

North Ayrshire Council
15 February 2023

At a Meeting of North Ayrshire Council at 2.00 p.m. involving a combination of participation by remote electronic means and physical attendance within the Council Chambers, Irvine

Present (Physical Participation)

John Bell, Timothy Billings (Agenda items 1-12), Marie Burns, Eleanor Collier, Joe Cullinane, Scott Davidson, Anthea Dickson, Stewart Ferguson, Todd Ferguson, Robert Foster, Scott Gallacher, John Glover, Tony Gurney, Alan Hill, Cameron Inglis, Margaret Johnson, Amanda Kerr, Christina Larsen, Shaun Macaulay, Tom Marshall, Jean McClung, Nairn McDonald, Matthew McLean, Louise McPhater, Davina McTiernan, Jim Montgomerie, Ian Murdoch, Donald Reid, Donald L. Reid, Chloé Robertson, Ronnie Stalker, Angela Stephen and John Sweeney.

Present (Remote Participation)

Timothy Billings (Agenda items 13-19).

In Attendance

C. Hatton, Chief Executive; C. Cameron, Director (Health and Social Care Partnership); R. McCutcheon, Executive Director, Y. Baulk, Head of Service (Housing and Public Protection), D. Hammond, Head of Service (Sustainability, Transport and Corporate Property and T. Reaney, Head of Service (Neighbourhood Services) (Place); A. Sutton, Executive Director (Communities and Education); M. Boyd, Head of Service (Finance); F. Walker, Head of Service (People and ICT); and A. Craig, Head of Service, R. Lynch, Senior Manager (Legal Services); M. McColm, Senior Manager (Communications), M. Anderson, Senior Manager (Committee and Member Services) and H. Clancy, C. Stewart and S. Wilson, Committee Services Officers (Democratic Services).

Chair

Provost Dickson in the Chair.

1. Provost's Remarks

The Provost welcomed those present to the meeting and dealt with preliminary matters, including intimation that the meeting, which was commencing on a wholly physical basis given that all Members were present in the Chambers, would be live streamed to the internet.

2. Apologies

The Provost invited intimation of apologies for absence. There were none.

3. Declarations of Interest

In terms of Standing Order 11 and Section 5 of the Councillors' Code of Conduct, Councillors Gurney and Kerr, as members of the EIS union, declared an interest in Agenda item 18 (Motions). The nature of the interest declared was not so significant as to prejudice discussion or decision making and, therefore, the Members intimated that they did not intend to leave the meeting during consideration of the motions.

There were no declarations of the Party Whip.

4. Previous Minutes

The accuracy of the Minutes of the (i) Ordinary Meeting held on 14 December 2023, (ii) Special Meeting held on 14 December 2022 and (iii) Special Meeting held on 18 January 2023 was confirmed and the Minutes signed in accordance with Paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973.

5. Provost's Report

Submitted report by the Provost for the period from 5 December 2022 – 5 February 2023.

The Provost referred to an omission from her written report, namely the annual "Reclaim the Night" walk, which took place on 6 December 2023 as part of the 16 Days of Action.

Thereafter, the Provost highlighted the following elements of her written report:

- some excellent school concerts in the run-up to Christmas;
- a number of local activities and events, such as the Titanic Exhibition in the Heritage Centre and the Ayrshire Community Trust Volunteer Awards in Ardrossan;
- various events celebrating the birth of Robert Burns;
- the opening of Lockhart Campus in Stevenston; and
- plans for visits to a range of community groups and voluntary organisations.

Noted.

6. Leader's Report

Submitted report by the Leader of the Council for the period for 5 December 2022 – 5 February 2023.

Noted.

7. Council Minute Volume

Submitted for noting and for approval of recommendations contained therein, the Minutes of meetings of committees of the Council held in the period 1 September 2022 – 31 January 2023.

Noted.

8. North Ayrshire Community Planning Partnership (CPP) Board: Minutes of Meeting held in December 2022

Submitted report by the Executive Director (Communities and Education) on the Minutes of the meeting of the North Ayrshire Community Planning Partnership Board held on 8 December 2022.

