEN BUDGET SET			
	Lifelong Learning, Culture and Sport		
	Closure/CAT Dufftown CC	6	No CAT savings processed pending granting of lease. Full saving will not be achieved due to deficit funding approved to be given to Community groups taking over services. Savings will be posted during Q2.
	Closure/CAT Cullen CC	30	
	Closure/CAT Elgin Town Hall	73	
	Closure/CAT Forres Town Hall	36	
	Closure/CAT Findochty Town Hall	3	
	Closure/CAT Cullen Town Hall	8	
	Closure/CAT Fisherman's Hall	33	
	Closure/CAT Longmore Hall	14	
	Less allowance for future council lets of Elgin Town Hall	(15)	
	General Service Housing & Property Service		
	Rental income from new industrial sites / units	18	Now not expected to come on stream until 219/20
	Estates rental review	50	Currently being offset by voids.
	Direct services		
	Public Conveniences	31	Implemented from July 18. To be post during Q2
	Three weekly waste collection	83	
	Management Restructure	50	DAR agreed, proposed restructure out for consultation.
	Fleet Restructure	50	Jobs being re-evaluated, the full amount of £50k will not be achieved in 2018/19.
	School Crossing Patrollers (balance of saving)	33	
	Cross Departmental		
	Reduction in borrowing costs arising from re-profiling of capital projects	200	Figures not yet quantified, will be updated for Quarter 2
	Charges	3	
	Balances from rounding	5	
	Less additional savings	(67)	
	Total	644	

APPENDIX 6

General Reserves	Committee reference	Approved £000s	Budget released £000s
General Reserves @ 1 April 2018		17,095	
Less commitments against reserves when budget was set:			
To balance the 2018/19 budget	MC 14/02/18	4,726	
Budget reduction from variance report		(137)	
Funding from reserves approved in 2018/19:			
Benefits Welfare Reform	MC 28/06/18	8	8
Roads maintenance	MC 28/06/18	231	231
Community Planning	MC 28/06/18	48	48
Syrian resettlement programme	MC 28/06/18	20	-
Elgin High School replacement	MC 28/06/18	180	180
Building financial resilience	MC 28/06/18	5	5
Discretionary Housing payments	MC 28/06/18	29	29
		521	501
Approved use of reserves		5,110	
Free balance @ 30 June 2018		11,985	
Estimated free balance @ 31 March 2019		-	



REPORT TO: MORAY COUNCIL ON 5 SEPTEMBER 2018

SUBJECT: CAPITAL PLAN 2018/19

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

- 1.1 To advise Council of the expenditure to 30 June 2018 under the capital plan for financial year 2018/19 and of the estimates of projected expenditure profiled into quarters.
- 1.2 This report is submitted to council in terms of Section III (B)5 of the Council's Administrative Scheme relating to monitoring progress of projects in the approved capital plan including any revisions to the price or phasing on a quarterly basis.

2. RECOMMENDATION

2.1 It is recommended that the council notes:

- (i) expenditure to 30 June 2018 of £3,015,000;
- (ii) the current projected expenditure of £44,246,000 for 2018/19 profiled into quarters; and
- (iii) the projected overall expenditure for projects spanning more than one financial year, as set out in APPENDIX 2.

2.2 It is recommended that the council approves:

- (i) proposed budget deferments of £14,389,000 arising from slippage and expenditure reprofiling from 2018/19 to 2019/20 as detailed in paragraph 5.9 of the report; and
- (ii) proposed budget advancement of £250,000 from future years to 2018/19 as detailed in paragraph 5.10 of the report.

- 2.3 The Council is also asked to note that in light of the very serious financial position, capital commitments for 2018/19 and 2019/20 are being reviewed to assess options to reduce spend in uncommitted areas.

3. **BACKGROUND**

- 3.1 The capital plan for 2018/19 of £54,096,000 was approved by a meeting of Moray Council on 12 February 2018. Amendments approved by Council and by Policy and Resources Committee since this date have been incorporated to give a current approved capital plan for 2018/19 of £58,763,000. The current projected expenditure is £44,246,000. The difference of £14,517,000 is due mainly to project reprofiling for the new Linkwood Primary School and Lossiemouth High School as detailed in paragraphs 5.3.4 and 5.3.5 of this report.
- 3.2 Reference is made to the report to the Council on 28 June 2018 (and previous reports referred therein) that set out the council's very challenging financial position. In light of this all uncommitted capital projects are being reviewed to assess whether it is possible to reduce, defer or put on hold expenditure. This is part of the emergency measures that are being put in place to ensure that only essential spending takes place until the Council's spending position is more closely aligned to its income and reliance on reserves is reduced. Any changes proposed as a result of this review will be reported to committee in due course.
- 3.3 Regular monitoring reports are provided to Policy and Resources committee or to Council showing expenditure to date for each project and details of capital receipts received. Policy and Resources committee on 10 May 2016 agreed to amendments to the information provided in response to the Audit Scotland report "Major Capital Investment in Councils". Accordingly this report includes a separate **APPENDIX 2**, giving details of expenditure on projects which span more than one financial year.

4. **CAPITAL PLAN 2018/19**

- 4.3 A copy of the capital plan is attached as **APPENDIX 1**, showing actual expenditure to 30 June 2018 of £3,015,000. Capital receipts of £50,000 from sale of assets are identified along with General Capital Grant of £2,636,000 from the Scottish Government. Developer contributions of £26,000 have also been received in this financial year while repayments of contributions to developers of £299,000 have been made. The Council has utilised contributions of £98,000 for the purchase of car parking machines.

- 4.4 Expenditure on land and buildings to 30 June totals £950,000. The major items of expenditure are £351,000 for the ongoing works to provide early learning and childcare facilities at Milnes Primary School and £321,000 for early learning and childcare expansion, mainly at Lady Cathcart centre in Buckie. The early learning and childcare expansion projects are funded by capital grant received from the Scottish Government.
- 4.5 Expenditure on infrastructure assets to 30 June totals £1,545,000. The major items of expenditure are £747,000 on carriageway resurfacing/ reconstruction, £221,000 on bridges infrastructure, £127,000 on Elgin Transport Strategy and £330,000 for street lighting (including £230,000 on new LED lighting).
- 4.6 Expenditure on vehicles, plant and equipment to 30 June totals £520,000. The major items of expenditure are £161,000 on the vehicle replacement programme, £98,000 on car parking machines and £218,000 on ICT projects.

5. **PROJECTED OUTTURN**

- 5.1 Budget managers have been requested to update projected estimates of expenditure on capital projects in 2018/19. Projects are graded for confidence of achieving projected expenditure with high confidence rated as green, medium confidence as amber and low confidence as red. A summary of the ratings is given in the table below.

Risk status	RAG	No. of projects	Projected expenditure 2018/19 £000s
High confidence of spend to estimate	G	81	23,015
Medium confidence spend to estimate	A	6	14,058
Low confidence of spend to estimate	R	4	7,173
		<u>91</u>	<u>44,246</u>

- 5.1.1 The following projects are rated as Amber:

Project	Reason for rating	Para ref	£000s
Lossie High School	Timing of complex project	5.3.5	10,575
Early Learning/C'care	Timing of various projects	5.3.6	2,925
Lossie Seatown FRM	Timing of expenditure	5.7.4	190
Newmill Flood Allev.	Potential compensation	5.7.4	78
Forres Flood Allev.	Potential compensation	5.7.4	150
Buckie Harbour Imp.	Funding confirmation	5.7.6	140

5.1.2 The following projects are rated as Red:

Project	Reason for rating	Para ref	£000s
Linkwood Primary	Timing of complex project	5.3.4	3,858
Drainage Works	Tender pricing & winter weather	5.7.2	760
Elgin Trnsprt Stratgy	Timing of schemes	5.7.3	2,500
P'gordon Flood RM	Project feasibility	5.7.4	55

5.2 A summary of the projected variances at June 2018 from the current approved capital programme, as detailed in **APPENDIX 1**, is set out below:

Description	Para ref	Underspend (Overspend) £000
Land & Buildings		
Schools Estate	5.3.1	(4)
Linkwood Primary School	5.3.4	2,953
Lossiemouth High School	5.3.5	9,536
Complex Housing Needs Residential Facility	5.4.1	(27)
Integrated Waste Facility Moycroft	5.5.3	1,800
Materials Recovery Facility	5.5.6	100
Infrastructure		
Portgordon Flood Risk Mgt	5.7.4	100
Lossie Seatown Flood Risk Mgt	5.7.4	34
Dallas Flood Alleviation Scheme	5.7.4	(13)
Elgin Flood Alleviation Scheme	5.7.4	(100)
Forres (River Findhorn & Pilmuir) Flood Allev. Scheme	5.7.4	(150)
Buckie Harbour replace life expired items	5.7.5	233
Burghead Harbour replace life expired items	5.7.5	5
Plant & Equipment		
ICT Core Programme	5.8.4	76
IJB OT stores stock system	5.8.4	(17)
CCTV Replacement	5.8.5	(9)
Total		14,517

5.3 Land and Buildings – Children & Young Peoples Services Committee

- 5.3.1 **Schools Make Do and Mend Programme** – A budget of £3,312,000 for Make Do and Mend projects is allocated across 5 schools in 2018/19: East End Primary, Cluny Primary, Forres Academy, New Elgin Primary and Andersons Primary, with minor expenditure for Keith Grammar, Speyside High and Hopeman Primary relating to final costs for prior year projects. Apart from expenditure of £4,000 for final costs relating to building works at Keith Grammar, all Make Do and Mend projects are currently projected to spend to budget.
- 5.3.2 **School fire safety works and the bus drop off point at East End Primary** (for Linkwood Primary School) are anticipated to spend to budget.
- 5.3.3 **Milnes Primary School – Replace hatted accommodation and pre-school provision** – This project is budgeted at £2,500,000 over a number of years, including a budget of £1,032,000 in 2018/19. Final works, including demolition of the old huts and landscaping, are due to be completed within the next few weeks and it is anticipated that the project will spend to budget.
- 5.3.4 **New Linkwood Primary School in South Elgin** – The project to construct a new primary school in South Elgin has an approved budget of £11.5 million, including budget of £6,811,000 in this financial year. It is anticipated that, following the tender review process, the final contract cost will be known by late September with work on site potentially commencing in mid November. Currently, the projected spend in 2018/19 is £3,858,000 and is rated as red for confidence of achieving this amount due to the complex nature of this major project. Therefore it is requested that committee approve the deferment of budget of £2,953,000 from 2018/19 into 2019/20.
- 5.3.5 **Lossiemouth High School** – The project to construct a new secondary school in Lossiemouth has an approved budget of £42.3 million, to be funded by Government grants of £25.4 million with Moray Council funding the balance of £15.9 million. The main school building and community facilities are currently programmed to be completed by June 2020. Currently the projected spend in 2018/19 is £10,575,000 and is rated as amber for confidence of achieving this amount due to the complex nature of this major project. Therefore it is requested that committee approve the deferment of budget of £9,536,000 from 2018/19 to 2019/20.
- 5.3.6 **Childcare Expansion projects** – Grant funding of £2,400,000 has been received in August 2018 from the Scottish Government to support the expansion of entitlement of funded early learning and childcare to 1140 hours from August 2020. When combined with prior year grant funding of £525,000, the 2018/19 budget allocation totals £2,925,000. Currently it is anticipated that this budget allocation will be fully spent although this is rated as amber, as there are a number of separate projects within the budget heading. New provision at Lady Cathcart in Buckie has been completed, with construction works due to commence in January 2019 at Cullen and Pilmuir in Forres.

5.3.7 Other projects reporting to Children and Young Peoples Services Committee are currently projected to spend on budget.

5.4 Land and Buildings – Social Care services

5.4.1 **Complex housing needs** – The facility in Lhanbryde, which is operational, has incurred expenditure of £27,000 in 2018/19. This represents an overspend of £24,000 from the approved budget of £2,558,000, as detailed in **Appendix 2**.

5.5 Land & Buildings – Economic Development & Infrastructure Services

5.5.1 **Industrial Estates** – Industrial Estates projects include purchase of new sites, provision of serviced sites, new units and refurbishment of existing units. No variances are currently projected from the budget of £1,482,000.

5.5.2 **New landfill cells, capping and reinstatement** – This programme of works at Dallachy landfill site includes creation of new cells, capping and reinstatement of used cells. No variances are currently anticipated.

5.5.3 **Integrated Waste Facility Moycroft**– This project is to redevelop and consolidate waste facilities at Moycroft in Elgin and has an approved budget of £3,532,000 over a number of years. Following a delay due to the completion of a value engineering exercise, contract works are now scheduled to start in January 2019 with anticipated expenditure of £674,000 in this financial year from the budget of £2,474,000. Therefore it is requested that committee approve the deferment of budget of £1,800,000 from 2018/19 to 2019/20.

5.5.4 **NESS Energy** – The interauthority agreement with Aberdeen City Council and Aberdeenshire Council relating to the NESS energy from waste project is projected to spend to the budget of £514,000. This expenditure includes the Council's share of the cost of acquisition of the site of the proposed facility.

5.5.5 **Upgrade Facilities at Recycling Centres** – This project to upgrade facilities at Gollachy Buckie and Waterford Forres and is anticipated to spend to the budget of £361,000.

5.5.6 **Materials Recovery Facility Upgrade** – This project has been deferred to 2019/20 as it is dependent upon the progress of the Moycroft integrated waste facility project. Therefore it is requested that committee approve the deferment of the full budget of £100,000 from 2018/19 to 2019/20.

5.5.7 Other projects reporting to Economic Development and Infrastructure Committee are currently projected to spend on budget.

5.6 Land & Buildings – Policy & Resources Committee

5.6.1 **Legionella and Fire Risk Assessment** – Assessments have taken place, and works resulting from these assessments are planned to be on budget.

5.6.2 **Depot Maintenance** – No variance is currently anticipated on Depot Maintenance projects arising from condition surveys, which includes works at Ashgrove Depot Elgin, Dufftown Depot, Keith Depot and Forres Depot.

5.6.3 **Energy Efficiency projects** – This budget is planned to be fully utilised in 2018/19, including projects on LED lighting.

