

North Ayrshire Council
15 June 2016

IRVINE , 15 June 2016 - At a Meeting of North Ayrshire Council at 2.00 p.m.

Present

Joan Sturgeon, Robert Barr, John Bell, Matthew Brown, John Bruce, Marie Burns, Ian Clarkson, Joe Cullinane, Anthea Dickson, John Easdale, John Ferguson, Alex Gallagher, Willie Gibson, Tony Gurney, Jean Highgate, Alan Hill, John Hunter, Elizabeth McLardy, Catherine McMillan, Ronnie McNicol, Tom Marshall, Jim Montgomerie, Alan Munro, David O'Neill, Donald Reid and Robert Steel.

In Attendance

E. Murray, Chief Executive; L. Friel, Executive Director and M. Hogg, Head of Finance (Finance and Corporate Support); C. Hatton, Executive Director (Place); I. Colvin, Director (Health and Social Care Partnership); A. Sutton, Head of Service (Connected Communities) (Economy and Communities); A. Fraser, Head of Democratic Support; S. Quinn, Head of Schools (Education and Youth Employment); C. Andrew, Senior Manager (Legal Services); M. Gilmour, Senior Communications Officer (Media and Internal Communications) and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

Chair

Provost Sturgeon in the Chair.

Apologies for Absence

Grace McLean, Peter McNamara and Irene Oldfather.

1. Apologies for Absence

The Provost invited intimation of apologies for absence, which were recorded.

2. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Dickson declared an indirect non-pecuniary interest in Agenda Item 8(m)(n)(o) as a Director of North Ayrshire Citizens Advice Service.

There were no declarations of the Party Whip.

3. Previous Minutes

The accuracy of the Minutes of both the ordinary and special meetings of the Council held on 30 March 2016, was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Provost's Report

The Provost reported on the following matters:-

- sympathy for those affected by the shootings in Orlando on 12 June 2016;
- the lighting of a beacon at Ardrossan Castle on 21 April 2016 to mark the 90th birthday of Her Majesty the Queen;
- attendance at the dedication service and office opening of Fullarton Connexions, which will serve as a hub for various community events and activities;
- a visit to Mr and Mrs Pennington from Ardrossan, who celebrated their Diamond Wedding Anniversary in April 2016;
- the launch in April 2016 of Woodlands Primary School Parent Council's "Walk to School" 5 minute Walkzone;
- the official launch of the Habitant and Habitat photo exhibition by Townend Camera Club;
- the laying of a wreath at the beginning of May 2016 to commemorate the birth of John Galt in Irvine in 1779;
- a special citizenship ceremony held at Bridgegate, Irvine on 12 May 2016;
- Superhero Day which saw Council staff raising over £1,800 for Cash for Kids in May 2016 and brought the good causes total to over £115,000;
- attendance at the opening of the General Assembly of the Church of Scotland, which took place in Edinburgh on 21 May 2016;
- a visit by the Chinese Consul to North Ayrshire at the beginning of June 2016; and
- a citizenship ceremony held on 14 June 2016 in the newly refurbished Town Hall in Saltcoats.

The Provost concluded by extending an invitation to Members to join her for some refreshments to mark the final meeting of the Council before the summer recess.

5. Leader's Report

The Leader of the Council reported on the following matters:-

- a presentation given by Lowland Market Research on 31 March 2016 in respect of the findings of the North Ayrshire People's Panel Survey;
- a letter sent to the Scottish Government's newly appointed Ministers following the 5 May 2016 Scottish Parliamentary elections, to update them on current work taking place through North Ayrshire and to extend an invitation to meet to further enhance working relationships;
- a planned meeting with the Minister for Transport and the Islands to discuss transport issues and the Ardrossan Task Force (the 10 August 2016 meeting of which will be chaired by the Cabinet Secretary);
- the Cabinet Secretary for Justice's visit to North Ayrshire's innovative Multi-Agency Domestic Abuse Response Team;
- a meeting with the Cabinet Secretary for Communities, Social Security and Equalities to brief her on North Ayrshire's Locality Partnerships, Housing programme and Community Planning Partnership's approved inequalities strategy, "Fair for All";

- a letter sent to the Cabinet Secretaries for Finance and the Constitution on the subject of Ayrshire Shared Services, covering joint areas of work, such as waste services, roads and the Integrated Health and Social Care Partnership;
- an invitation extended to the new Cabinet Secretary for Economy, Jobs and Fair Work to discuss the Ayrshire Growth Deal and economic investment and regeneration in North Ayrshire;
- the success of Ruth Maguire in being elected as the Member of the Scottish Parliament for Cunninghame South and an appreciation of her work as a local Elected Member and Youth Champion;
- the work of election staff in ensuring the smooth organisation and success of the election process and role of those who helped out at polling stations and the count;
- a planned meeting on 22 June 2016 with the Secretary of State for Scotland to discuss the Ayrshire Growth Deal, amongst other matters;
- the success of Locality Planning arrangements, which have been well received and will benefit local communities;
- plans for a civic reception to recognise the success of Beith Juniors Football Club in winning the Scottish Junior Cup;
- the launch on 7 June 2016 of North Ayrshire's Children's Services Plan at the Harbour Arts Centre; and
- the success of Arran High School in winning third prize in the Sir Tom Hunter Challenge and a pupil from Whiting Bay Primary School in achieving a Mission Discovery International Space School Educational Trust runner up prize.