Members asked a question about CPP Board papers which did not appear to be available to view online. The Chief Executive apologised for any omission and provided an assurance that the CPP website would be updated as required.

Noted.

9. Congratulatory Motion

In terms of Standing Order 15.3, submitted the undernoted motion, duly proposed and seconded, which sought to congratulate, commend or recognise an individual or group in relation to their achievement or activities within North Ayrshire:

“At the National Concert Band Festival (Scotland Regional Festival) held in Garnock Academy on Sunday 22 January North Ayrshire Schools Concert Band (conductor Steven Cowling) and Garnock Valley Community Concert Band (Conductor Alan Friel) respectively received a Gold and Platinum Award.

The adjudicators were Heather Nicoll and Bryan Allen, distinguished musicians and adjudicators who were fulsome in their praises of both bands who now go forwarded to the UK Concert Band Festival in Manchester in April 2023.

North Ayrshire Council notes both awards and wishes all the musicians and conductors well at the national finals.”

There being no dissent, the motion was declared carried.

10. Car Parking Charges

Submitted report by the Executive Director (Place) on a remit from the Cabinet meeting held on 24 January 2023, which invited the Council to consider and agree the outcome and recommendations arising from the local discussions held with Ward Members and local measures proposed following the introduction of Decriminalised Parking Enforcement (DPE) and car parking charges, and to consider and agree the level of parking charges to be introduced.

Information on income generated from DPE through the issue of Penalty Charge Notices (PCNs) for other local authorities in Scotland for 2019/20 was provided at Appendix 1 to the report. Appendix 2 showed location plans of the car parks in North Ayrshire where parking charges were proposed. Options for the level of charges were set out at Appendix 3 to the report.

Members asked questions and received clarification in respect of the following:

- the cost of implementing a charging system and whether consideration had been given to the use of automated technology;
- the budget pressure assumptions made within the financial implications section at 4.1 and elsewhere in the report;
- the geographical allocation of the proposed staffing resource;
- the options originally presented to Members when the introduction of parking charges was first proposed in 2018; and
- whether any charges agreed by the Council now could be altered at the budget-setting meeting on 1 March 2023

Councillor Gurney, seconded by Councillor Johnson, moved approval of the recommendations in the officer's report and the implementation of Option 2 for parking charges, as set out in Appendix 3 to the report.

As an amendment, Councillor Donald Reid, seconded by Councillor Montgomerie, moved that "the Council agree Option 3 - DPE without parking charges. The subsequent funding gap shall be addressed by the following measures:

- increase charging for advertising on Council assets - £100,000
- the remaining £516,303 will be funded by the recurring saving from the HSCP repaying its debt to the Council."

Members asked questions about the competence of the amendment in terms of the viability of the proposed measures to meet the funding gap arising from adopting DPE without parking charges.

On a point of order in terms of Standing Order 21, Councillor Cullinane asserted that it would not be appropriate, in response to the request for clarification, to disclose confidential budget information previously shared with Elected Members.

The Chief Executive clarified that, as the proposals formed part of the amendment, confidentiality did not apply and clarity on those proposals could be sought.

At the invitation of the Provost, the Section 95 Officer confirmed that the terms of the amendment were competent. He provided further information on the HSCP debt repayment and the recurring nature of budget resource referred to in the amendment and that the effect of adopting Option 3 would increase the budget gap to be addressed by the Council at its budget-setting meeting on 1 March 2023.

Members asked further questions of clarification in respect of the amendment, including:

- the implications for the Council's budget-setting exercise of accepting the amendment; and
- the basis for the £100k of additional advertising income referred to in the amendment in the context of current levels of advertising income

In terms of Standing Order 6.8, the Provost agreed that the meeting be adjourned at 3.05 p.m. to allow Members to receive further advice from the Section 95 Officer. The meeting reconvened at 3.15 p.m. with the same Members and officers present and in attendance.

Members were afforded a further opportunity to ask questions of clarification on the funding implications for DPE in the event that the HSPC debt was not repaid within the anticipated timescales and on the recurring nature of the financial resource.

There followed debate, in the course of which, on a point of order in terms of Standing Order 12, Members expressed concern about the use of emotive language by some Members and a lack of respect/courtesy on the part of others. The Provost reminded all Members of the importance of proper conduct.