5.7 **Infrastructure**

5.7.1 The majority of infrastructure projects are estimated to be on time and on budget during 2018/19.

5.7.2 **Drainage & Other Works** – This budget includes an allocation of £300,000 for landslip remedial works at South Lodge on the A940. Final design costs of the proposed works are awaited, however it is the intention to carry out the works during 2018/19. Planned works within this budget heading can also be affected by winter weather, therefore this budget is rated as red in terms of achieving the projected expenditure of £760,000.

5.7.3 **Elgin Transport Strategy** – The Elgin Transport Strategy report was approved by Council on 9 August 2017. At this stage of the year the timings of schemes are uncertain because of scheme interdependencies and scheme funding, therefore this project is marked as red for certainty of achieving projected spend. Further details will be reported to this committee in the next quarterly monitoring report.

5.7.4 **Flood Alleviation Schemes** – The Flood Risk Management project at Portgordon is estimated to incur expenditure of £55,000 but is rated as red for confidence of achieving this projected figure. It is expected that the economic feasibility of taking forward this entire project will be known by the end of August.

The project at Lossiemouth Seatown is anticipated to spend £190,000 but this estimate is currently rated as amber, with increased certainty of expenditure following completion of the business case design, due in September.

Final costs for Dallas flood alleviation scheme of £13,000 have been incurred, relating to land purchase. When added to the overspend of £39,000 reported to this committee on 28 June 2018, this results in a total overspend of £52,000 from the original budget of £300,000.

Projected expenditure of £78,000 for Newmill Flood Alleviation Scheme is rated as amber due to potential land compensation payments.

Potential land compensation payments remain as the principal outstanding issue for the flood alleviation schemes in Elgin and Forres (River Findhorn & Pilmuir). Approved capital budget is held in future years for potential payments and the total projected expenditure for each scheme remains within the original budget allocations, namely £86.201 million for Elgin and £45.125 million for Forres (River Findhorn & Pilmuir). Expenditure of £100,000 for Elgin and £150,000 for Forres (River Findhorn & Pilmuir) is anticipated to be incurred during 2018/19, therefore it is requested that committee approve advancement of budget from future years to 2018/19 of £250,000.

5.7.5 **Harbours – Life expired items and upgrades** – There is a rolling programme of works to replace life expired items and upgrade facilities at

harbours in Moray. Following completion of the tendering process, the current estimated cost for works at Buckie Harbour is £468,000. There is potential for costs to rise due to the nature of work and environment but, with the works due to start very shortly, there should be more cost certainty by the end of quarter 2. A small underspend of £5,000 is currently estimated for works at Burghead Harbour.

5.7.6 Buckie Harbour Improvements – The project to provide ice plant facilities and fuel tank facilities at Buckie is rated as amber, with spend being dependent on the successful application for external funding, which is currently in progress. If successful the expenditure must be incurred within the current financial year.

5.8 Vehicles, Plant & Equipment

5.8.1 Swimming pool equipment – expenditure of £5,000 to date reflects the planned profile of spend and the budget for the year is projected to spend in full.

5.8.2 Vehicle & Plant Replacement Programme - This programme is currently estimated to spend on budget. Purchase of the electric bus is also estimated to spend on budget.

5.8.3 Equipment (ED&I committee) – expenditure is projected to spend in full in the year on the various programmes of equipment renewal and one-off projects.

5.8.4 ICT Programme – ICT projects, budgeted at a total of £1,210,000, are projected to spend £1,134,000. Currently, minor underspends in 2018/19 are projected in several projects, namely £11,000 in Software, £36,000 in Digital Public Services and £29,000 in Schools ICT Strategy. There is unbudgeted expenditure of £17,000 for final implementation costs of the Moray Integrated Joint Board Occupational Therapy stock system.

5.8.5 CCTV System – This project shows an overspend in 2018/19 of £9,000. The total budget for this project, across several years, was £60,000, resulting in an overall overspend of £5,000 due to a requirement for the purchase of additional equipment to operate the system across locations in Moray.

5.9 Proposed budget deferrals to 2019/20 – This report includes details of projects which have slipped and therefore it is proposed to defer budget from 2018/19 to 2019/20 to reflect this fact.

A summary of the proposed deferments from 2018/19 to 2019/20 is listed below

	Para ref	£000s
New Linkwood Primary School	5.3.4	2,953
Lossiemouth High School	5.3.5	9,536
Integrated Waste Facility Moycroft	5.5.3	1,800
Materials Recovery Facility Upgrade	5.5.6	100
Total		14,389

5.10 Proposed budget advancements from future years to 2018/19 – A summary of the proposed budget advancements is listed below.

	Para ref	£000s
Elgin Flood Alleviation Scheme	5.7.4	100
Forres (Findhorn & Pilmuir) Flood Scheme	5.7.4	150
Total		250

6. RISK AND EMERGING ISSUES

- 6.1 Budget managers have been requested to identify any specific areas of risk for the projects in the Capital Plan for which they are responsible.
- 6.2 The main risk for the vehicle replacement programme is manufacturers failing to deliver to agreed timescales.
- 6.3 Land compensation claims remain a risk for the major flood alleviation scheme at Forres.
- 6.4 Projects such as the new build Linkwood Primary School can be subject to risks which are outwith the direct control of the Council.
- 6.5 Poor weather conditions can impact project timescales, as identified for Roads Drainage works.
- 6.6 Lack of staff resources and staff turnover can impact on project timescales.
- 6.7 Other emerging work priorities can impact on scheduled works.
- 6.8 No other project risks have been specifically identified by budget managers.
- 6.9 There is a potential risk to grant funding of the new Lossiemouth High School should the project not complete on time.

7. **SUMMARY OF IMPLICATIONS**

(a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Effective budget management is an essential component of delivery of Council priorities on a sustainable basis.

The capital plan is one of the vehicles through which the council's priorities can be delivered. The approved capital plan for 2018/19 and the outline ten year plan incorporates measures designed to address the Moray 2026 priorities of achievement and attainment by children and young people, adults leading safer lives and sustainable economic development.

(b) **Policy and Legal**

There are no policy or legal implications arising directly from this report.

(c) **Financial Implications**

The financial implications are highlighted within the report and Appendices 1 and 2 to the report.

(d) **Risk Implications**

Budget managers are aware of their responsibilities for managing budget allocations and approval for variance will be sought from committee in line with the financial regulations. Risks specific to items within the capital plan are highlighted in paragraph 6 of the report.

(e) **Staffing Implications**

There are no staffing implications arising directly from this report.

(f) **Property Implications**

There are no property implications arising directly from this report.

(g) **Equalities/Social Economic**

There are no issues arising from this report.

(h) **Consultations**

All capital budget managers have been consulted in the development of estimated actuals as part of the preparation of this report. CMT have been consulted and any comments incorporated in the report.

8. CONCLUSION

- 8.1 Capital expenditure in the first quarter of the year amounts to £3,015,000 to the end of June 2018.**
- 8.2 Capital expenditure is currently projected to be £14,517,000 lower than the approved capital plan for 2018/19. This is largely due to expenditure reprofiling on two major projects.**

Author of Report: Douglas McLaren, Accountant
Ref: DMcL/LJC/239-2515/239-2511/239-2513

**THE MORAY COUNCIL CAPITAL PROGRAMME 2018/19
AS AT 30TH JUNE 2018**

Summary Capital Programme

	Current Budget 2018-19 £000	Actual Expenditure £000	Projected Expenditure				Total Projected Expenditure £000
			Q1 £000	Q2 £000	Q3 £000	Q4 £000	
Land and Buildings							
Children and Young People's Services Committee	34,680	873	864	6,518	7,329	7,484	22,195
Health and Social Care Committee	0	27	27	0	0	0	27
Economic Development and Infrastructure Committee	5,434	46	46	421	353	2,714	3,534
Policy and Resources Committee	665	4	4	14	109	538	665
Infrastructure							
Economic Development and Infrastructure Committee	12,653	1,545	1,721	2,101	3,199	5,523	12,544
Vehicles, Plant and Equipment							
Children and Young People's Services Committee	550	5	5	10	260	275	550
Economic Development and Infrastructure Committee	3,556	264	420	487	1,116	1,533	3,556
Policy and Resources Committee	1,225	251	387	304	201	283	1,175
	58,763	3,015	3,474	9,855	12,567	18,350	44,246
FUNDING							
Prudential Borrowing	28,276	329					13,759
General Capital Grant (exc PSHG and CYPA)	10,400	2,636					10,400
General Capital Grant - Children and Young Persons Act	2,400	0					2,400
Specific Capital Grants - Elgin Transport Strategy 60%	1,500	0					1,500
Specific Capital Grants - CWSS	131	0					131
STTS grant funding	470	0					470
Developer Contributions - Elgin Transport Strategy 40%	1,098	0					1,098
G-PaTRA / Green Bus Fund	290	0					290
Capital grant funding for new Lossie High School SFT	13,198	0					13,198
Other Capital receipts to be generated in year	1,000	50					1,000
	58,763	3,015	0	0	0	0	44,246

THE MORAY COUNCIL CAPITAL PROGRAMME 2018/19

	Capital Plan 2018-19 £000	Actual £000
Sale of assets	1,000	
Receipts received		50
Total sale receipts received	1,000	50
Other grants / receipts		
Grants		
General Capital Grant (exc PSHG and CYPA)	10,400	2,636
Specific Capital Grant - Children and Young Persons Act	2,400	
Specific Capital Grants CWSS	131	
Specific Capital Grants Elgin Transport Strategy	1,500	
Green Bus Fund	290	
Capital Grant Funding new Lossie High School	13,198	
Harbour Infrastructure Upgrades EMFF grant	105	
STTS grant funding	470	
Developer Contributions		
Developer Contribution - Elgin Transport Strategy	1,000	
Elgin Car Parking	98	98
Buckie High Area		1
Elgin Academy Area		
Elgin High Area		16
Forres Academy Area		3
Keith Grammar Area		1
Lossiemouth High Area		1
Milnes High Area		1
Speyside High Area		3
Developer Contributions Repaid		-299
Total other grants / receipts	29,592	2,461
Total receipts	30,592	2,511

**THE MORAY COUNCIL CAPITAL PROGRAMME 2018/19
AS AT 30TH JUNE 2018**

Projected Expenditure

Land and Buildings	Current	Actual					Total Projected	R/A/G
	Budget 2018-19 £000	Expenditure £000	Q1 £000	Q2 £000	Q3 £000	Q4 £000	Expenditure £000	
Children and Young People's Services Committee								
Schools Estate								
East End Primary M&E Works 619115B	593	12	12	510	0	71	593	G
Cluny Primary M&E Works 619086B	668	15	15	536	36	81	668	G
Forres Academy M&E Works 619429B	676	15	15	580	0	81	676	G
New Elgin Primary M&E Works, Building Works 619274	922	11	11	704	179	28	922	G
Andersons Primary M&E Works 619025	434	23	23	335	24	52	434	G
Keith Grammar Building Works 619481	0	4	4	0	0	0	4	G
Speyside High School Building Fabric Works 619382	14	1	1	0	0	13	14	G
Hopeman PS 619151 Roof & Stonework	5		5	0	0	0	5	G
Legionella works	35	4	4	10	10	11	35	G
Fire safety	130	14	6	23	67	34	130	G
School fire audits	222	7	1	119	50	52	222	G
Linkwood Primary School at East End Primary bus drop-off point	50		0	0	50	0	50	G
Other Schools								
Milnes Primary School - replace hutted accommodation and pre-school provision	1,032	351	351	335	230	116	1,032	G
New Primary School in South Elgin (Linkwood)	6,811	21	21	0	1908	1929	3,858	R
New Lossiemouth High School and Pool	20,111	70	70	2858	3771	3876	10,575	A
Forres Academy replacement of hutted accommodation	37		0	0	0	37	37	G
Early Learning & Childcare expansion	2,925	321	321	504	1000	1100	2,925	A

All public facilities	15	4	4	4	4	3	15	G
Total Children and Young People's Services Committee	34,680	873	864	6,518	7,329	7,484	22,195	
Moray Integrated Joint Board								
Complex Housing Needs Residential Facility	0	27	27	0	0	0	27	G
Total Health and Social Care Committee	0	27	27	0	0	0	27	
Economic Development and Infrastructure Committee								
Industrial Portfolio								
Preliminary Investigations	15		0	5	5	5	15	G
Land Acquisition - Forres	1,110		0	0	0	1110	1,110	G
Serviced Sites - Chanonry Road, Elgin	24		0	20	0	4	24	G
Serviced Sites - March Road, Buckie	150	32	32	25	70	23	150	G
Serviced Sites - Speyside	5		0	0	5	0	5	G
Refurbishment Industrial Units	150	14	14	25	99	12	150	G
Refurbishment Estate Roads	28		0	28	0	0	28	G
Waste Management								
New landfill cells, capping & reinstatement	378		0	50	50	278	378	G
Integrated Waste Facility	2,474		0	18	10	646	674	G
NESS Energy	514		0	250	0	264	514	G
Upgrade Recycling Centre facilities	361		0	0	0	361	361	G
Materials Recovery Facility Upgrade	100		0	0	0	0	0	G
Grounds Maintenance / Public Areas								
Replacement burial grounds - ground investigation Elgin Site	11		0	0	0	11	11	G
Replace waterproofing and expansion joints at multi-storey car park	114		0	0	114	0	114	G

Total Economic Development and Infrastructure Committee	5,434	46	46	421	353	2,714	3,534	
Policy and Resources Committee								
Offices, Depots etc								
Upgrades arising from Legionella and Fire Risk Assessments	40		0	0	20	20	40	G
Depot maintenance from condition surveys	610		0	10	85	515	610	G
Energy efficiency projects	15	4	4	4	4	3	15	G
Total Policy and Resources Committee	665	4	4	14	109	538	665	
Total Land and Buildings	40,779	923	914	6,953	7,791	10,736	26,394	