The Leader concluded by wishing Members an enjoyable summer recess before the Council returns in the Autumn to continue on its "good to great" journey.

6. North Ayrshire Council Minute Volume

Submitted for noting and approval of any recommendations contained therein, the Minutes of meetings of committees of the Council held in the period

The Council agreed to note the Minutes and approve any recommendations therein; in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

7. North Ayrshire Community Planning Partnership (CPP) Board: Minutes of Meetings Held on 24 March 2016 and 2 June 2016

Submitted report by the Chief Executive on the Minutes of the meetings of the North Ayrshire Community Planning Partnership (CPP) Board held on 24 March 2016 and 2 June 2016.

Noted.

8 Questions

In terms of Standing Order No. 12 there were submitted:-

- (a) a question by Councillor Marshall to the Cabinet Member for Finance and Corporate Support in the following terms:-

"How many employees of NAC whose remuneration, excluding pension contributions, were in excess of £50,000 during 2015/16, in bands of £10,000 ?"

Councillor Hill responded by referring to the following written response which had been circulated:-

"In 2015/16 the total number of employees whose remuneration exceeded £50,000 split between Teachers & APT&C is as follows:

Salary Banding	No. Employees		
	Teachers	APT&C	Total
£50,000 - £59,999	58	50	108
£60,000 - £69,999	7	3	10
£70,000 - £79,999	3	5	8
£80,000 - £89,999	2	4	6
£90,000 - £99,999	0	0	0
£100,000 - £109,999	0	4	4
£110,000 - £119,999	0	0	0
£120,000 - £129,999	0	0	0
£130,000 - £139,999	0	1	1
Total	70	67	137

As a supplementary question, Councillor Marshall asked for an explanation for the apparent 16.5% increase in the overall sum paid to the employees mentioned above over the last two years.

Councillor Hill responded by advising that the increase related mainly to the 2015/16 pay award.

- (b) a question by Councillor Bell to the Cabinet Member for Education Attainment and Achievement in the following terms:-

"Recent reports suggest teaching unions are considering strike action in protest at the increased workload on teachers. Given the high level of bureaucracy involved in the new exam system, and the slow progress in raising attainment, does the member regret the cuts in additional support staff, classroom assistants and support staff in recent budgets?"

Councillor Bruce thanked the Member for his question and responded in the following terms:-

"This administration continues to support its most vulnerable pupils and recognises the contribution that class based learning Support Assistants make to our inclusive education system. Far from reducing the spend in this area the budget for Session 2015/2016 showed a £520,000 overspend. Providing support for our most vulnerable pupils will remain a needs based priority. Young people who have an assessed need will continue to have appropriate support provided.

£500,000 was removed from the Education and Youth Employment budget during the Session 2015/2016 following a review of school and HQ administration support, as well as, home/school workers. Effective new working arrangements have been implemented that more effectively support the service delivery requirements. The harmonisation of part time posts into full time posts has offered schools greater continuity and the opportunity to further develop expertise across this staff group. These staff continue to do a fantastic job and continue to negate any additional workload imposed on the system by the SQA. Attainment and Achievement in this authority continues to improve and we have staff and young people of whom we should be very proud."

As a supplementary question, Councillor Bell asked for clarification as to whether or not the Cabinet Member regretted the cuts.

Councillor Bruce responded by citing a number of other regrets he had.

(c) a question by Councillor Bell to the Cabinet Member for Environment, Infrastructure and Housing in the following terms:-

"Can the member advise on what progress has been made in ensuring adequate bus services are in place between Kilbirnie and Beith and the Garnock campus given that we are now within six months of its planned opening."

Councillor Gurney thanked the Member for his question and responded by referring to the following written response which had been circulated:-

"There are a number of bus companies who operate services along the B777. The table below sets down the arrival/ departure times around the start and finish of the school day.

Service no.	Route	Frequency	School time frequency (WB = West Bound, EB = East Bound)
X36	Glasgow – Ardrossan	60 min.	WB - 08:31 / 14:39 / 15:39 EB - 07:46 / 09:04 / 15:09 / 16:09
125	Irvine– Kilbirnie Beith -	7 per day	Does not operate during school hours. Early morning and after 6pm only.
904	Paisley - Largs	60 min.	WB – 08:18 / 15:08 / 16:08 EB – 08:02 / 09:12 / 15:02 / 16:07
32	Beith - Kilbirnie	60 min.	WB – 09:10 / 15:10 / 16:10 EB – 08:46 / 14:46 / 16:46
X34	Glasgow – Bourtreehill / Irvine	60 min	WB – 08:10 / 15:10 / 16:10 EB – 08:37 / 15:37

Officers continue to engage with bus operators within the area to pursue revisions to the stopping pattern and frequency of services to more closely align with the proposed school campus timetable. Parents have been consulted regarding the new timetable and this is expected to be finalised imminently.