The mover of the amendment and motion then summed up.

In terms of Standing Order 19.7, at least six of the Members present having so requested, voting took place by means of a roll call.

On a division and a roll call vote, there voted for the amendment Councillor Bell, Cullinane, S. Ferguson, T. Ferguson, Foster, Gallacher, Glover, Inglis, Kerr, McDonald, McLean, McPhater, Montgomerie, Donald Reid, Stalker, Stephen and Sweeney (17) and for the motion, Councillors Billings, Burns, Collier, Dickson, Gurney, Hill, Johnson, Larsen, Macaulay, Marshall, McClung, McTiernan, Murdoch, Donald L. Reid and Robertson (15), Councillor Davidson abstaining, and the amendment was declared carried.

Accordingly, the Council agreed as follows:

- (a) to approve Option 3 (DPE without parking charges) as set out in Appendix 3 to the report; and
- (b) that the subsequent funding gap shall be addressed by the following measures:
 - (i) increase charging for advertising on Council assets to realise £100,000 in the financial year 2023/24 and
 - (ii) the remaining £516,303 will be funded by the recurring saving from the HSCP repaying its debt to the Council.

11. Appointment to Outside Body

The Council was invited, in respect of Cunninghame Housing Association, (i) to note the resignation of Councillor Davidson and (ii) consider a nomination for Councillor Collier to be appointed to fill this vacancy in terms of Standing Order 8.4.

Councillor Burns, seconded by Councillor Macaulay, moved that Councillor Collier be appointed as the Council's representative on Cunninghame Housing Association. There being no further nominations, the appointment was declared carried.

Accordingly, the Council agreed as follows:

- (a) to note the resignation of Councillor Davidson from Cunninghame Housing Association; and
- (b) appoint Councillor Collier to be appointed to fill this vacancy in terms of Standing Order 8.4.

12. Committee Timetable: July-December 2023

Submitted report by the Chief Executive on a proposed timetable of meetings for the period from July until the end of December 2023. The draft timetable was attached at Appendix 1 to the report.

The Council unanimously agreed as follows:

- (a) to approve the draft committee timetable set out at Appendix 1 to the report, subject to any minor amendments which may be agreed in consultation with the relevant Chair; and
- (b) to note that arrangements for Locality Partnership meetings and any ad hoc or Special Meetings will be intimated separately to Members

13. Housing Revenue Account (HRA) Capital Investment Programme, Revenue Budget and Rent Levels for 2023/24

Submitted report by the Executive Director (Place) on the proposed HRA capital investment programme and revenue budget for 2023/24 and the consequential rent levels. Full details of the proposed capital and revenue budgets were contained in Appendices 1 and 2 to the report, respectively. The Rent Level Options for 2023/24 were set out at Appendix 3.

Members asked questions and received clarification in respect of the following:

- gypsy/traveller site fees; and
- temporary furnished accommodation

Councillor Gurney, seconded by Councillor Burns, moved approval of the recommendations set out in the officer's report.

As an amendment, Councillor McDonald, seconded by Councillor Foster, moved as follows:

“Council notes:

The decision of full Council to not include the cost-of-living option of a rent freeze in the 2023/24 tenant consultation, instead passing an amendment, proposed by the previous Cabinet Member for Place, in the following terms;

“Council also congratulates the Scottish Government on its mandatory rent freeze until March 31 2023 and looks forward to consulting with our tenants on setting rents for 23/24, and believes that the collegiate decision-making process already in place serves tenants well.”

Council further notes:

that the SNP Administration chose to consult tenants on three rent options for 2023/24, the lowest of which at 6.42% would still represent the largest single year rent increase in over a decade.

In return for that rent increase, tenants (and residents) of North Ayrshire would receive:

- no increase in the council house building programme
- the full removal of the door replacement programme
- longer waits for kitchen and bathroom replacements
- cuts to the sub-divisional fence and infrastructure improvement funds

- the removal of the tenant led budget

Council acknowledges:

the advice of Council officers that we are legally obliged to consult our tenants on the HRA rent setting and consider their feedback; and that any proposal outwith the options already consulted on by the administration would require to be consulted upon.