**THE MORAY COUNCIL CAPITAL PROGRAMME 2018/19
AS AT 30TH JUNE 2018**

Infrastructure	Current Budget 2018-19 £000	Actual Expenditure £000	Projected Expenditure				Total Projected Expenditure £000	R/A/G
			Q1 £000	Q2 £000	Q3 £000	Q4 £000		
Economic Development and Infrastructure Committee								
Road safety								
Road safety provision	90		0	0	40	50	90	G
Disability adaptations	70	14	14	20	28	8	70	G
Road safety barrier provision	158		0	0	50	108	158	G
New road signs and markings	30	2	2	5	10	13	30	G
CWSS	131	4	4	0	20	107	131	G
Roads Improvements								
Carriageway resurfacing / reconstruction / surface dressing	2,042	747	747	600	595	100	2,042	G
Footways	300	15	15	95	95	95	300	G
Drainage and other works	760	39	39	50	271	400	760	R
Timber Traffic structural works	720	17	17	347	347	9	720	G
Bridges - strengthening and replacement								
U97H Tomliath Bridge	10		0	0	5	5	10	G
B9136 Glenlivet Bridge	150		0	0	150	0	150	G
A941 New Craigellachie Bridge	25		3	3	10	9	25	G
A940 Glenernie Bridge	150	95	150	0	0	0	150	G
B9007 Logie Bridge	150	126	150	0	0	0	150	G
C2E Cloddach Bridge	10		0	0	0	10	10	G
Arthurs Bridge	114		0	4	110	0	114	G
Remote footbridges	55		0	0	40	15	55	G

Elgin Transport Strategy	2,500	127	127	150	0	2223	2,500	R
Street Lighting								
Replace SOX and SON street lights with LED Lights	1,034	230	270	270	247	247	1,034	G
Replacement columns and lights	725	100	165	200	180	180	725	G
Flood Alleviation & Flood Risk Management								
Portgordon	155		0	15	40	0	55	R
Lossiemouth Seatown	224	11	0	30	80	80	190	A
Dallas	0	13	13	0	0	0	13	G
Newmill	78		0	0	0	78	78	A
Elgin			0	0	0	100	100	G
Forres (River Findhorn & Pilmuir)			0	0	0	150	150	A
Harbours - replacement of life expired elements and upgrade								
Buckie	701		0	312	156	0	468	G
Burghead	258	5	5	0	248	0	253	G
Hopeman	0						0	
Findochty	61		0	0	61	0	61	G
Portknockie Landslip	1,745		0	0	349	1396	1,745	G
Harbour Economic Development								
Economic Development	67		0	0	67	0	67	G
Buckie Harbour Infrastructure Improvements - Ice Plant & Fuel Tan	140		0	0	0	140	140	A
Total Economic Development and Infrastructure Committee	12,653	1,545	1,721	2,101	3,199	5,523	12,544	

**THE MORAY COUNCIL CAPITAL PROGRAMME 2018/19
AS AT 30TH JUNE 2018**

Projected Expenditure

	Current Budget 2018-19 £000	Actual Expenditure £000	Q1 £000	Q2 £000	Q3 £000	Q4 £000	Total Projected Expenditure £000	R/A/G
Vehicles Plant and Equipment								
Children and Young People's Services Committee								
Replacement of swimming pool equipment	50	5	5	10	10	25	50	G
Moray Leisure Centre	500		0	0	250	250	500	G
Total Children and Young People's Services Committee	550	5	5	10	260	275	550	
Economic Development and Infrastructure Committee								
Vehicle & plant replacement programme	3,039	161	317	168	1054	1500	3,039	G
G-PaTRA / Green Bus Fund - purchase of electric bus	290		0	290	0	0	290	G
Children's Play Areas (Parkland)	35	1	1	10	10	14	35	G
Facilities Management Equipment	13		0	5	4	4	13	G
Domestic & Trade Waste Bins	35		0	0	35	0	35	G
Upgrade of containers at recycling centres	10		0	0	0	10	10	G
New Car Parking Machines	98	98	98	0	0	0	98	G
Traffic Data Collection Equipment	11	4	4	4	3	0	11	G
Traffic signal replacement Forres	5		0	0	0	5	5	G
Pool Car Booking System	20		0	10	10	0	20	G
Total Economic Development and Infrastructure Committee	3,556	264	420	487	1,116	1,533	3,556	

Policy and Resources Committee

ICT Core Programme

Servers Infrastructure	285	62	62	88	63	72	285	G
Unix server replacement deferred	50		0	0	0	50	50	G
Network infrastructure	116	20	21	45	15	35	116	G
Desktop and Mobile Devices	233	98	113	60	33	27	233	G
Software	151	4	15	33	44	48	140	G
Digital Public Services	86	16	16	24	7	3	50	G
Schools ICT strategy	289	18	127	52	37	44	260	G
IJB OT stores stock system	0	17	17	0	0	0	17	G
Corporate committee management information system	5	5	5	0	0	0	5	G
Replacement of office furniture	10	2	2	2	2	4	10	G
Replacement of CCTV system	0	9	9	0	0	0	9	G
Total Policy and Resources Committee	1,225	251	387	304	201	283	1,175	
Total Vehicles Plant and Equipment	5,331	520	812	801	1,577	2,091	5,281	

Major Capital Projects spanning more than 1 financial year (as at 30 June 2018)

APPENDIX 2

Description	Approved Total Budget	Total Expenditure in previous financial years	Current Budget 2018-19	Actual spend 2018-19	Remaining Budget 2018-19	Project Life Spend to 30/06/18	Projected Future Years Budget Required	Estimated Final Cost	Projected Variance
	£000	£000	£000	£000	£000	£000	£000	£000	£000
Milnes PS 61582 early learning & childcare	2,500	1,468	1,032	351	681	1,819	0	2,500	0
New Linkwood Primary School	11,500	537	6,811	0	6,811	537	4,152	11,500	0
New Lossiemouth High School	42,300	1,039	20,111	70	20,041	1,109	21,150	42,300	0
Complex Housing Needs Residential Facility	2,558	2,555	0	27	-27	2,582	0	2,582	-24
LED Street lighting replacement programme	5,000	2,195	1,034	230	804	2,425	1,100	4,329	671
Moycroft Integrated Waste Facility	3,532	58	2,474	0	2,474	58	1,000	3,532	0
Total	67,390	7,852	31,462	678	30,784	8,530	27,402	66,743	647



REPORT TO: THE MORAY COUNCIL ON WEDNESDAY 5 SEPTEMBER 2018

SUBJECT: MANAGEMENT RULES FOR PUBLIC LIBRARIES

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

- 1.1 The Council is asked to approve the draft updated Management Rules for Public Libraries.
- 1.2 This report is submitted to Council in terms of Section II(5) of the Council's Scheme of Administration relating to the enactment, alteration or revocation of any Orders, Regulations, Bye-Laws or Schemes.

2. RECOMMENDATION

2.1 It is recommended that the Council:

- (i) **approves the draft updated Management Rules for Public Libraries; and**
- (ii) **delegates to the Head of Legal and Democratic Services authority to advertise the Council's intention to make management rules and, in the event of there being no objections received to this, thereafter to execute the rules on behalf of the Council. In the event that objections are received, the matter will then be referred back to a future meeting of the Council in relation to the rules on which those objections were received.**

3. BACKGROUND

- 3.1 Under the Civic Government (Scotland) Act 1982, a local authority may make management rules to regulate the use of, and the conduct of persons while in or on any land or premises owned, occupied or managed by the local authority or otherwise under its control, and to which the public has access whether on payment or not.
- 3.2 Previous management rules were promoted by The Moray District Council and came into force on 1 April 1994. The Civic Government (Scotland) Act 1982 states that management rules continue in force for a period of 10 years; previous management rules in relation to public libraries have now therefore expired and so are not enforceable within Moray Council libraries. As such, the local authority cannot currently regulate the use and conduct of persons using libraries, nor take actions where someone has contravened, is

contravening or is about to contravene a management rule. Library staff frequently face difficult situations in libraries. The challenges faced on a regular basis include improper conduct and behaviour towards other service users and staff; damage of equipment; the use of obscene language; consumption of alcohol; people loudly holding personal conversations on mobile phones; and people smoking in the library entrances and vaping inside the buildings. In addition, there have been other occasional problems including individuals bringing pets and bicycles into libraries; and photos being taken that include other library users or staff. Staff have also faced verbal threats from some users. New management rules for public libraries will allow for regulation and for enforcement action to be taken when rules have been contravened.

- 3.3 The Council is asked to approve the draft updated management rules for public libraries, attached as **Appendix 1**. Whilst management rules for public libraries and museums were previously combined, it is considered that it is appropriate for these rules to be drafted as separate documents, considering the differences between them (for example, there is no need to regulate in relation to borrowing from museums) and since they are created under different corporate directors acting as authorised officers. Draft updated management rules relating to Moray Council museums will be considered separately at a later date.
- 3.4 In the main, the new draft rules are written in the same or similar terms to the previous rules, and concern the same matters, though there have been some amendments made. The new draft rules allow all assistance dogs to be admitted to the premises, and not just guide dogs for the blind. They also allow people to bring buggies and prams into the premises and full access to wheelchair users is provided. There have also been amendments made in relation to access to toilets; an exception to the rule that persons over eight years old may not enter the toilets of the opposite sex has been inserted. This removes the impact on those undergoing gender reassignment as it will allow the Authorised Officer to make arrangements for people based on medical grounds, in cases where unisex facilities are not available. In addition, the use of mobile phones is now regulated.
- 3.5 Following approval of draft management rules, the local authority must give at least one month's notice of its intention to make the management rules by advertising this in a local newspaper. It is proposed that the Head of Legal and Democratic Services makes the necessary arrangements for this and, should no objections be received, the management rules would then come into force when they are executed by being sealed and signed by a Proper Officer. The intention would be for this procedure to be completed by the Head of Legal and Democratic Services. The executed management rules will then be displayed at the entrance to the land or premises to which they apply, together with a notice stating where copies of them may be obtained by the public, free of charge.
- 3.6 The local authority must take into account any objection received within the advertisement period and give the objector the opportunity to be heard. In the event that objections are received within this period, the matter would be referred back to a future meeting of the Council.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The proposed management rules promote one of the top priorities in Moray 2023 – ‘Provide a sustainable education service aiming for excellence’ and the LOIP priority of ‘Raising Aspirations: Moray provides an enabling environment where residents can achieve expanded choices and improved livelihood and wellbeing.’

(b) Policy and Legal

The process for making management rules is set out within this report. By making these management rules, the local authority is exercising its power to make subordinate legislation under the Civic Government (Scotland) Act 1982. Management rules regulate the use of, and the conduct of persons while in or on any land or premises owned, occupied or managed by the local authority, and to which the public has access to. These management rules must be adhered to by any person using such premises or land. The principal sanctions for breaching the rules are exclusion or expulsion from the premises. Failure to leave the premises when asked to do so by an authorised officer is an offence and on summary conviction, a fine not exceeding £200 may be imposed.

(c) Financial Implications

Advertising the management rules following approval in the local newspaper will incur costs. The intention would be for the management rules to be advertised in the Northern Scot. Based on a quotation obtained from this newspaper, the cost of the advertisement will be approximately £184. Similarly, costs will be incurred in displaying the management rules at the relevant premises. All costs can be met from the libraries promotions/marketing budget.

(d) Risk Implications

Management rules for public libraries will regulate the use of, and the conduct of, persons using these facilities. Imposing these rules will alleviate risks that individuals may pose to themselves or others when using Council facilities. Management rules allow authorised officers to take action where they have reasonable grounds for believing that someone has contravened, is contravening or is about to contravene a management rule. Without management rules, the local authority cannot regulate the use of and the conduct of persons using their facilities nor take actions where someone has contravened, is contravening or is about to contravene a management rule.

(e) Staffing Implications

Staff time will be involved in advertising and making the management rules.

(f) Property

None arising from this report.

(g) Equalities/Socio Economic Impact

An equality impact assessments (EIA) has been carried out as part of the development of the management rules and is attached at **Appendix 2**. Impacts have been identified. These can be mitigated as outlined in question 8 in the EIA.

(h) Consultations

Graham Jarvis, Acting Director of Education and Social Care; Don Toonen, Equal Opportunities Officer; Lorraine Paisey, Head of Financial Services; and the Legal Services Manager (Litigation and Licensing) have been consulted and their comments have been included.

5. CONCLUSION

- 5.1 Management rules are effective for regulating the admission and conduct of members of the public when using libraries.**
- 5.2 The Council is asked to consider and approve the draft updated Management Rules for Public Libraries.**

Author of Report: Sonia Campbell, Solicitor (Litigation & Licensing)

Background Papers:

Ref:

Appendix 1

THE MORAY COUNCIL**RULES FOR THE MANAGEMENT OF PUBLIC LIBRARIES**

The Moray Council (hereinafter “the Council”) in accordance with the terms of Section 112 of the Civic Government (Scotland) Act 1982, hereby makes the following Rules for the Management of Public Libraries (hereinafter “Management Rules”) to regulate the use of and the conduct of persons while in any public library, owned, occupied or managed by the Council or otherwise under their control:-

1. INTERPRETATION OF TERMS

In the construction of these Management Rules, the following expressions shall have the meanings hereby assigned to them, that is to say:-

- (a) The "Council" means The Moray Council as constituted by the Local Government etc. (Scotland) Act 1994.
- (b) "Public Library" means the premises of any Public Library administered by The Moray Council including any structure or motor vehicle used as a Public Library and "premises" shall include any entrances, exits, passages or corridors appertaining to the Public Library.
- (c) "Authorised Officer" means the Corporate Director of Education and Social Care or any person appointed by the Corporate Director of Education and Social Care as an Authorised Officer.
- (d) "Item" means any book, journal, newspaper, pamphlet, document, music score, picture print, photograph, map, film slide, cassette, compact disc, gramophone record, video tape, sculpture, exhibit, DVD, original painting, reminiscence box or other article of the nature forming part of the contents of the Library whether the property of the Library or not or lent therefrom to any person by or on behalf to the Council.
- (e) “Child” means a person under the age of sixteen.

2. GENERAL

The Corporate Director of Education and Social Care shall have the general charge of the Public Library and shall be responsible for the safe custody of the items and all other property belonging thereto, and shall be empowered to make regulations for the day-to-day administration of the Library.