One company (Stagecoach) has, to date, responded positively indicating they will engage further once the school campus timetable is confirmed. Discussions continue with other operators pending the confirmation of the timetable.

Stagecoach have also confirmed that they are keen to visit the schools to promote the various travel passes / multi-rider tickets available; this will take place closer to the opening of the facility.

Officers are also engaging with Scotrail and have met with them on-site to review the potential for users to access the campus by rail. They are positive about the scheme and are keen to promote rail travel to the new campus to the wider community."

As a supplementary question, Councillor Bell asked the Cabinet Member, in light of the limited public transport available, to acknowledge the need for the X32 service to be augmented.

Councillor Gurney responded by advising that there were several matters to take into account in considering travel to and from the new Campus, such as the relevance of train service provision for pupils from Dalry and the wider Garnock Valley; measures to make travel as safe and accessible as possible, including cycle paths, cycle locks, multi-user access routes and changes to speed limits; and a request that students look at their behaviour in terms of walking and cycling to school. Councillor Gurney concluded by stating that the Council took its responsibilities seriously and would do its best for all pupils at the new Garnock Campus.

(d) a question by Councillor Reid to the Leader of the Council in the following terms:-

"Following the Scottish Parliament Elections last month has the Leader of the Council or any of his fellow Cabinet members met with the new Scottish Government Ministers to lobby or discuss improvements to the A737, B714 or A738?"

Councillor Gibson thanked the Member for his question and responded in the following terms:-

"I can advise Council that no meetings have taken place since the recent Scottish Government election in respect of this matter. However I can confirm that I have written to the newly appointed Minister of Transport, Humza Yousaf, requesting a meeting to discuss transportation issues within North Ayrshire and in particular the on-going work in respect of the Northern Road Corridor to Glasgow which also forms part of the developing Ayrshire Growth Deal.

As reported at the last meeting of Council excellent progress is being made to advance the construction of the Dalry Bypass. A procurement exercise is underway for the design, construction, completion and maintenance of the bypass. It is anticipated following contract award works will commence in 2017 and be completed by Autumn 2018.

The Council's own scheme to undertake re-alignment of the B714 continues to make good progress. Planning consent has been secured and ground investigation works will commence in the next few weeks. Compensation arrangements are being progressed with affected landowners. A procurement exercise to appoint works contractors is underway with a view to commencement later this year."

As a supplementary question, Councillor Reid asked, in relation to the Ayrshire Growth Deal, for progress in terms of funding to improve the B714.

Councillor Gibson responded by advising that, while the corridor to Glasgow is one of the projects to be considered as part of the Ayrshire Growth Deal, the projects for inclusion have still to be agreed.

(e) a question by Councillor Barr to the Cabinet Member for Finance and Corporate Support in the following terms:-

"A number of employees have left the employment of North Ayrshire Council in the past 12 months. How many of these now ex employees were asked to sign Confidential Gagging Orders?"

Councillor Hill responded in the following terms:-

"No ex-employees were asked to sign "Confidential Gagging Orders". NAC has a formal Whistleblowing Policy in place which enables all employees to make a protected disclosure or report on any wrongdoing and where possible protects the identity of the informant.

In appropriate circumstances and in accordance with employment law the Council makes use of compromise or settlement agreements which incorporate mutually binding confidentiality clauses. Compromise agreements are a normal part of employment law. Within these agreements there is, as standard, a confidentiality clause which is there to protect both the employee and the employer. Such clauses are permitted and enforceable under the Employment Rights Act 1996 and are used within employment across the public and private sectors."

As a supplementary question, Councillor Barr asked for confirmation that there had been no cost to the Council as a result of such agreements.

Councillor Hill responded by advising that, as the Council paid for an employee's independent employment advice which was required as part of any agreement, there would be some costs. Councillor Hill undertook to provide the figure at a later date.

(f) a question by Councillor Gallagher to the Cabinet Member for Education Attainment and Achievement in the following terms:-

"The Scottish Government has plans to create regional education boards for the delivery of national educational priorities, thus bypassing local Education Departments and local democratic control.

Has the portfolio holder considered how such proposals could or would impact on the Council's budget for Education and on the delivery of Educational and related services?"

Councillor Bruce thanked the Member for his question and responded in the following terms:-

"The Government has appointed a new Cabinet Secretary for Education and Skills. Mr Swinney, who is also Deputy First Minister, is currently leading a series of engagement events as he consults key stakeholders about the challenges facing education in Scotland. The Cabinet Secretary is committed as is the First Minister, to closing the attainment gap and improving outcomes for all Scotland's children. I am however, unaware of any announcement about the creation of regional education boards."