Council notes:

with disappointment that the Administration, that 'looked forward to consulting tenants on rent' back in September, chose to restrict tenants' options on the "consultation" to the highest rent increase in over a decade during a cost-of-living crisis.

Council believes:

this calls into question the credibility of the consultation process.

Further believes:

that Council tenants, and tenants of all social landlords, have been treated unfairly by the SNP Scottish Government who announced a cost-of-living rent freeze in the social rented sector which has never applied to social rents; and now they have been let down by the SNP Administration on the Council with this consultation.

Council therefore agrees to:

- a) approve the recommendations in the paper but noting our dissent on the options the SNP Administration consulted on.
- b) review our HRA rent consultation process in advance of the 2024/25 rent setting, with a paper presented to a future meeting of full Council."

On a point of order in terms of Standing Order 11, Councillor McLean sought advice as to whether, as a Council house tenant, he required to declare an interest in respect of this item of business. The Monitoring Officer confirmed that no declaration required to be made.

On a further point of order, Councillor Gurney queried the accuracy of the amendment in attributing the consultation to the SNP Administration when it had been considered at an all-Member seminar. The Provost noted that the seminar was not a decision-making forum.

There followed debate and summing up.

In the course of debate and in terms of Standing Order 17.4, a question of clarification by Councillor McPhater was not permitted.

On a division and a show of hands, there voted for the amendment 9 and for the motion 23 and the motion was declared carried.

Accordingly, the Council agreed as follows:

- (a) approve the Housing Revenue Account (HRA) capital investment programme for 2023/24, as detailed in Appendix 1 to the report;
- (b) approve the HRA revenue budget for 2023/23, as detailed in Appendix 2 to the report;
- (c) approve an average rent increase of £4.99 per week for council houses in 2023/24 (equivalent to 6.42%);
- (d) note the indicative rent increases of 6.03% for 2024/25 and 4.29% for the remaining 28 years of the Business Plan; and
- (e) approve a 5% increase to garage sites/lock-ups, service charges and gypsy/travellers site fees in line with general fund increase for sales, fees and charges.

In terms of Standing Order 6.8, the Provost agreed that the meeting be adjourned at 4.30 p.m. for a comfort break. The meeting reconvened at 4.45 p.m. with the same Members and officers present and in attendance, with the exception of the Heads of Service (Place).

Councillor Billings, having left the Chamber during the short recess, re-joined the meeting on the remote electronic platform at this point.

14. Review of Accounting Arrangements for PFI and Similar Contracts

Submitted report by the Head of Finance on a proposal to revise the current methodology used to determine the statutory repayment of debt charged to the General Fund in relation to the Council's service concession contracts. The application of the financial flexibility referred to in the report was detailed at Appendix 1 to the report.

This report was subject to initial consideration by the Council on 14 December 2022 and continued for consideration following an all-Member briefing, which took place on 20 January 2023.

Members asked a question and received clarification in respect of the approach taken by other local authorities across Scotland.

Councillor Larsen, seconded by Councillor McTiernan, moved approval of the recommendations set out in the officer's report.

As an amendment, Councillor Kerr, seconded by Councillor Foster, moved as follows:

“Council notes:

That the PFI service concession will extend the repayment period on the principal capital repayment element of North Ayrshire Councils PFI contracts onto future generations.

Council further notes:

That these will not be the only costs associated with these assets over this extended repayment period as the Council will also be required to cover the costs of facilities management services and the physical maintenance of the assets once the service contracts end.

Council believes:

That it would be wrong to place this financial burden onto future generations for the purposes of balancing the revenue budget on a non-recurring basis, which would increase the budget gap in future years, simply because the Scottish Government continues to underfund local government.

Council therefore agrees to amend the recommendation in the paper to:

defer approval of the PFI service concession and requests that officers bring it back to a future meeting of the council alongside a financial strategy that seeks to utilise the short-term financial benefits of the service concession to secure the councils medium to long term financial sustainability.”

There followed debate and summing up.

Thereafter, in terms of Standing Order 19.7, as the meeting was now proceeding on a hybrid basis, voting took place by roll call.