3. REGULATION AND ADMISSION OF THE PUBLIC

- (a) The hours of opening and closing the premises shall be fixed by the Council who reserve the right to alter the same at any time.
- (b) No person shall, without permission of an Authorised Officer, wilfully remain within the Public Library at any time when the same is closed to the public.
- (c) The Council reserves the right to refuse admission to any person, group or organisation in accordance with these management rules.

4. EXCLUSION OF VEHICLES

With the exception of wheelchairs, prams or buggies, no member of the general public may bring any bicycle or other wheeled vehicle or conveyance into the Public Library except with the consent of the Authorised Officer and, in such circumstances, the member of the general public is required to carry out any instructions of the Authorised Officer as to where the bicycle, wheeled vehicle or conveyance requires to be situated and any other instructions relative thereto.

5. EXCLUSION OF ANIMALS

No person shall admit any animal to the building with the exception of Assistance Dogs under the control of their owner.

6. PROVISION AS TO DRESS

Individuals should ensure they are dressed appropriately when entering or remaining in Public Libraries.

7. PROTECTION OF PRIVACY ETC.

- (a) No person shall, at any time, by any disorderly or improper conduct, disturb, interrupt or wilfully intrude upon or interfere with the privacy of any other person in the proper use of the Public Library.
- (b) Other than with the express written consent of the Authorised Officer, based on medical grounds, no male over eight years of age, whether or not accompanied by a responsible female adult shall enter or use any toilet reserved or appropriated by the Council for the use of females only.
- (c) Other than with the express written consent of the Authorised Officer, based on medical grounds, no female over eight years of age, whether or not accompanied by a responsible male adult shall enter or use any toilet reserved or appropriated by the Council for the use of males only.

- (d) The exception to the rule at paragraph (b) and (c) above, involving the Authorised Officer's express consent, in writing, will only be required in cases where other measures cannot be taken in order to accommodate the medical needs of that person.
- (e) No person shall enter or remain in any part of the Public Library identified for the use of staff or as being private or in any other respects set apart from the use of the general public, unless invited by a member of staff or the Authorised Officer.
- (f) No person shall at any time use any device capable of taking photographs in any Library without the express written consent of the Authorised Officer.

8. PREVENTION OF DAMAGE

- (a) No person shall wilfully or carelessly break or damage or tamper with any furniture or fittings or damage, deface, disfigure or improperly soil any part of the premises or facilities.
- (b) No person shall wilfully or carelessly damage, destroy or improperly soil any material, book, publication, exhibit or any other item forming the contents of the Public Library.
- (c) No person shall wilfully, carelessly or negligently injure, destroy or improperly use any item of equipment supplied or hired for his/her use.
- (d) Unless duly authorised by an Authorised Officer, no person shall remove any material, resource, item or piece of furniture provided in any section of the Public Library from the Public Library.
- (e) In the event of any item being damaged or lost the person responsible shall pay a sum sufficient for the repair or replacement of the said item, as may be determined by the Council. An item shall be regarded as being lost when a statement to that effect has been made by the borrower or by its not being returned in response to a final demand notice issued by the Authorised Officer.

9. PREVENTION OF NUISANCE

- (a) No person shall, at anytime, anywhere within a Public Library, use obscene, indecent or offensive language or behave in an obscene, offensive or disorderly manner.
- (b) No person shall bring, unless otherwise authorised, or cause to be brought, into any Public Library, any alcoholic liquor and no person who is in a state of intoxication due to alcohol, drugs or solvent shall enter or remain in a Public Library.

- (c) No person shall display, distribute, affix or post any notice in, to or upon any part of the Library except with the consent of an Authorised Officer.
- (d) Other than with the express written consent of the Authorised Officer, the public use of electronic devices, including mobile phones, is forbidden unless used in such a manner that only a person in close proximity to the electronic device can hear it.
- (e) Other than with the express written consent of the Authorised Officer, no person shall offer anything for sale in any part of any Library.
- (f) No person shall wilfully obstruct any member of staff or Authorised Officer in carrying out his or her duties in connection with any Library or wilfully disturb, interrupt or annoy any other member of the general public in the proper use of the Public Library.
- (g) No person shall cause any disturbance within the premises of the Public Library.
- (h) Spitting in any part of a Library is strictly forbidden.
- (i) No person shall smoke tobacco or any other substance including e-cigarettes in the facilities, which include parking areas.
- (j) No person shall consume food or drink, with the exception of water, while in the Public Library unless in an area designated by the Authorised Officer for that purpose.
- (k) Any person who is in the Public Library but, in the opinion of an Authorised Officer, is there for a purpose other than the purpose for which the Library facilities are provided, is required to leave the Public Library if called to do so by an Authorised Officer.

10. INFECTIOUS DISEASES

Any person in possession of any item who has reason to believe that he/she is suffering from an infectious disease as defined in the Public Health etc. (Scotland) Act 2008, shall as soon as possible notify the Authorised Officer, who shall take such steps as may be appropriate for the recovery of any such items.

11. MEMBERSHIP OF THE LIBRARY

- (a) The Council shall have powers to determine which items may be borrowed and the persons to whom and the conditions under which a borrower's ticket shall be issued and used. Any person desiring to borrow items shall complete and sign the appropriate application form, and thereupon shall receive the appropriate ticket or tickets.

- (b) Such signature shall be taken as an undertaking to confirm to the terms and conditions as laid out in these Management Rules.

12. TEMPORARY MEMBERSHIP OF THE LIBRARY

Any person temporarily resident within Moray may use the facilities of any public library on a temporary basis. Proof of their home address and a refundable deposit of £10 will be required. On return of the person's membership ticket, staff will verify that all borrowed items have also been returned. If the membership ticket and all items have been returned, the person's deposit will be refunded.

13. CHILDREN

Children may borrow items from any Library subject to their application forms being signed by their parent, guardian or carer, who shall thereby undertake to ensure the timeous return in good condition of any items borrowed.

14. PERIOD OF BORROWING

- (a) Items borrowed from the Library shall be returned within such a period as the Council may from time to time determine.
- (b) The period of loan of any item may be extended at the discretion of the Authorised Officer.

15. RESERVATION OF ITEMS

Items may be reserved, subject to conditions which shall be determined by the Council from time to time.

16. CHARGES

- (a) If a borrower fails to return an item within the period determined or extended as aforesaid, he or she shall be charged an overdue charge on a scale which shall be determined by the Council from time to time.
- (b) The Authorised Officer shall be entitled at any time to request the immediate return of any item to the Library. If such a request is not complied with the Officer may take such steps as may be appropriate for the recovery of the item and the cost of such shall be payable by the borrower.
- (c) Any research undertaken, e.g. genealogical enquiries or business information will be charged according to the annual charges set by The

Moray Council.

17. REFERENCE LIBRARY

No item may be borrowed from the Reference Section of any Library, except at the discretion of the Authorised Officer.

18. PHOTOCOPIES

- (a) Any portion of any book, magazine, newspaper, map or such material may be reproduced or photocopied at the discretion of the Authorised Officer, provided that such reproductions shall be in accordance with the requirement of the Copyright Acts and that the user of the book, magazine, newspaper, map or such material shall sign a guarantee that such a reproduction shall not be used in contravention with the aforesaid Acts.
- (b) Charges for this service will be set by The Moray Council on an annual basis.

19. FALSE NAME AND/OR ADDRESS

No person shall give a false name and/or address for the purpose of using any facilities offered by the Library.

20. EXPULSION AND EXCLUSION

- (a) Under section 116 of the Civic Government (Scotland) Act 1982, where an Authorised Officer of the Council has reasonable grounds for believing that a person has contravened, is contravening or is about to contravene the management rules, he/she may expel that person.
- (b) Under section 116 of the Civic Government (Scotland) Act 1982, where an Authorised Officer of the Council has reasonable grounds for believing that a person is about to contravene the management rules, he/she may exclude that person.
- (c) The Council may decide that a person who has persistently contravened or attempted to contravene these management rules and is, in the Council's opinion, likely to contravene them again, shall be made subject to an exclusion order under section 117 of the Civic Government (Scotland) Act 1982. The exclusion order shall be for a period as the Council may determine, not exceeding a year.
- (d) Any person on being required to leave the building or facilities by an Authorised Officer and failing to do so, or being a person who is excluded or

subject to an exclusion order, who attempts to enter any building or facilities, shall be guilty of an offence under section 118 of the Civic Government (Scotland) Act 1982 and may be fined on summary conviction.

21. RULES NOT TO AFFECT EMPLOYEES IN THE PERFORMANCE OF THEIR DUTIES

Any act necessary to the proper execution of his/her duty in the premises by any Officer of the Council or by any person employed by the Council shall not be deemed an offence against any of these rules.

22. COMMENCEMENT

The foregoing Management Rules shall, in terms of Section 112(8) of the Civic Government (Scotland) Act 1982 come into operation on *[DATE TO BE INSERTED]*, the date of their execution and shall, unless earlier revoked, continue in force for a period of ten years from that date.

Appendix 2

Moray Council Equality Impact Assessment

Service: Education and Social Care

Department: Lifelong Learning, Culture and Sport

Title of activity: Management Rules for Public Libraries

1. What are the aims and objectives of the policy/activity?

The Management Rules aim to regulate the admission and conduct of members of the public and to ensure the safety of those using public libraries under the control and management of The Moray Council.

2. List the evidence that has been used in this assessment

Internal data (customer satisfaction surveys; equality monitoring data; customer complaints)	Previous management rules dated 1 April 1994.
Consultation with officers or partner organisations	Sonia Campbell Solicitor (Litigation and Licensing)
Consultation with community groups	N/A
External data (statistics, census, research)	The Civic Government (Scotland) Act 1982.
Other	N/A

3. Detail any gaps in the information that is currently available?

Objections from members of the public not yet known as the Management Rules are yet to be advertised.

4. What measures will be taken to fill the information gaps before the policy/ activity is implemented? These should be included in the action plan

Measure	Timescale
Advertising notice of management rules in local paper will allow objections to be made.	Advertised for one month and all objections will be considered and

	objectors given the opportunity to be heard prior to the rules being implemented.
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5. Are there potential impacts on protected groups? Tick as appropriate

	Positive	Negative	None	Unknown
Disability			✓	
Race			✓	
Religion or belief			✓	
Sex			✓	
Pregnancy and maternity			✓	
Sexual orientation			✓	
Gender reassignment			✓	
Marriage and civil partnership			✓	

6. What are the potential negative impacts?

The rules provide that males/females over the age of 8 years will not be allowed entrance to changing facilities/toilets which have been reserved for the opposite sex. This has the potential to exclude those undergoing gender reassignment; however, an exception has been applied to the rules which should mitigate the impact and remove the exclusion.

7. Have any of the affected groups been consulted? If yes, please give details of how this was done and what the results were. If no, how have you ensured that you can make an informed decision about mitigating steps?

No affected groups have been consulted. The Moray Council's Equal Opportunities Officer has been consulted as has the NHS Scotland Gender Reassignment Protocol.

8. What mitigating steps will be taken to remove those impacts? These should be included in the action plan.

Mitigating step	Timescale
An exception to the rule that persons over 8 years old may not enter changing facilities/toilets of the opposite sex has been inserted to the rules. This removes the impact on those undergoing gender reassignment as it will allow the Authorised Officer to make arrangements for them based on medical grounds. The consent therefore will only be required where unisex facilities aren't available.	Ongoing

Library staff, in particular the Authorised Officers, will be made aware that requests for consent may be made on medical grounds and how they should deal with such requests. A guidance note will be prepared for staff.

To be in place when management rules are made.

9. What steps can be taken to promote good relations between various groups? These should be included in the action plan.

Access to public libraries will bring families, children and young people together within their communities. Regulation of admission and conduct within these facilities should promote tolerance and good relations between various groups. Continued monitoring of the established rules will ensure that regulation is effective and tolerance continues to be promoted between groups.

10. How does the policy/activity create opportunities for advancing equality of opportunity?

The management rules aim to ensure:

- All members of the public have the opportunity to access public libraries.
- All members of the public's admission and conduct is equally regulated.

11. What monitoring arrangements will be put in place? These should be included in the action plan.

Continue to monitor the implementation of the management rules and review the impact of the rules.

12. What is the outcome of the assessment? Tick as appropriate.

1	No impacts have been identified	
2	Impacts have been identified, these can be mitigated as outlined in question 8	✓
3	Positive impacts have been identified in relation to the need to:	
	a) Eliminate discrimination, harassment, victimisation and other behaviour prohibited by the Equality Act 2010	
	b) Promote equality of opportunity	
	c) Foster good relations between groups who share a protected characteristic and those who don't.	
4	The activity will have negative impacts which cannot be mitigated fully	

13. Set out the justification that the activity can and should go ahead despite the negative impact?

A negative impact has been identified in this assessment; however, an exception has been applied to the rules which will mitigate this impact. The impact identified will exist only where the public library does not have unisex facilities in place. The inclusion of an exception in the rules, compounded with staff being trained on the issues, will mitigate this impact.

Sign off and authorisation

Department	Lifelong Learning, Culture and Sport
Title of Policy/activity	Management Rules for Public Libraries
We have completed the equality impact assessment for this policy/activity.	Name: Sheila Campbell Position: Principal Librarian Date: 23 August 2018
Authorisation by Director or Head of Service	Name: Graham Jarvis Position: Acting Director, Education and Social Care Date: 23 August 2018

Action plan

Action	Start	Complete	Lead Officer	Expected Outcome	Resource Implications
Notice of management rules advertised in local newspaper for one month prior to management rules being implemented.	TBC (expected to be immediately following approval of draft rules).	One month following date of advert.	Head of Legal and Democratic Services	Where objections are received, these will be considered and objectors will be given the opportunity to be heard.	Officer time
Continue to monitor the implementation of the management rules and review the impact of the rules.	TBC (expected to be immediately following approval of draft rules).	Ongoing	Principal Librarian	Staff will have information to determine the effectiveness of the rules and any impacts they have on service users.	Officer time
Staff and the Authorised Officers to be aware of gender reassignment in general and be aware of the NHS' protocol. All staff to be made aware that exceptions to the general rule will now apply.	TBC (expected to be immediately following the approval of the draft	Ongoing	Equalities Officer/Principal Librarian/Legal Services	Staff will be made aware of gender reassignment, in particular the NHS protocol and the practicalities which will come from consent based on medical grounds. A guidance note will be made available to staff	Officer time

	rules).			members.	
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REPORT TO: MORAY COUNCIL ON 5 SEPTEMBER 2018

SUBJECT: PROPOSED RESPONSE TO THE SCOTTISH GOVERNMENT CONSULTATION ON IMPLEMENTATION OF THE BARCLAY REVIEW OF NON DOMESTIC RATES IN SCOTLAND

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1.0 REASON FOR REPORT

- 1.1 To consider a response to the Scottish Government's consultation on the implementation of the provisions of the Barclay Review.
- 1.2 This report is submitted to the council in terms of Section III (A) (8) of the council's Scheme of Administration relating to the administration of the levy, collection, payment and recovery of Non-Domestic Rates.