As a supplementary question, Councillor Gallagher asked whether, given the likely impact on the Council's budget and services and the potential for control being taken away from local democracy, the Cabinet Member had raised the matter with Education Secretary and, if not, whether he would consider doing so now.

Councillor Bruce responded by advising that there was an ongoing review of school governance to ensure a bigger role for the local community and that it would not, therefore, be productive at this time to give a speculative answer.

(g) a question by Councillor Gallagher to the Cabinet Member for Economic Development and Regeneration in the following terms:-

"In May SEPA issued an authorisation allowing the transport, storage and onward delivery of some categories of radioactive waste between Torness and Hunterston B power stations.

Given that the North Ayrshire Council objected to the original proposal, what is the Council's reaction to the SEPA decision and has the Council conducted any investigation to determine whether the SEPA authorisation makes the roads in North Ayrshire safer or less safe for the population of the council area?"

Councillor Burns thanked the Member for his question and responded in the following terms:-

"At their meeting in September 2014, the Cabinet approved a report objecting to a proposed variation to the EDF's Authorisation, which would permit waste nuclear material being brought to the Hunterston B site. We have now been notified by SEPA that, notwithstanding our grounds of objection, they have granted the variation.

SEPA advise that this decision has been reached having taken into account the responses made to the public consultation, further statutory consultation, information supplied by EDF, international recommendations on radiological protection and Government policy. SEPA concluded that the limitations and conditions of the varied Authorisation will, if adhered to, continue to effectively protect human health, the safety of the food chain and the environment generally.

The approved variation effectively now permits (i) the interchange of Low Level Waste (LLW) between Hunterston B and Torness for the purposes of 'bulking-up and onward disposal' and (ii) more flexibility in disposing of LLW and ILW to 'waste permitted persons'. A condition of the Authorisation requires that waste imported for the purposes of bulking-up must be disposed of within 6 months from the date of arrival.

Whilst the variation to the Authorisation has no immediate planning implications, in view of the above, the Planning Services Manager has written to EDF to remind them of (i) the planning condition which restricts to the use of the Intermediate Level Waste (ILW) store to Hunterston A waste only, and (ii) the Local Development Plan policy IND 2, which restricts development for the storage of ILW to storage of material accumulated through Hunterston A and B only. Although that would not preclude the use of any existing storage facility at Hunterston B.

In relation to the question of road safety SEPA advise that the transportation of radioactive waste falls outside their remit, with the Office for Nuclear Regulation (ONR) being the regulator in relation to both road and rail transport of radioactive waste. Furthermore the ONR in their consultation response to SEPA confirmed that they would require to be satisfied with safety, security, and transport implications of any transfer of radioactive material and that this would be regulated in accordance with the international agreements and European Directives. The Council has no statutory remit in respect of the transportation of nuclear waste.

The variation to the Authorisation, whilst allowing waste to be interchanged between Hunterston and Torness and onwards to its final deposit in England, does not allow the type of waste material being transported to vary from what is already authorised to travel by road.

In summary, the Council has not conducted any specific investigation into the safety implications of the SEPA Authorisation on North Ayrshire's road network as the Council has no duty nor remit to regulate the movement of radioactive waste."

As a supplementary question, Councillor Gallagher asked whether, in light of the Council's duty of care towards the population of North Ayrshire and given that increased movement of waste inevitably increases associated risk, the Cabinet Member had considered approaching the Scottish Government about this issue.

Councillor Burns responded by advising that, if the Administration and the Scottish Government had their way, there would be no need to deal with nuclear waste at all. The Cabinet Member indicated that it would not be her intention to contact the Scottish Government as the waste in question was low level and had already been approved by the Office for Nuclear Regulation.

(h) a question by Councillor Gallagher to the Cabinet Member for Economic Development and Regeneration in the following terms:-

"What is the Council's position on the recent changes to the regulations governing the transportation of petrol and diesel on Scottish ferries, including the Largs-Cumbrae and Ardrossan-Arran ferry services?"

Councillor Burns thanked the Member for his question and responded in the following terms:-

"Although the Council have significant responsibilities for many aspects of public safety within North Ayrshire the transportation of fuel is out with our regulatory remit. The Council is aware that the Maritime and Coastguard Agency issued Marine Guidance Note 545 on the 4th April 2016. This gives guidance on the transportation of dangerous goods when carried in a private vehicle not in commercial use or by a foot passenger on a Ro-Ro Ship. The guidance now allows the transportation of up to 5 litres of fuel in an approved container without having to declare it as dangerous goods 24 hours in advance. This amendment to existing legislation will give passengers more options on what goods they carry by ferry. In addition to fuel the guidance also covers items such as paint; fireworks; helium; campers butane and propane ammunition; divers oxygen cylinders etc."

As a supplementary question, Councillor Gallagher asked whether the Cabinet Member found it satisfactory that we did not know what was being transported and when and, if not, what action she intended to take.

Councillor Burns responded by advising that the matter was outwith the Council's regulatory remit and suggested that the Elected Member write to CalMac himself.

- (i) a question by Councillor Clarkson to the Cabinet Member for Finance and Corporate Support in the following terms:-

"At the Cabinet Meeting of 24th May, it was reported that the NAHSCP had an overspend of £854,000. This was in addition to the £1,255,000 previously agreed on the 29th March.

Can you confirm from which Budget this total of £2,109,000 has been taken?"

Councillor Hill responded in the following terms:-

"I can confirm that the £2.109m will be met from within the Council's bottom line in 2015/16, effectively from underspends across a number of other budgets."

As a supplementary question, Councillor Clarkson referred to the underspends which were to have been used to carry out works at Irvine Royal Academy, Kilwinning Academy and Auchendarvie Academy, asking whether these would still be carried out and if there was an overspend in the future by the Council, whether there would be a reciprocal agreement with the Health and Social Care Partnership.

Councillor Hill responded by referring to the Council's good track record of sound financial management and indicating that the Health and Social Care Partnership had been asked to report on measures to get its budget back on track. He advised that there would, unfortunately, be less funding available to spend on improvements to the schools mentioned, but that he would seek further expenditure on the schools projects and funding became available.

- (j) a question by Councillor Marshall to the Cabinet Member for Finance and Corporate Support in the following terms:-

"As a Local Member I welcome the decision to build the new Largs Campus School. However the financial details surrounding this project are not clear to Members.

Largs Academy is to be built using a Design, Build, Finance and Maintain (DBFM) model and will be delivered through a Company named DBFM Holdco in which the private sector development partner (hub South West) has a 60% equity share and NAC has 10% share. It is similar to the previous PPP contracts that were used to build schools except that it uses a Non Profit Distribution Model (NPDM) whereby the private sector profits are capped and any surplus returned to the Public Sector.

- a) What is the issued share capital of DBFM Holdco and the value of the NAC share?
- b) What was the cost of land acquisition and is the title freehold?
- c) How much is the monthly unitary charge over the 27 year term and what is its apportionment between build cost and maintenance?
- d) What is the estimated replacement value of the building and fitments when completed?
- e) At what level are the private sector profits capped and in the event of a surplus does NAC receive a 10% share?

- f) If as is common in Public sector projects there is a cost overrun, who meets this?
- g) On what items of expenditure will the direct (in addition to the DBFM Contract) spend of £7.666M NAC be utilised?
- h) At what stages of the contract will NAC Building Control be involved?"

Councillor Hill responded in the following terms:-

- "(a) The issued share capital is £1 and NAC have a share of 10%.
- (b) The land acquisition costs were £0.692m. The land is in the full ownership of the Council in perpetuity with no restrictions.
- (c) The monthly unitary charge is £325,129 in the first full year. The monthly unitary charge is split into £274,475 for build costs and £50,654 for Hard FM Costs, Lifecycle and Maintenance Costs.
- (d) The estimated replacement value of the building and fitments, based on the DBFM contract and including site preparation costs, is £44.263m.
- (e) As a result of the ESA 10 rules that have been imposed on the project there is now no private sector profit cap. This is to ensure the asset continues to be classified as a private sector asset. For this project there is a fixed rate of 11% that has been agreed with the contractor. Any profits made above this rate will result in 10% being returned to NAC, in line with its shareholding.
- (f) The Council has very strong governance procedures in place for all of its capital projects, including the Largs Campus development. Protocols are in place for change requests throughout the design and construction stages to ensure that any changes to the project are managed within the agreed project cost and delivery timescales. As the Council's requirements have now been encompassed in the DBFM contract, the Council will only be liable for costs attributable to any further changes it requests.
- (g) The direct expenditure of £7.666 million will be spent on:
 - Infrastructure: creation of the new service access road and footpath to the sportscotland pitches; creation of the 20 mph zone; installation of the toucan crossing; upgrading of the existing footpath link from Moorburn Road to the Campus to a lit cycle way
 - The lease with Sportscotland for the use of the sporting facilities
 - Land acquisition and relocation of the golf course facility
 - Utilities diversions
 - Demolition of Brisbane and St Mary's Primary Schools
 - IT consumables for the new Campus
 - Relocation costs
 - NAC project staff costs
 - Project risk allowance

- (h) The Council's Building Standards team has been involved throughout the project. The contractor is required to submit detailed plans to Building Standards for approval at various stages during the design and construction process. Building Standards will visit the site on a regular basis to ensure that the works are progressing according to the submitted and approved plans. At the end of the construction process, prior to hand-over, Building Standards officers will make a final inspection and issue the completion certificate to enable the campus to be occupied.

Under the DBFM contract, the Independent Tester also needs to certify compliance with the Contractor's Proposals and Authority's Construction Requirements. In addition, North Ayrshire Council has appointed an independent clerk of works to monitor and report on the various elements of the construction throughout the construction period. This person does not have a contractual role, but will be on site to represent the Council's interests and will be able to highlight any areas of concern to the Authority's Representative and the Independent Tester. Both HubSW and Morrison Construction are fully supportive of the appointment of the clerk of works.