2. Recommendation

2.1 The council is invited to consider:

- (i) **the contents of this report; and**
- (ii) **determine whether the content of the Appendix represents a reasonable response to this consultation.**

3. Background

- 3.1 The Scottish Government previously appointed Ken Barclay to lead a review into non-domestic rating in Scotland. He was given a remit: *"To make recommendations that seek to enhance and reform the non-domestic rates system in Scotland to better support business growth and long term investment and reflect changing market places, whilst still retaining the same level of income to deliver local services upon which businesses rely."*
- 3.2 The Barclay Commission presented its report to the Scottish Government on 22 August 2017. It made thirty recommendations. On 12 September 2017

The Cabinet Secretary for Finance and the Constitution, Derek MacKay, MSP, responded to the report, accepting most of its recommendations, some of which have already been implemented by the government.

3.3 A number of the recommendations selected to be taken forward will require primary legislation; these are the subject of the consultation to which a response is being sought.

3.4.1 The Scottish Government's consultation closes on 17 September 2018.

4.0 Consultation

4.1 Summary of Consultation

4.1.1 The recommendations of the Barclay Commission which are supported by the Scottish Government and are now subject to public consultation include:

- Business Growth accelerator;
- timing of revaluations;
- pilot scheme for out of town rates;
- greater information gathering powers for assessors
- penalties for non-provision of information to local authorities;
- enabling quicker debt recovery;
- introduction of anti-avoidance measures;
- amendment of charity, empty property, and sports reliefs; and
- revision to treatment of commercial activities in public parks.

4.2 Summary of Consultation Response

4.2.1 A proposed response to the Scottish Government's consultation is attached as the **Appendix** to this report.

5. SUMMARY OF IMPLICATIONS

(a) Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017

No council/community planning priority implications for the local authority arise from the content of this report.

(b) Policy and Legal

No policy implications for the local authority arise directly from any decision made by Members in response to this report.

(c) Financial Implications

No financial implications for the local authority arise directly from any decision made by Members in response to this report.

(d) Risk Implications

No risk implications for the local authority arise from the content of this report.

(e) Staffing Implications

No staffing implications for the local authority arise from the content of this report.

(f) Property

No property implications for the local authority arise from the content of this report.

(g) Equalities

No equalities implications for the local authority arise from the content of this report.

(h) Consultations

No consultation has been carried out in the preparation of this report.

6. CONCLUSION

6.1 This report is laid before Members so that they may determine the council's response to the Scottish Government's consultation on the implementation of the provisions of the Barclay Commission.

Author of Report: James Taylor, Taxation Manager (ext. 3160).
Background Papers Scottish Government Consultation:
<https://consult.gov.scot/local-government-and-communities/non-domestic-rates/>

Ref.: JGT/LJC/

Barclay Recommendation

A Business Growth Accelerator – to boost business growth, a 12 month delay should be introduced before rates are increased when an existing property is expanded or improved and also before rates apply to a new build property.

Question 1 - What are your views on how the growth accelerator and new unoccupied build should be treated in legislation?

Moray Council Response: *Moray Council believes that it is in the interests of all stakeholders to make the administrative process associated with the growth accelerator and new unoccupied build as streamlined and cost-efficient as possible. On the basis that these reliefs are available to all ratepayers based on their property's circumstances, it believes that there are no merits in having an application based system, and further it also believes that the removal of the cost of such a system would be a positive outcome.*

We would, therefore, support the implementation of a scheme which would result in new build properties, regardless of occupation, only being entered into the Valuation Roll following the expiration of a period of time stipulated at the discretion of Scottish ministers and it would also support a delay in applying to the Valuation Roll any increase in the rateable value of an improved property until the expiration of a period of time stipulated at the discretion of Scottish ministers.

Barclay Recommendation

There should be three yearly revaluations from 2022 with valuations based on market conditions on a date one year prior (the 'Tone date').

Question 2 – Do you have any comments on three yearly revaluations?

Moray Council Response: *Moray Council, which is responsible for contributing to the funding of its local Valuation Joint Board, is concerned that the movement to a timetable of three-yearly revaluations will very likely require the deployment of additional resources by its Assessor to deal effectively with appeals within a truncated revaluation period. Any such increase in resources will likely have to be funded by local authorities. At a time of increased demands on already pressured local authority budgets, we are concerned that a three-year revaluation timetable would only deliver a marginal change, replacing an efficient and well-proven five-year timetable, at a significant additional cost which many local authorities will likely find difficult to resource.*

Barclay Recommendation

A new power to enable councils to impose an additional levy on rates in certain circumstances.

Question 3 – From 2020 a small number of pilot councils will have a new power to increase rates paid by out of town or predominantly online businesses.

a) Do you agree or disagree with putting in place safeguards?

Moray Council Response: *Moray Council, in general terms, agrees with the proposal and agrees with the need to put in place safeguards to ensure that any scheme is targeted at the appropriate businesses.*

b) Please explain your response to (a) including what the safeguards should be if you agree they are required.

Moray Council Response: *Moray Council believes that the four safeguards outlined in detail in the consultation are reasonable. It feels that it is important that these are in place as they will help to measure the effectiveness of any such scheme in a similar manner across Scotland, thereby ensuring similarity in the measurement of outcomes.*

Question 4 - Do you have any comments on the criteria and process which should be used to assess the pilot scheme(s)?

Moray Council Response: *Moray Council has no specific comments on the criteria and process other than stating that it believes that it is imperative that these are seen to be fair and that the manner in which they are determined is seen to be transparent.*

Barclay Recommendation

The current criminal penalty for non-provision of information to Assessors should become a civil penalty and Assessors should be able to collect information from a wider range of bodies.

Question 5 - What level(s) should this civil penalty be set at?

Moray Council Response: *Moray Council believes that the penalty should be set at 1% of the ratepayer's property's rateable value, with a lower 'floor' of £250 and no upper 'ceiling'.*

Question 6 - How should the penalty be set? Should it be a fixed penalty or proportionate to/banded by rateable value?

Moray Council Response: *Moray Council believes that it would be appropriate to set the penalty as a proportion of the ratepayer's property's rateable value, with a lower 'floor'.*

Question 7 - Do you have any views on who is responsible for administering the penalty and the process for appeals against the penalty notice?

Moray Council Response: *Moray Council believes the Assessor should be responsible for administration of the penalties as these will pertain to requests for information which has been made by his office and to pass the responsibility to another office would add an additional and unnecessary layer of administrative procedure. Any appeal against the decision to levy a penalty should fall within the jurisdiction of the local Valuation Appeal Committee, which already acts as a review body in regard to the Assessor's decisions.*

Question 8 - Which organisations/ individuals should be required to supply necessary information to the Assessors, where applicable?

Moray Council Response: *All persons with an interest in a property, for example, property owners, leaseholders, occupiers, rating agents, etc., should be legally obliged to provide information to the Assessor when a reasonable request for information is made to them.*

Barclay Recommendation

A new civil penalty for non-provision of information to Councils by ratepayers should be created.

Question 9 - What level(s) should this penalty be set at?

Moray Council Response: *Moray Council believes that the penalty should be set at 1% of the ratepayer's property's rateable value, with a lower 'floor' of £250 and no upper 'ceiling'.*

Question 10 - How should the penalty be set? Should it be a fixed penalty or proportionate to/banded by rateable value?

Moray Council Response: *Moray Council believes that it would be most appropriate to set the penalty as a proportion of the ratepayer's property's rateable value, with a lower 'floor' and no 'ceiling'*

Question 11 - Do you have any views on who is responsible for administering the penalty and the process for appeals against any penalty notice?

Moray Council Response: *The local authority should be responsible for administration of the penalties as these will pertain to requests for information which has been made by it and to pass the responsibility to another office would add an additional and unnecessary layer of administrative procedure. Any appeal against the decision to levy a penalty should fall within the jurisdiction of the local Valuation Appeal Committee, which already acts in regard to some decisions made by the local authority and would be – and would be seen to be - independent of the local authority.*

Question 12 - Should this be a mandatory penalty or one that the Council has discretion over (please indicate your preference and add any comments)?

Moray Council Response: *It is Moray Council's preference this penalty is discretionary as that ensures that it is only levied in appropriate scenarios.*

Barclay Recommendation

Councils should be able to initiate debt recovery at an earlier stage.

Question 13 - How should the debt recovery changes be communicated to ratepayers?

Moray Council Response: *Any change to the procedure for the recovery of Non-Domestic Rates should be communicated by a number of mechanisms:*

- (1) The Scottish Government should communicate it directly to ratepayers via national broadcast, print and social media;*
- (2) The Scottish Government should communicate it directly to national organisations (e.g. CBI, FSB, etc.) so that they may disseminate it to their membership;*
- (3) Local authorities should communicate it directly to ratepayers via local radio, print and social media; and*
- (4) Local authorities should communicate it directly to local branches of national organisations and local business organisations (e.g. chambers of commerce) so that they may disseminate it to their membership.*

Question 14 - What are your views on whether Councils should retain discretion over debt recovery to allow for any extenuating circumstances?

Moray Council Response: *Moray Council believes that local authorities should retain discretion over debt recovery and enforcement of unpaid non-domestic rates. This permits them to ensure that recovery is performed in a manner which is appropriate to the circumstances of ratepayers within the local authority's boundaries.*

Barclay Recommendation

Reform of the appeals system is needed to modernise the approach, reduce appeal volume and ensure greater transparency and fairness.

Question 15 - How should this change be communicated to ratepayers?

Moray Council Response: *Any change to appeal procedure should be communicated by a number of mechanisms:*

- (1) *The Scottish Government should communicate it directly to ratepayers via national broadcast, print and social media;*
- (2) *The Scottish Government should communicate it directly to national organisations (e.g. CBI, FSB, etc.) so that they may disseminate it to their membership;*
- (3) *Assessors should communicate it directly to ratepayers via local radio, print and social media;*
- (4) *Assessors should communicate it directly to ratepayers on the receipt of an appeal; and*
- (5) *Assessors should communicate it directly to local branches of national organisations and local business organisations (e.g. chambers of commerce) so that they may disseminate it to their membership.*

Question 16 - Do you have any points about the change to allow valuation appeals to increase?

Moray Council Response: *The Moray Council believes that it is appropriate that, if a ratepayer submits an appeal and the result of that appeal is a determination for whatever reason that the initial rateable value of the property should be increased, then the revised rateable value should be attached to the property on the Valuation Roll and the ratepayer will become liable to pay the increased amount of rates. This is a fair outcome. We believe that it is entirely proper that, should the ratepayer instigate an appeal, the outcome of it should be recorded on the Valuation Roll, regardless of whether it is to the advantage or to the detriment of the ratepayer.*

Barclay Recommendation

A General Anti-Avoidance Rule (GAAR) should be created to reduce avoidance and make it harder.

Question 17 - When the General Anti Avoidance Rule is introduced, do you have any recommendations or principles that this should encompass?

Moray Council Response: *Moray Council would welcome the introduction of a General Anti-Avoidance Rule (GARR) as it is keen to maximize the payment of rates and minimize the opportunities for avoidance of the payment of legally incurred taxation debts. We would like to see the introduction within GARR of an annual review of this legislation so that any new 'loopholes' which are being exploited can be closed promptly by remedial legislation.*

Barclay Recommendation

To counter a known avoidance tactic, the current 42 days reset period for empty property should be increased to 6 months in any Financial year.

Question 18 – How do we raise awareness of this change among ratepayers?

Moray Council Response: *Moray Council believes that any change to empty property relief are legislative and should be publicised across Scotland by Scottish Government. This could be done via a number of mechanisms:*

- (1) *The Scottish Government should communicate it directly to ratepayers via national broadcast, print and social media;*
- (2) *The Scottish Government should communicate it directly to national organisations (e.g. CBI, FSB, etc.) so that they may disseminate it to their membership;*

Question 19 – Do you have any further comments around the 6 month reset period for empty property relief?

Moray Council Response: Moray Council believes it is important that Scottish Government takes steps to close the legislative loophole which permits ratepayers to place a small amount of goods in a property and claim that it is occupied, thereby resetting the period of empty property relief. We believe that revised legislation should make it clear that any period of occupation must be meaningful and that it must result in the property being in active use.

Barclay Recommendation

To counter a known avoidance tactic for second homes, owners or occupiers of self-catering properties must prove an intention to let for 140 days in the year and evidence of actual letting for 70 days.

Question 20 - Should there be any local discretion in the application of this policy?

Moray Council Response - Moray Council does not believe that there should be any local discretion in the application of this policy. It believes the requirement for the availability for letting for 140 days per annum and the leasing of the property for 70 days per annum should be defined in legislation.

Question 21 - If your answer to question 18 is yes, under what circumstances should this discretion apply?

Moray Council Response – (on the basis that the reference in Question 21 to Question 18 is actually a reference to Question 20) Moray Council recognises that there may be exceptional circumstances in which it may not be possible for the ratepayer to offer the property for let for 140 days per annum. In order to ensure recognition of such a scenario, we suggest that a discretionary relief is made available for use in such circumstances. It is envisaged that such a discretionary power should be framed in such a way to ensure that its use is not a regular occurrence.