As a supplementary question, Councillor Marshall asked for clarification on the reporting mechanism in respect of the independent clerk of works.

Councillor Gurney responded to the supplementary question by advising that the independent clerk of works would report directly to the project sponsor, whose name he would confirm at a later date.

- (k) a question by Councillor Montgomerie to the Cabinet Member for Education Attainment and Achievement in the following terms:-

"What safeguards, checks and protocols have been put in place with the new 3rd sectors service providers being placed within North Ayrshires education system through the GIRFEC model, in regards to disclosure Scotland checks, data protection, parental opt out and the service intended is service provided?"

Councillor Bruce thanked the Member for his question and responded in the following terms:-

"Councillor Montgomerie will be aware that during a debate in Parliament last week the Cabinet Secretary for Education and Skills agreed to issue "refreshed" guidance to Local Authorities to support the implementation of the duties relating to the GIRFEC policy contained within the Children and Young People Act. The Authority continues to develop its policies and procedures in relation to the introduction of GIRFEC in August 2016. Staff training and development is ongoing and the administration is confident that it has in place, sound policies and procedures to ensure the Council's data protection and disclosure checks are in place for any person having direct access to children and young people. Parents can choose to "opt out" of a Named Person service that will be made available. The member will, of course, be aware that refreshed information will be provided for parents as part of the Cabinet Secretary's commitment to Parliament."

As a supplementary question, Councillor Montgomerie referred to a situation where a parent opted out, but the third sector provider then spoke to the child and to the parent, asking whether this constituted a breach in data protection given that the parent's contact details must have come from the school.

Councillor Bruce responded by advising that he was not in a position to answer, but that there may be data protection issues associated with this example.

The Chief Executive advised that there was an ongoing investigation which addressed some of the issues raised by the Member.

(I) a question by Councillor McNicol to the Leader of the Council in the following terms:-

"On the 26th May, 2016 the Local Government Boundary Commission for Scotland submitted to Scottish Ministers recommendations for Councillor numbers and Wards in each of Scotland's 32 Council areas.

Final recommendations for North Ayrshire Council Area presents an Electoral arrangement of 33 Councillors representing seven 3 member wards and three 4 member wards.

In correspondence dated 25th. May, 2015 to the Secretary of the LGBC for Scotland the Chief Executive requested a meeting with the Commission in person to discuss North Ayrshire Council's submission. It was requested that the Leader of the Council and the Leader of the Opposition accompany the Chief Executive.

Will the Leader of the Council confirm that a meeting took place, and if so who attended, what was the outcome of discussions, and why were other Group Leaders excluded?"

Councillor McNicol made reference to earlier advice that responses to Council questions would now be made available to Members an hour prior to the start of the Council meeting and asked why this had not been done. The Chief Executive advised that not all responses to questions had been available at that time.

Thereafter, Councillor Gibson thanked the Member for his question and responded in the following terms:-

"As mentioned previously in my Report to Council on the 4 November 2015, I can indeed confirm that a meeting took place on the 13 November 2015 with the Chair of the Local Government Boundary Commission (LGBC), Ronnie Hinds. North Ayrshire was represented at the meeting by our Chief Executive, Elma Murray, Leader of the Opposition, Councillor Peter McNamara, the Head of Democratic Services, Andrew Fraser, Research Analyst, Steve Morley and myself.

At that meeting, clear and logical evidence was presented to the Boundary Commission to alter the Wards in North Ayrshire to reflect our Localities and support improved democratic representation of North Ayrshire residents. The outcome was that this information was then to be duly considered by the LGBC and to await Ministers assessments of the next stages.

The meeting was to promote the Council's position agreed at its meeting on 25 May 2015. As the Independent Group Leaders did not agree with this Council decision, it would have been inappropriate for them to attend and argue a different case. If such Members had wanted to promote their own position to the Boundary Commission it was open to them to ask the Commission for a separate meeting."

As a supplementary question, Councillor McNicol asked if the Leader of the Council had now agreed the Boundary Commission's recommendations to Ministers.

Councillor Gibson responded in the negative.

(m) a question by Councillor Cullinane to the Cabinet Member for Health and Social Care in the following terms:-

"The contract document between North Ayrshire Council and North Ayrshire Citizens Advice Service states that:

'The council will monitor the service provision externally and prepare a report once a year for the provider and the council prior to the contract renegotiation.'

Can the portfolio holder advise me whether such a report was prepared for 2014/15 and 2015/16?"

Councillor Dickson thanked the Member for his question and responded in the following terms:-

"Yes, we have both reports and they are available on request."

As a supplementary question, Councillor Cullinane asked for confirmation that the core function of NACAS was as per the contract, namely the provision of advice, including support for appeals and representation of clients at tribunals.

Councillor Dickson responded by providing confirmation that this was the case for the duration of the contract.