Barclay Recommendation

Charity relief should be reformed/restricted for a small number of recipients.

Question 22 - How should independent schools with exceptional circumstances such as specialist music schools be treated?

Moray Council Response: Moray Council believes that legislation put in place by Scottish Government should convey to local authorities the ability to identify independent schools which provide a curriculum which is of such an exceptional nature that it may attract an award of rates relief. The extent of any award of relief should be assessed by the local authority, any amount being proportionate to the 'specialist' content of the school's curriculum. It believes that the legislation which underpins any such treatment will require to be very tightly framed to minimize any potential for dispute in regard to its interpretation.

Barclay Recommendation

To focus relief on economically active properties, only properties in active occupation should be entitled.

Question 23 - How should active occupation be defined?

Moray Council Response: Moray Council believes that in seeking to define 'active' occupation there is a danger that any definition will have the potential to create loopholes which are open for exploitation. We are more comfortable with the assumption that the General Anti Avoidance Rule will be utilised in cases where a property is not in active use and an award of relief is sought other than empty property relief.

Barclay Recommendation

To encourage bringing empty property back into economic use, relief should be reformed to restrict relief for listed buildings to a maximum of 2 years and the rates liability for property that has been empty for significant periods should be increased.

Question 24 - What are your views on whether Councils should have discretion in the application of this measure for properties, so that local circumstances can be accounted for?

Moray Council Response – *Moray Council believes that it is appropriate to introduce a discretionary element to the calculation of the rates which are payable in relation to vacant listed properties. We believe that while it is desirable to promote the reoccupation of such properties across Scotland, the circumstances of these properties may make it difficult to bring them quickly back into use. We believe therefore that granting local authorities discretion in regard to listed properties will help to ensure that any revision to legislation is not applied in a 'broadbrush' manner, which may result in the delivery of undesirable outcomes.*

Barclay Recommendation

Sports club relief should be reviewed to ensure it supports affordable community-based facilities, rather than members clubs with significant assets which do not require relief.

Question 25 - How should affordable/ community sports facilities be defined?

Moray Council Response – *Moray Council believes that an affordable/community sports facility should be defined as an entity:*

- (i) the rateable value of which is below a ceiling determined by Scottish Ministers;*
- (ii) open to all members of the community without any form of discrimination on any grounds;*
- (iii) membership fees (if present) should be set at a minimal level which will be affordable by all members of the community;*
- (iv) staffed by persons who are volunteers and do not receive any payment or wage for fulfilment of their duties;*
- (v) if a bar and/or catering facilities are present, these are operated by volunteers and generate revenue below a ceiling determined by Scottish Ministers;*

Barclay Recommendation

Commercial activity on current exempt parks and Local Authority (council) land vested in recreation should pay the same level of rates as similar activity elsewhere so as to ensure fairness.

Question 26 – How should commercial activity on parks be defined?

Moray Council Response – *Moray Council believes that commercial activity should be defined as any activity which is conducted by any entity other than a Scottish local authority and which is conducted in pursuit of a significant monetary gain, the detail of the latter point being determined by Scottish Ministers.*



REPORT TO: MEETING OF MORAY COUNCIL ON 05 SEPTEMBER 2018

SUBJECT: REPORT ON MONITORING OFFICER ISSUES ARISING 1 JUNE 2017 TO 31 JULY 2018

BY: MONITORING OFFICER

1. REASON FOR REPORT

- 1.1 To report on the range of activities undertaken by the Monitoring Officer from 1 June 2017 to 31 July 2018.
- 1.2 This report is submitted to Council in terms of a Paragraph Section III (4) of the Council's Scheme of Administration relating to public performance reporting.

2. RECOMMENDATION

- 2.1 The Council is asked to consider and note the activities of the Monitoring Officer over the period 1 June 2017 to 31 July 2018.**

3. BACKGROUND

- 3.1 There is a statutory requirement for every Council to appoint a Monitoring Officer. The Head of Legal and Democratic Services performs this role in Moray Council. The two Legal Services Managers, Margaret Forrest and Aileen Scott act as Depute Monitoring Officers to cover periods of absence.
- 3.2 Legislation requires the Monitoring Officer to bring to the attention of the Council:
- *A contravention of law or any code of practice made or approved under any enactment; or*
 - *Maladministration or injustice in each case actual or potential and whether by the Council, committees, sub-committees or officers.*
- 3.3 It is generally accepted that the Monitoring Officer will also:
- Promote good governance and sound decision making.
 - Promote the Councillors Code of Conduct.
- 3.4 The Council's Policy and Resources Committee on 2 October 2012 agreed that the Monitoring Officer would present an annual report on the activities of the post (para 8 of the minute refers).

4. **SUMMARY OF WORK UNDERTAKEN**

4.1 Statutory role

4.1.1 There have been no formal reports of legal contravention or maladministration.

4.2 Governance role

4.2.1 During the period covered by the report the Monitoring Officer has:

- Reviewed agendas, reports and notices of motion submitted for all formal meetings of the Council and its Committees/Sub-Committees. This is a significant aspect of the Monitoring Officer's workload, often undertaken over a very restricted period to enable committee papers to be published within the statutory timescales.
- Advised administration and opposition councillors on practical application of the Council's Constitutional Documents to the committee system, including advice on Notices of Motion, Written Questions and Suspension of Standing Orders. The amount of time spent in on this advice is significantly more than in previous years.
- Worked with CMT and Administration Group in reviewing the Council's governance arrangements including political balance, committee structures and remits.
- Delivered training for councillors on governance and the role of the Chair in running effective committee meetings.
- Reviewed the Council's constitutional documents and made suggestions to committee. Further guidance/procedure is required for ward members speaking at committee for planning issues and this will be brought to a future meeting of Planning and Regulatory Services Committee.
- Reviewed governance and scrutiny arrangements in place with outside bodies such as the Integration Joint Board, Waste Incineration Joint Venture and Moray Leisure.
- Ensured that the Council is aware of and compliant with all major pieces of new legislation through the legal services section.

4.3 Code of Conduct Role

4.3.1 During the period covered by the report the Monitoring Officer has:

- Maintained the register of councillors interests including six monthly reminders and council tax payment checks prior to budget setting.
- Given advice to councillors on individual circumstances and mediated in situations of conflict.

- Provided training to councillors with regular updates.
- There have been no formal communications with the Commissioner for Ethical Standards over investigations and complaints.

5. SUMMARY OF IMPLICATIONS

- (a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**
Effective governance is required for the delivery of the Council's stated priorities and plans.
- (b) **Policy and Legal**
These are detailed more fully in the report.
- (c) **Financial Implications**
None
- (d) **Risks implications**
Actions taken by the Monitoring Officer are designed to contribute towards the Council's risk management processes.
- (e) **Staffing implications**
None
- (f) **Property Implications**
None
- (g) **Equalities/Socio Economic Impact**
There are no issues arising directly from this report.
- (h) **Consultations**
The two Depute Monitoring Officers have been consulted and their comments have been reflected in the report.

6. CONCLUSION

- 6.1 The Council is invited to consider and note the activities undertaken by the Monitoring Officer during the period covered by this report.**

Author of Report: Alasdair McEachan, Monitoring Officer
Background Papers: None
Ref:



REPORT TO: MORAY COUNCIL ON 5 SEPTEMBER 2018

SUBJECT: REVIEW OF MORAY'S LEISURE ESTATE

BY: ACTING CORPORATE DIRECTOR (EDUCATION AND SOCIAL CARE)

1. REASON FOR REPORT

- 1.1 To inform the Council of the progress made in relation to the Review of Moray's Leisure Estate and to agree that the Leisure Estate Project Board continues to identify the relative strategic importance of the Leisure Estate, investigate governance options and report back to Council in early 2019.
- 1.2 This report is submitted to Committee in terms of Section II (13) of the Council's Scheme of Administration relating to the approval of Council Reports and Strategies of a corporate nature including Local Development and Housing Plans.

2. RECOMMENDATION

2.1 It is recommended that the Council:-

- i) scrutinise and consider the progress made in relation to the Review of Moray's Leisure Estate;**
- ii) agree that the Leisure Estate Project Board identify the relative strategic importance of the Council's various Leisure facilities and services;**
- iii) agree that the Leisure Estate Project Board continue to investigate governance options for the Leisure Estate in the order as indicated in 3.10; and**
- iv) agree that the Leisure Estate Project Board report back to Council in early 2019 on the outcome of investigations into (b) and (c) above.**

3. BACKGROUND

- 3.1 At the meeting of Moray Council on 30 March 2016, the Council agreed that a further review of Moray's Leisure Estate be undertaken, incorporating Moray Leisure Centre (MLC) (paragraph 12 of the Minute refers).
- 3.2 In April 2016, a Project Board with Local Elected Members and Officers was established to oversee the Review. This was supported by a working group

comprising of representatives from a range of Council services involved in the delivery of the Council's Leisure Estate as well as a MLC representative.

- 3.3 At the meeting of Moray Council on 17 August 2016, the Council approved the scope for the Leisure Review and the Business Case options required (paragraph 9 of the Minute refers).
- 3.4 At the meeting of Moray Council on 7 December 2016, the Council authorised the Leisure Review Project Board to enter into discussions with Arms Length External Organisations (ALEOs) with regards to future leisure provision in Moray, including discussions on the current estate, rationalisation and Community Asset Transfer (CAT) and report back to a future meeting of the Council (paragraph 12 of the minute refers).
- 3.5 At the meeting of Moray Council on 29 March 2017, the Council approved the extension of Moray Leisure Limited's (MLL) lease for an additional year up to 28 July 2019, unless both parties agree to terminate the lease earlier, to enable the new MLL Board sufficient time to develop and implement changes recently identified.
- 3.6 At the meeting of Moray Council on 20 December 2017, the Council approved to re-profile the financial assistance it provides to Moray Leisure Centre in order to allow it to continue to operate and to consider additional funding to enable a management consultancy to be engaged to develop a recovery plan for the Centre (paragraph 4 of the minute refers).
- 3.7 At the meeting of Moray Council on 28 June 2018, Members were provided with an update on the progress of the implementation of Moray Leisure Centre's recovery plan (paragraph 20 of the minute refers).
- 3.8 Since the last update report on the Leisure Estate in March 2017, 5 Elected Members were appointed to the Project Board, familiarisation workshops were delivered for these Members and internal and external discussions have been ongoing in relation to the preferred operational model for the future. Due to the priority of resolving the strategic and operational issues of Moray Leisure Centre across the past year, decisions on the Council's own Leisure Estate have been delayed.
- 3.9 An important factor to be noted in relation to the work of the Project Board is the substantial savings that are required from Leisure as a consequence of the Council's financial situation. The Leisure Project Board has a critical role to play in identifying the strategic importance of the various services and facilities provided and thereby helping to reduce the potential impact of any savings that are required.
- 3.10 The four governance options the Project Board are currently exploring are as follows;
 - Shared service with another Local Authority
 - Enhanced Status Quo (creating an in-house Business Unit for the Leisure Estate and retaining Moray Leisure Centre in its current form)
 - Creation of a Moray Arms-Length External Organisation (either through setting up of a new ALEO or using Moray Leisure Limited body)

- Go through procurement for a Service Contract for the Leisure Estate

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

In relation to the LOIP, this report supports the healthier children focus within the Moray priority to build a better future for our children and young people in Moray. It also supports the improving life chances and development of stronger, more resilient, supportive, influential and inclusive communities focus within the Moray priority for empowering and connecting communities. The report also impacts on the employment focus within the Moray priority for growing a diverse and sustainable economy.

In relation to the Corporate Plan, this report contributes to ensuring our communities are caring and healthy, promotes economic development and growth, and maintains, and promotes, Moray's landscape and biodiversity, works towards a financially stable Council that provides valued services to our communities, more of our activities, services and plans are influenced by the communities they service and positive management of workforce reduction and change.

(b) Policy and Legal

Local Authorities have a legal duty to ensure adequate provision of facilities for recreational, sporting, cultural and social activities. Improving the health and wellbeing of the Moray community through sport, leisure and recreation is not only an integral part of the local vision, but it is also a national priority. In particular, the report aims to fulfil the aspirations of everyone having access to a network of quality places where you can get involved in sport, as identified as a key objective in sportscotland's Corporate Plan 2015-19 "Raising the Bar". The report also links to the Scottish Government's Active Scotland Outcomes Framework, which aims to improve our active infrastructure – people and places.

This report also relates to the Libraries Service ability to meet the recommendations of "Ambition and Opportunity" the new strategy for public libraries in Scotland 2015-2020 which will be measured by the national audit process "How Good is our Public Library Service".

(c) Financial implications

The Council's overall financial position is unsustainable and the size and composition of the Leisure Estate require to be reviewed to deliver savings in a timeously manner.

(d) Risk Implications

The risk of not identifying a future operational model for the Leisure Estate will have an impact on the budget savings required to be made in a timeously manner by the Council.

(e) Staffing Implications

There are no staffing implications arising directly from this report.

(f) Property

There are no property implications arising directly from this report. However property owned by Moray Council may be subject to Community Asset Transfers or closures as part of the budget consultation.

(g) Equalities/Socio Economic Impact

There are no equalities implications arising directly from this report.

(h) Consultations

In preparing this report, consultations have been undertaken with the Project Board (includes Local Elected Members, Officers from Education and Social Care, Legal, Housing & Property and Accountancy), the Working Group (includes Officers from Accountancy, Sport and Leisure Facilities, Libraries, Environmental Services, Active Schools, Sports Development, Property, Asset Management, Facilities, Human Resources, Legal, Equal Opportunities, Community Support, Press Relations, Estates and Energy), Educational Resources Manager, Head of Financial Services and the Democratic Services Manager whose comments have been incorporated into the report.

5. CONCLUSION

- 5.1 That the Council considers the recommendations set out in Section 2 of the report in regard to scrutinising and considering the progress made in relation to the Review of Moray's Leisure Estate and to agree that the Leisure Estate Project Board continues to identify the relative strategic importance of the Leisure Estate, investigate governance options and report back to Council in early 2019.**

Author of Report: Kim Paterson, Active Schools and Sports Development Manager

Background Papers:

Ref:



REPORT TO: MORAY COUNCIL ON 5 SEPTEMBER 2018

SUBJECT: MORAY LEISURE CENTRE – INTERNAL AUDIT OVERVIEW

BY: CHIEF EXECUTIVE

1. REASON FOR REPORT

1.1 This report provides the Council with a commentary prepared the Internal Audit Manager in respect of the council's relationship with Moray Leisure Centre, following a request for an independent report at the meeting of the Council on 28 June 2018.

1.2 The Council's Administrative Scheme does not apply to this report.

2. RECOMMENDATIONS

2.1 The Council is invited to:

- **Note the findings from this overview of the Moray Leisure Centre's operation over its initial 25 year period and the subsequent interim arrangements agreed with the current Board;**
- **Acknowledge that, with hindsight, 25 years was too long a period to expect the initial funding agreement to operate in a manner acceptable to all parties, all the more so when reflecting on societal changes and the financial downturn and its impact on the public sector during that time;**
- **Give impetus to the wider leisure services review, which has been under consideration for some time, to provide greater certainty and enable planning for and investment in those services that are to remain part of the leisure estate;**
- **Agree that, should the Leisure Centre be retained and operate as an Arms' Length External Organisation, any agreement entered into will need to reflect current circumstances; securing continuity of service while supporting the council's obligations to achieve best value.**

3. REPORT

- 3.1 The Moray Leisure Centre was constructed in the early 1990's. It replaced the Munro Baths in North Street, which had reached the end of its useful life and became the flagship leisure facility in Elgin. The centre comprised principally a replacement pool and ice rink together with associated trading facilities including a shop, bar and restaurant.
- 3.2 The council (then Moray District Council) was unable to fund the construction of the new centre within the capital borrowing consent rules then in force. However, it was able to borrow private funding by separately establishing Moray Leisure Ltd. to construct the centre. Moray Leisure Ltd then leased the premises for a period of 25 years to Moray Leisure (No. 2) Limited, a charitable company limited by guarantee. At the same time Moray Leisure Trading Limited was established to deal with non-charitable activities including a shop, bar and cafeteria facilities.
- 3.3 Aside from complying with the capital consent requirements then in force, the separate operation of the centre by the charitable company afforded the advantage of exemption from non-domestic rates (an exemption not available to directly managed local authority leisure facilities). This provided a substantial reduction in costs for the centre typically upwards of £200k annually (just under £240k in the current financial year). However, as an organisation provided with funding support by the council, the centre was designated an Arm's Length External Organisation (ALEO), and this required the establishment of arrangements defining the relationship between the company and the council.
- 3.4 These arrangements were contained within a formal funding agreement between and among the council, the charitable company and the trading company which specified the respective obligations on each party. The agreement ranged across various headings including the general management of the centre; staffing, finance, record keeping and similar.
- 3.5 Of note was the council's commitment to pay to the company an assured grant in the sum of £300k for its first year to 31 March 1994 (essentially guaranteed funding) and a further income related grant of up to £75k annually (the actual amount depending on the level of income generated compared to the approved budget). So there was an understanding at the outset that the centre would require to be subsidised by council funds, without explicit commentary on whether the subsidy would continue for the full 25 year period of the agreement. It is also of interest to note that £375k in 1993 is equivalent in 2017 terms after adjusting for inflation to some £726k, an amount marginally higher than the operational grant paid in 2016/17 of £685k but excluding a capital grant of £60k to cover repairs and maintenance and a further £81k paid as a contribution toward the ice plant.
- 3.6 Memorandum and Articles of Association were also developed in meeting Companies Act requirements, the memorandum establishing the companies and the articles setting out how the companies would be governed. The articles provide, *inter alia*, for a Board with seven directors, three of whom are elected councillors.

- 3.7 From inception through to 2016, private sector board members comprised several long serving members (five in number serving between 6 and 22 years) and seven other members who each served for less than two years. Two of the five were initial appointees in 1993 and served until 1999 and 2015 respectively, two others commenced in 1995 and 1997 both serving until 2016 and the fifth joined in 2006 and served to 2017. Councillor appointees numbered 20 in total excluding current incumbents with generally shorter appointments reflecting the cyclical nature of local government elections.
- 3.8 From an overview of available information, the Centre functioned as intended in its early years having the advantage of all new premises and experiencing high demand for the facilities on offer. The council supported the centre during a period of change in senior management relatively soon after its opening and thereafter a period of relative stability ensued. The Board had representatives from the business community and notably two individuals from the medical profession who had insight and input into the development of the 'wellness' side of the centre's services. Processes for reporting on budgets and actual costs and performance to the council were developed and this formed the basis of a working relationship between the parties through the final years of the District Council to 1996 and for the first ten years after the formation of the Moray Council.
- 3.9 The centre's business plan for the period 2006 to 2009 reflected on its successes, being the first such centre in Scotland to attain a Scottish Executive led 'health and leisure recognition award', and showing favourable financial performance compared with other similar leisure trusts in Scotland. An independent review (by Quality Leisure Management Ltd) also found the centre had 'a thriving and popular mix of activity' while recognising and acknowledging:
- 'the ongoing enthusiastic support of the local authority, without which Moray Leisure would not have realised the substantial achievements over the last 12 years of operation and would be unable to provide key services which impact so profoundly on people's lives', and that:
 - 'the Board and staff would continue to 'listen, consult and engage with their community' in line with the council's Corporate Plan in force at the time.
- 3.10 The business plan, however, cautioned that the subsidy per head afforded by other councils to comparable leisure centres was considerably higher, and that Moray Leisure was itself experiencing cost pressures, forecasting substantial increases in energy costs; also reporting that 'with the building now over 12 years old, the pressure on the repairs and maintenance budget increases annually.' Separately, by this time the global financial crisis had emerged and this had impacted generally on public sector finances and on the level of funding available to the council.
- 3.11 The operational grant payable by the council to the Leisure Centre, including any capital grant award, did not see any inflationary or other increases in the three years from 2007/08 and it was then reduced marginally in 2010/11 and again in 2011/12 before being supplemented later in 2011/12 year by an

additional £100k grant award. This additional grant reversed a cut of a similar amount and was approved unanimously by the council's Policy and Resources Committee following a decision at the Centre to reduce operating hours and shed staff through natural wastage.

- 3.12 Around the same time (late 2011) the council formed a cross party working group to prepare a draft Service Level Agreement for consideration by a council committee. *Inter alia*, the requirement of the draft SLA was
- 'to establish a mechanism to ensure grant funding is provided at the appropriate level to enable Moray Leisure to deliver the services and quality specified by the council' further noting that:
 - 'the working group will have due regard to the medium term financial situation of the council which is one of declining levels of funding available for the provision of services'.
- 3.13 A report to the working group also noted the result of a condition survey which indicated likely additional cost pressures in several areas, in particular in relation to the ice plant. It further noted that Moray Leisure did not then budget for major lifecycle maintenance, it appearing that the Council would provide funding for this as and when required. Significantly the report also noted that Moray Leisure had not produced a business plan beyond 2009 given uncertainty over the level of future funding instead 'focusing on seeking to maintain as much of existing service provision as possible'.
- 3.14 So in the space of a five year period it is evident that the dynamic of the relationship had changed with the council facing funding strictures and seeking to re-negotiate agreements in place with the leisure centre, while the centre was facing additional cost pressures arising as a consequence of deterioration in the fabric of the building which, in turn, had the potential to impact on the footfall and income generated direct from centre users.
- 3.15 The terms of the draft Service Level Agreement as agreed by the working group were approved at a meeting of the Policy and Resources Committee in March 2012, however as these created additional obligations for the Leisure Centre beyond those contained in the original funding agreement there was little incentive on the part of the Centre to agree to the required terms.
- 3.16 It is not clear what level of discussion took place around the SLA as Board meetings were relatively infrequent and minutes held lacked detail. However it is understood the Board declined to implement the changes and no progress was made or agreement reached. So notwithstanding the Council making an annual financial contribution to the centre's running costs, there were limits in terms of what could be done to vary the terms of the original agreement and there were issues arising around equipment and plant obsolescence, centre usage, and health and safety policy for service users. It is evident from documentation reviewed that these were challenging times for the Board both financially and operationally and in early 2016 all but one of the private sector board directors resigned.
- 3.17 From that point forward, the remaining private sector Board member maintained continuity of the Board before also resigning in 2017; as such with

newly appointed private sector directors and recently elected councillor appointees a new Board is now in place. Operational support has been sought and obtained from Highlife Highland which delivers arm's length leisure and other services in the neighbouring Authority area. New projections have been made in relation to the centre's financial position in the next three years, a key element of which relates to the introduction of the 'Fit Life' membership scheme already operating within council run leisure facilities. An enthusiasm is evident within the Board to secure the future viability of the Centre and its activities.

- 3.18 That said, the original 25 year lease agreement period concluded at the end of July 2018, and has been extended from that date for a period of one year and thereafter will continue on a month to month rolling basis. This limits the capacity of the Leisure Centre to plan or fund improvements for the longer term; an inevitable consequence of the council having still to determine future leisure provision across the whole council area, as informed by its Leisure Services Review.
- 3.19 In 1996 the Accounts Commission for Scotland and the Convention of Scottish Local Authorities published a Code of Guidance on 'Following the Public Pound'. The Code set out principles for good governance of public funds passed to ALEOs such as the Leisure Centre. Since then, there have been many developments in governance and professional practice, notably the legislation placing a statutory duty on councils to secure Best Value. Yet the principles of the Code remain relevant.
- 3.20 The Code notes that the principles of openness, integrity and accountability apply to councils in their decisions on spending public money. These apply equally to funds or other resources which are transferred to ALEOs.
- 3.21 The Code sets out six principles that require councils to:
- Have a clear purpose in funding an ALEO
 - Set out a suitable financial regime
 - Monitor the ALEO's financial and service performance
 - Carefully consider representation on the ALEO board
 - Establish limits to involvement in the ALEO
 - Maintain audit access to support accountability
- 3.22 The Code was published after the centre opened and the funding agreement concluded but certainly the council had a clear purpose in funding the ALEO as outlined earlier in this report. Through its constitutional documents it had also given consideration to the other points, although it should be noted that the principal focus of the agreement was to enable the centre to function as a separate unit with council oversight but without the day to day involvement that applies to the management of a council run facility.
- 3.23 Referencing more recent reports by Audit Scotland on this topic it is clear there is a complexity with ALEO arrangements. The benefits around board expertise, ability to secure funding from external sources and savings in non-domestic rates are widely promoted. But recurring themes around elected councillors having to deal with conflicts of interest as councillors and when

acting as Board members, the risk and control issues council's retain when funding ALEOs and the requirement for officer time from council leisure, legal and finance teams for ongoing monitoring purposes are noted as being areas of potential difficulty.

3.24 With much having changed in the past 25 years, and with the original lease agreement period now concluded, there is an opportunity to revisit governance arrangements, ensuring these and issues relative to state aid and procurement legislation are considered in terms of meeting the needs of the council and best practice as drawn from Audit Scotland guidance.

3.25 Such arrangements may include:

- Review of the constitutional documents.
- Consideration of the future composition of the board and its role, or of alternative management arrangements
- Updated job descriptions and specifications for senior staff
- A refresh of operational policy documents covering issues including recruitment, training, complaints, data security, equalities etc.
- Enhanced performance reporting covering both financial and operational matters
- Outcomes and planned actions arising from customer surveys
- Reports on processes for management of strategic and operational risks
- A requirement for periodic reporting to council to provide assurances that services delivered align to council objectives for leisure services.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

A strategic decision on the future of Leisure Services in Moray, including those to be provided through Moray Leisure is required before any longer term arrangements for the Leisure Centre are considered.

(b) Policy and Legal

The continuation of Moray Leisure as an ALEO presents opportunities and challenges and, with the initial lease period concluded, fuller consideration of the options for future management and operation of the leisure centre should be progressed.

(c) Financial Implications

There will be financial implications for the council in continuing to provide support for the Moray Leisure Centre. These will be dependent on the decisions taken as part of the current Leisure Services Review.

(d) Risk Implications

The continuing operation of the Leisure Centre as an ALEO leaves the council with non-transferable risks around securing good governance and demonstrating best value in the use of public resources, and this should be reflected in any future arrangements the council wishes to take forward.

(e) Staffing Implications

Council officer time will be required to implement the agreed outcomes from the Leisure Services review; as yet these are unknown.

(f) Property Implications

Any future decisions relative to the Leisure Centre will need to have regard to asset management to ensure it remains fit for purpose relative to any alternative provision made available by the council or in the wider market place.

(g) Equalities/ Socio Economic Impact

Socio economic impacts have changed dramatically the circumstances under which the centre originally operated compared to those applicable at current date, although there are now opportunities to update arrangements as required following the end of the 25 year lease period.

(h) Consultations

The Head of Legal and Democratic Services, the Head of Financial Services, the Educational Resources Manager and the current Chair of the Board of Moray Leisure have been consulted during completion of this review.

5. CONCLUSION

5.1 This report invites the Council to consider the findings of a review by internal audit of the governance and operating arrangements established for the operation of Moray Leisure Centre in the 25 year period to July 2018.

Author of Report: Atholl Scott
Background Papers: Internal Audit file
Ref: AS/mc/050918



REPORT TO: MORAY COUNCIL ON WEDNESDAY 6 SEPTEMBER 2018

SUBJECT: RELOCATION OF POLLING PLACE – CULLEN AND RATHVEN RURAL

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

- 1.1 To seek approval of proposed change of polling place in Ward 2 – Keith and Cullen for polling district BM0202 – Cullen and Rathven due to uncertainty of the availability of the existing venue.
- 1.2 This report is submitted to Committee in terms of Section II(9) of the Council's Scheme of Administration relating to elections.

2. RECOMMENDATION

It is recommended that the Council approve the relocation of the Polling Place for Polling district BM0202 Cullen and Rathven Rural to Cullen and District Bowling and Tennis Club, Reidhaven Place, Cullen.