(n) a question by Councillor Cullinane to the Cabinet Member for Health and Social Care in the following terms:-

"The contract document between North Ayrshire Council and North Ayrshire Citizens Advice Service states that:

'A monitoring report will be prepared by the council and the provider and be submitted to the councils scrutiny committee on an annual basis.'

Can the portfolio holder advise me at what meetings of the scrutiny committee during this council term have such reports been tabled?"

Councillor Dickson thanked the Member for his question and responded in the following terms:-

"After checking with Committee Services, it seems there has been an omission as no reports were tabled at the Scrutiny Committee. This has been rectified this year with the 15/16 report. The Director of the Health and Social Care Partnership apologises for this mistake."

As a supplementary question, Councillor Cullinane asked what additional services would be provided for the additional funding given to the organisation.

Councillor Dickson responded by advising that the services provided were as set out in the contract, as agreed jointly with the organisation.

(o) a question by Councillor Cullinane to the Cabinet Member for Health and Social Care in the following terms:-

The contract document between North Ayrshire Council and North Ayrshire Citizens Advice Service states that:

'The council will schedule meetings on a quarterly basis, or as otherwise agreed, with the provider to review the service which may result in changes to the service delivered.'

Can the portfolio holder advise me when these meetings took place over 2015/16 and and they provider members with the minutes of these meetings?"

Councillor Dickson thanked the Member for his question and responded in the following terms:-

"Meetings were scheduled to be held on 18th May 2015, 24th August 2015, 23rd November 2015, 15th February 2016.

- The 24th August meeting was rescheduled to 28th September due to diary commitments of Head of Service
- The 28th September meeting was then subsequently cancelled due to sickness absence in NACAS
- The 23rd November meeting was cancelled by HSCP and rescheduled to 20th January 2016
- The 20th January 2016 meeting was cancelled by HSCP and took place on 15th February (as this date was already in diaries)

These meetings were established by the former Head of Service and were carried over by the HSCP. Meetings were not minuted which, in hindsight, was an omission. This has now been rectified and the Minutes of meeting held on 20th April 2016 are available on request."

As a supplementary question, Councillor Cullinane asked for confirmation that NACAS had been asked to develop a sustainability plan but had failed to deliver on this.

Councillor Dickson responded by advising that there was no requirement for the development of a sustainability plan. She indicated that the funding had been provided to cope with additional pressures on the service associated with Welfare Reform. Councillor Dickson referred to the fact that, in 2013, NACAS was unable to continue to operate five offices and took measures, such as updating its website and extending outreach services, to ensure the continued provision of a pan-Ayrshire service.

9. Appointments to Committees and Outside Bodies

The Council considered nominations received in respect of outside body vacancies.

The Council agreed to appoint (i) Councillor McLean as the Leader's named substitute on the Appeals Committee and Staffing and Recruitment Committee, (ii) Councillor McMillan to the Integration Joint Board and the Violence Against Women Forum and (iii) Councillor Hill to the COSLA Resources and Capacity Executive Group.

10. Unaudited Annual Accounts 2015/16

Submitted report by the Executive Director (Finance and Corporate Support) which provided an overview of an overview of the Council's unaudited Annual Accounts for the year to 31 March 2016 and its financial performance for the year, and outlined how the 2015/16 out-turn impacts on the Council's overall financial position.

The Executive Director (Finance and Corporate Support) drew Members' attention to two corrections to the full Unaudited Accounts, namely at page 3, where the reference to an accounting deficit of £6.5m for 2015/16 should refer to a surplus, and at page 6 (a) "Group Accounts", where the narrative should be amended to record the increase in reserves and net assets of £84.219m.

Members asked questions and received clarification in respect of the information presented in the report, including the decision to make a payment to the Health and Social Care Partnership reducing the underspend and impacting on the funds for the Learning Environment.

The Executive Director (Finance and Corporate Support) undertook to provide information to Members on the nature of the £0.232m of works to PPP schools referred to at Section 2.27 of the report.

That the Council agreed to (a) approve, subject to audit, the Council's Annual Accounts for 2015/16; (b) note that Audit Scotland plan to complete their audit of the Accounts by mid September 2016 and will present their annual audit report to the Council's Audit Committee on 23 September 2016; (c) note that Cabinet approval has already been granted to carry forward £4.164m to fund service expenditure in 2016/17; (d) approve the carry forward of a further £0.986m from the surplus to fund service expenditure in 2016/17, as detailed in Appendix 8 to the report; (e) note the unaudited General Fund position of break even after allowing for the approved and planned carry forwards, including the earmarking of £1.973m to commence the delivery of Enhancing the Learning Environment in Secondary Schools; (f) note the balance of uncommitted funds of £9.515m on the General Fund (equivalent to 2.8% of annual budgeted expenditure) being held in reserve; (g) note the unaudited Housing Revenue Account (HRA) surplus for the year of £1.858m; and (h) note the earmarking and carry forward of the HRA balance as outlined at Section 2.20 of the report.

11. North Ayrshire Charitable Trusts: Unaudited Trustees' Annual Reports 2015/16

Submitted report by the Executive Director (Finance and Corporate Support) on the unaudited Trustees' Annual Reports for the year to 31 March 2016.