3. BACKGROUND

- 3.1 In designating a Polling Place the local authority must;
- ensure that all the electors in the constituency have such reasonable facilities for voting as are practicable in the circumstances; and
 - seek to ensure that, so far as is reasonable and practicable, the polling place is accessible to electors whom are disabled.
- 3.2 The Cullen and Rathven Rural polling district, currently serves a total of approximately 1420 voters in a sub-division of Ward 2 – Keith and Cullen. This district encompasses Cullen, Old Cullen, Lintmill, Letterfourie, Rannas and areas of Drybridge west to the ward boundary with Ward 4. Currently 23.7% of the electorate opt to vote by post in this area compared to the Moray average of 19.2%.
- 3.3 Previously voters in this area were required to vote at Cullen Town Hall, The Square, Cullen. The election office have had issues with the existing polling place, due to poor lighting levels, which had to be supplemented in the polling booth with temporary lighting to allow voters to complete their ballot papers. Maintenance levels and the poor condition of the temporary sloping external wooden ramp had also caused concern during previous polls.

- 3.4 Cullen Town Hall is subject to lease/sale as detailed in the confidential report to the Policy and Resources Committee on 13 March 2018. Due to proposed sale and that the lower floor may then be subject to alternative use, compromising the floor space, the venue is no longer guaranteed as being available to the Returning Officer as a polling place and the Returning Officer therefore must identify an alternative.
- 3.5 The election office have considered a number of alternative council-owned and private venues within the polling district in terms of accessibility, location, guaranteed availability and disruption to existing services, staff or users due to closure on polling day, among other required factors for use as a polling place. All venues that were assessed were found to meet the polling place criteria to various levels.
- 3.6 Following assessment the election team propose that Cullen and District Tennis and Bowling Club, Reidhaven Place, Cullen is designated as a polling place for this polling district. Of all the venues considered, the venue was found to best meet the requirements to act as a Polling Place. Whilst there is stepped access at the main entrance, there is an alternative ramped access available. This venue provides bright, modern facilities, with sufficient parking to serve the district which stretches into a wide rural area. The venue is 220m from the bus stop which is served periodically by a service running through the town passing Seatown.
- 3.7 Following initial discussion, the club committee agreed that they welcome the use of the venue as a Polling Place. The venue would be hired by the election office for exclusive use on polling day. A small kerb ramp will be provided by the election office to ensure there are no issues with a small kerb encountered between the car park and the alternate access for wheelchair users.
- 3.8 The Returning Officer has been consulted in the preparation of this report, and supports the use of the proposed venue.
- 3.9 During public consultation, two responses were received being from Cullen and District Community Council who supported the relocation to the bowling club and the second from a private individual who suggested Cullen Residential & Community Centre as an alternative.
- 3.10 The Three Kings Association whom are in the process of taking on a short term lease at the Cullen Residential & Community Centre as part of Community Asset Transfer, did not make a representation during the consultation.
- 3.11 It should be noted with reference to 'mobile' polling places which may be suggested, the local authority cannot reclaim the cost of any mobile or temporary unit from central government for an election whilst there are available permanent alternatives nearby that could be used. The local authority would therefore have to meet any costs relating to mobile places, for each poll. As a permanent locations is available for this polling place, mobile polling places are not being considered.

4. **SUMMARY OF IMPLICATIONS**

- (a) **Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017**
Elections and electoral arrangements are part of community engagement and participation in their wider governance.
- (b) **Policy and Legal**
Section 18(3) of the Representation of the People Act 1983 requires each Local Authority in Scotland to designate a polling place for each of its polling districts.
- (c) **Financial implications**
If the Cullen and District Bowling Club is designated then a small temporary kerb ramp will be provided by the Elections Office at a cost of approximately £50 which will be met from existing equipment budgets and partly reclaimed from central government during national polls. Polling place hire charges for national polls are met by central government.
- (d) **Risk Implications**
Should a by-election or snap election be called for the ward in the short term the polling district would be served by the existing polling place, if still available. In the absence of a designated polling place, approval would be sought for the Returning Officer to make alternative appropriate arrangements, for that poll, in absence of approval of the proposed venue.
- (e) **Staffing Implications**
None arising from this report.
- (f) **Property**
None arising from this report.
- (g) **Equalities**
After consultation with the Equal Opportunities Officer it was determined that an Equalities Impact Assessment was not required for this report. When polling place venues are audited, they are required to meet all the minimum criteria for physical accessibility to the facility for polling.
- (h) **Consultations**
Local Ward Members, Returning Officer, Depute Returning Officer, Equalities Officer and their comments incorporated into this report where appropriate. During consultation **local ward members all indicated their agreement with the proposed use of Cullen and District Bowling Club.**
Cullen and District Community Council have been consulted and their comments have been incorporated into this report. It should be noted that two members of the Community Council and the private individual who responded is also a member of the Three Kings Association.

5. CONCLUSION

- 5.1 The current designated polling place for polling district BM0202 Cullen and Rathven Rural will shortly not be available in the event of the poll, if the sale of the premises is successful. Cullen and District Bowling Club offers improved availability, space, lighting and parking for voters in this area.**

Author of Report: Alison Davidson, Elections Officer
Moira Patrick, Depute Returning Officer

Background Papers: Item 13, Policy & Resources Committee, 13 March 2018
Ref:



REPORT TO: MORAY COUNCIL ON 5 SEPTEMBER 2018

SUBJECT: APPOINTMENTS TO COMMITTEES AND OUTSIDE BODIES

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

- 1.1 To invite the Council to consider making appointments to the committees and outside bodies as detailed in sections 4 and 5 of the report.
- 1.2 This report is submitted to Council in terms of Section II (11) of the Council's Scheme of Administration relating to the appointments to committees and outside bodies.

2. RECOMMENDATION

- 2.1 **It is recommended that the Council consider making appointments to the committees and outside bodies listed in Sections 4 and 5.**

3. BACKGROUND

- 3.1 Following the special meeting of Moray Council held on 13 June 2018 (para of the minute refers) which resulted in the re-constitution of the Council and the resultant changes to the committee membership, a review of the membership of the transformational boards and the appointments to outside bodies is now required.
- 3.2 At a meeting of The Moray Council dated 7 December 2016 (paragraph 17 of the Minute refers) it was agreed the Social Work Complaints Review Committee would cease to have statutory functions from 1 April 2017 save for dealing with any outstanding referrals.
- 3.3 Due to the Local Government Elections in May 2017, the subsequent appointment to Committees and the belief there were no outstanding referrals for the Social Work Complaints Review Committee, no Members were appointed to the Committee. Since then an outstanding case has been referred to the Council by the Scottish Public Services Ombudsman which will need to be considered by a Social Work Complaints Review Committee.

4. APPOINTMENTS TO COMMITTEES

- 4.1 At its special meeting on 28 February 2018 the Council agreed the membership of the Transforming Boards should consist of 3 from the Administration (including the Chair from the relevant Service Committee), 2 from the largest opposition group and 1 other (paragraph 4 of the Minute refers).
- 4.2 The Council is asked to review the membership. The current membership of each Board is as detailed in **Appendix 1**.
- 4.3 At its meeting on 30 March 2016 the Council agreed that a further review be undertaken of Moray's Leisure Estate, incorporating Moray Leisure Centre (paragraph 14 of the Minute refers. Following this a Leisure Estate Review Project Board was set up with Group Leaders agreeing a membership of 2.2.1. The current membership of the Project Board consists of Councillors Allan, Eagle, A McLean, Bremner and Ross. The Project Board recently agreed that Cllr Warren receive reports/minutes etc from the Board. Members are invited to consider representation on this board.
- 4.4 The Council is asked to appoint two Members to a special Social Work Complaints Review Committee to allow an outstanding referral to be heard. It is proposed that this Committee will have a remit equivalent to the previously constituted Social Work Complaints Review Committee.

5. APPOINTMENTS TO OUTSIDE BODIES

- 5.1 The Council is requested to consider making appointments to the outside bodies listed in **APPENDIX 2**.

6. SUMMARY OF IMPLICATIONS

(a) Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017

None

(b) Policy and Legal

None

(c) Financial implications

Allowances for nominated Members attendance at meetings of organisations appointed is covered in the Councillors & Members Allowance Scheme.

(d) Risk Implications

None

(e) Staffing Implications

None

(f) Property

None

(g) Equalities

None

(h) Consultations

The Head of Legal and Democratic Services and the Democratic Services Manager were consulted and are in agreement with the terms of the report.

7. CONCLUSION

7.1 The Council are asked to consider the appointment of members to the committees outlined in Section 4 and appointing representatives to the outside bodies as set out in Appendix 2.

Author of Report: Moira Patrick, Democratic Services Manager

Background Papers: Held by Committee Services

Ref:

TRANSFORMING BOARDS – MEMBERSHIP

LEARNING

Councillor Tim Eagle*
Councillor James Allan
Councillor Donald Gatt
Councillor Sonya Warren
Councillor Paula Coy
Councillor Derek Ross

ECONOMY

Councillor John Cowe*
Councillor Marc Macrae
Councillor Gordon Cowie
Councillor Graham Leadbitter
Councillor David Bremner
Councillor John Divers

The Council

Councillor George Alexander**
Councillor Frank Brown
Councillor Lorna Creswell
Councillor Shona Morrison
Councillor Aaron McLean
Councillor John Divers

* Appointed in capacity as previous Committee Chair

**Appointed in capacity as former Council Leader

Item 14

OUTSIDE BODY	Frequency of Meetings	Location of Meetings		Current Councillor 1	Current Councillor 2	Current Councillor 3	Current Councillor 4		Proposed Councillor 1	Proposed Councillor 2	Proposed Councillor 3	Proposed Councillor 4
Armed Forces and Veterans Champion				D Gatt								
Auchernack Trust	Bi-annually	Forres Town Hall/Community Centre		G Alexander	L Creswell	C Feaver	A McLean					
Banffshire Educational Trust Joint Board of Governors	Annually	via email		D Ross	R Shepherd	S Warren						
Business Gateway	twice a year	Forres Enterprise Business Park		J Cowe								
Business Loans Scotland				J Cowe								
Cairngorms National Park	variable	Ballater, Blair Athol, Grantown, Boat of Garten		W Wilson								
Castle to Cathedral	3 times a year	Elgin		R McLean								
Citizens Advice Bureau (CAB) Board of Directors (Advisers)	every 2 months	Moray CAB Offices		J Divers	S Morrison							
City of Elgin Business Improvement District (BID)	Board quarterly and Working group 8 weekly	Elgin		J Divers	M McLean (Observer)							
Convention of Scottish Local Authorities	Children and Young People Board 6 times a year; Community Wellbeing Board 6 times a year; Convention twice a year; Environment and Economy Board 6 times a year; Health and Social Care Board 6 times a year; Leaders Meeting 8 times a year	Edinburgh		T Eagle, L Creswell, G Alexander, J Allan, S Morrison/G Leadbitter, J Cowe and F Brown					G Leadbitter, S Morrison, L Laing, S Warren			
Convention of the Highlands & Islands	biannually	Locations in the Highlands and Islands		G Alexander								
County of Banff Bursary Fund: Board of Governors				R Shepherd								
Dick Bequest Trust Scheme	twice a year	once in Edinburgh and once in Aberdeen		D Ross								

Elgin CARS	As this scheme will be completed by 31st March 2018, frequent meetings approx. every 4 to 6 weeks, are held on a needs basis to assess grant applications & proposals.	Elgin	J Divers	G Leadbitter	M McLean					
Equalities Champion			J Allan							
Findhorn Bay Local Nature Reserve Management Committee			C Feaver							
Findhorn, Nairn, Speyside Local Plan District Strategic Steering Group			C Feaver							
Forres Golf Course: Board of Trustees	3 times a year	Forres Golf Club	L Creswell	A McLean						
Foundation of the University of the Highlands & Islands	Bi-annually with a yearly annual conference	Executive Office, Ness Walk, Inverness	C Feaver	R McLean						
Grampian NHS Board	Monthly	Aberdeen	F Brown							
Grampian Venture Capital Fund Limited	2 or 3 times per year	Grampian Area	D Bremner	J Cowe						
Highland and Moray Area Support Team	4 times a year		F Brown	S Warren						
Highland Reserve Forces & Cadets Association – Northern Area Committee	annually	Inverness	F Brown							
Highlands & Islands Strategic Transport Partnership (HITRANS)	5 times a year		J Cowe	G Cowie (Substitute)						
Highlands and Islands European Partnership	quarterly	Inverness	G Alexander							
Highlands and Islands Territorial Committee	quarterly	Inverness	G Alexander							
Joint Energy from Waste Project - Elected Members Engagement Group			J Cowe	J Divers	G Leadbitter	G Cowie (Substitute)				
Knockando Woolmill Trust	quarterly	Knockando Woolmill	L Laing							
Moray Chamber of Commerce	4 or 5 times per year	Moray	J Cowe							
Moray Community Justice			J Divers	R Shepherd						
Moray Economic Partnership			J Cowe							
Moray Leisure Centre - Board of Directors	4 times a year	Elgin	F Brown	M Macrae	A Patience					
Moray Local Outdoor Access Forum (Loaf)	Quarterly	Moray	L Laing							
Moray Twinning Association			J Allan							
Moray Women's Aid - Board of Directors		Elgin	G Leadbitter	P Coy (Substitute)						
North East Local Plan District Steering Group			M Macrae							
North East Scotland Agricultural Advisory Group	3 times a year	Woodhill House Aberdeen	D Bremner	T Eagle						

North East Scotland Fisheries Development Partnership	3 times a year	Woodhill House Aberdeen		G Cowie	S Warren					
North East Scotland Pension Fund – Pensions Board	Quarterly	Town House, Aberdeen		J Cowe						
North East Sensory Services	4 board meetings a year	3 held in Aberdeen and 1 in Elgin		T Coull						
Northern Roads Collaboration	Quarterly	Aberdeen		G Cowie	M Macrae					
Scotland Excel Joint Committee	biannually	Glasgow City Council Chambers		D Gatt						
Scottish Joint Council for Local Government Employees				J Divers						
Scottish National War Memorial				D Gatt						
Victim Support Moray	Quarterly	Elgin		P Coy						