Members asked questions and received clarification in respect of the information presented in the report.

The Executive Director (Finance and Corporate Support) undertook to (i) provide information to Members on the background to the British American Tobacco PLC stock held by the Margaret Archibald Bequest and (ii) offer a meeting with local Members to discuss options for the disbursement of funding from the Dalry Town Charitable Trust, or any other trust.

The Council, as trustees of the North Ayrshire Council charitable trusts, agreed to approve the Trustees' Annual Reports for 2015/16 set out in the appendices to the report, subject to audit.

12. Treasury Management Annual Report 2015/16

Submitted report by the Executive Director (Finance and Corporate Support) on the Treasury Management Annual Report and Prudential Indicators for 2015/16.

The Council agreed to note (i) the contents of the Treasury Management Annual Report for 2015/16, set out at Appendix 1 to the report and (ii) the Prudential and Treasury Indicators contained therein.

13. Motions

- (a) a Motion by Councillor Highgate seconded by Councillor Bell in the following terms:-

"That North Ayrshire Council congratulate Beith Juniors on winning the Scottish Junior Cup. That the Council notes the great positive impact the event had on the whole community. In addition the Council commends the good behaviour of supporters before, during and after the game and also the approach of the local Police in maintaining order without hampering the celebrations."

There being no amendment, the Motion was declared carried.

- (b) a Motion by Councillor Cullinane seconded by Councillor Gallagher in the following terms:-

"Council opposes all fracking and any UGE (Unconventional Gas Extraction) in North Ayrshire"

The Head of Democratic Services advised that, whilst the Council was at liberty to consider and approve the motion, any planning or other regulatory applications would still require to be considered in their individual merits which, for planning, would take into account the Local Development Plan and any material planning considerations.

As an amendment, Councillor Marshall, seconded by Councillor Hunter, moved that the Council takes no further action pending the outcome of a report by the Scottish Government's Chief Scientific Advisor later in the year.

Members then asked questions of the movers of the motion and the amendment and, thereafter, debated the matter.

The movers of the motion and the amendment were afforded an opportunity to sum up.

On a division, there voted for the amendment 7 and for the motion 18, and the motion was declared carried.

(c) a Motion by Councillor Hunter seconded by Councillor McNicol in the following terms:-

"Further to the Local Government Boundary Commission for Scotland's latest review of numbers of Councillors and ward boundaries for each Local Authority area in Scotland, submissions are invited from all interested parties regarding their proposals. (see LGBCS website for details) Such submissions will be considered by Scottish Government Ministers in due course and any comments on the reports and their recommendations should be submitted by 7 July 2016 to: Tony Romain, Scottish Government, Local Government Policy and Relationship Unit, Directorate for Local Government and Communities, Area 3J, Victoria Quay, Edinburgh EH6 6QQ.

To that end we move that this Council rejects the recommendations of the Local Government Boundary Commission for Scotland to Scottish Ministers regarding the proposed increase in the number of Councillors to be elected to North Ayrshire Council, (from 30 to 33), at next year's local elections, and in addition that the North Ayrshire Council ward boundaries remain unaltered; i.e. that the status quo be maintained."

As an amendment, Councillor Gibson, seconded by Councillor Hill, moved as follows:-

"Council agreed on 25 May 2015, and our Community Planning Partners subsequently agreed, that North Ayrshire wards must align to the six Localities of North Ayrshire. Otherwise it will be very difficult for individual Councillors to effectively represent their Localities.

To ensure parity of elector numbers between wards this requires 35 Councillors, one less than the Council's entitlement of 36 under the Commission's methodology. We are disappointed that in only two out of six localities (Irvine and Kilwinning) do the Boundary Commission's recommendations for ward boundaries align with our Localities.

Accordingly, Council agrees to reject the Commission's recommendations for 33 Councillors, agrees to maintain the position agreed on 25 May 2015 and agrees to make further representations to the Scottish Government and Ministers seeking 35 Councillors in wards aligned to Localities."

Members then asked questions of the movers of the motion and the amendment and, thereafter, debated the matter.

The movers of the motion and the amendment were afforded an opportunity to sum up.

On a point of order, Councillor Hunter requested, and received, confirmation that the Party Whip had not been applied in respect of this motion.

The Chief Executive undertook to provide clarification to Councillor Hunter on an apparent Boundary Commission website reference to a Scottish Ministers' direction not carry out a review in any local government area between April 2012 and March 2017.

On a division and roll call vote, there voted for the amendment, Councillors Bruce, Burns, Cullinane, Dickson, Ferguson, Gallagher, Gibson, Gurney, Hill, McMillan, Munro, O'Neill, Reid and Sturgeon, and for the motion, Councillors Barr, Bell, Brown, Clarkson, Easdale, Highgate, Hunter, Marshall, McLardy, McNicol, Montgomerie and Steel, and the amendment was declared carried.

The Meeting ended at 4.10 p.m.