On a division and a roll call vote, there voted for the amendment, Councillors Bell, Cullinane, S. Ferguson, Foster, Kerr, McDonald, McPhater, Montgomerie, Donald Reid and Sweeney (10) and for the motion, Councillors Billings, Burns, Collier, Davidson, Dickson, Gurney, Hill, Johnson, Larsen, Macaulay, McClung, McTiernan, Donald L. Reid and Roberston (14), Councillors T. Ferguson, Gallacher, Glover, Inglis, Marshall, McLean, Murdoch, Stalker and Stephen (9) abstaining, and the motion was declared carried.

Accordingly, the Council agreed to approve the adoption of the revised accounting arrangements under Local Government Finance Circular 10/2022 for the recalculation of debt repayments arising from the Council's service concession contracts aligned to the useful economic life of the assets under the contracts.

15. Non-Domestic Rates Empty Property Relief

Submitted report by the Head of Finance on the proposed policy for the provision of Empty Property Relief in relation to Non-Domestic Rates following devolution of responsibility to local authorities from 1 April 2023. The proposed policy was set out at Appendix 1 to the report.

Councillor Larsen, seconded by Councillor Collier, moved approval of the recommendations set out in the officer's report. There being no amendment, the motion was declared carried.

Accordingly, the Council agreed to approve the policy for the provision of Empty Property Relief in relation to Non-Domestic Rates from 1 April 2023, as detailed in Appendix 1 to the report.

16. Questions

In terms of Standing Order 14, submitted:

- (1) a question by Councillor Billings to the Cabinet Member for Education in the following terms:

“Following the alarming and informative article in The Herald on 4th February 2023 about the potential closure of the Arran Outdoor Education Centre, what steps is the Council taking to ensure that this ‘World Class’ facility is able to continue its ‘transformative’ work which positively impacts every pupils’ ‘attitude, self-esteem, confidence, resilience, teamwork, ambition, determination, work ethic, achievement, mental health, independence and social and emotional behaviour’?”

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

“As Members will know, North Ayrshire Council will vote and pass a budget on 1 March 2023. In preparation for this, all Members received confidential information about a range of different options based on our current estimated revenue budget for the coming year. This has always remained confidential as to not cause alarm or unnecessary upset to communities. Unfortunately, this information was leaked to the press, causing great upset and concern, particularly regarding the Arran Outdoor Education Centre.

Now, considering this, and to address the extensive concerns that have been raised by many not just across North Ayrshire but across Scotland, I want to confirm today that North Ayrshire's SNP Administration will not propose closure of Arran Outdoor Centre as part of any budget decision this year.

The centre is undoubtedly a real asset for Arran and North Ayrshire. We remain committed to working to provide a sustainable and long-term future for the centre and I hope this addresses Councillor Billings' concerns and the concerns that have been raised by his constituents and others throughout North Ayrshire."

Councillor Billings declined to ask a supplementary question, instead taking the opportunity to thank the Cabinet Member for his response and indicate his willingness to work together on a sustainable model for the centre.

(2) a question by Councillor Montgomerie to the Cabinet Member for Economy and Climate Change in the following terms:

"Under the last Administration, North Ayrshire is now the second highest performing local authority in Scotland for recycling. Other local authorities have introduced garden waste charges. Can the Cabinet Member tell me what impact introducing these waste collection charges has had on recycling rates in those council areas?"

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

"Based on the information received from Councils who have shared their high-level data, the potential change in household recycling performance that may result from the introduction of garden waste collection charges is estimated at -1.8% in the overall recycling rate."

As a supplementary question, Councillor Montgomerie whether the Cabinet Member thought that the Council should charge for brown bin usage in the future.

Councillor Gurney responded by advising that this was clearly a matter for the whole Council during the budget-setting exercise.

(3) a question by Councillor Murdoch to the Cabinet Member for the Economy and Climate Change in the following terms:

"Is the Cabinet Member happy with North Ayrshire Council's procedure for dealing with potholes and other faults on roads and footways?"

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

"Yes, I can confirm I am content with the procedure as it exists."

As a supplementary question, Councillor Murdoch asked whether the Cabinet Member thought it was acceptable for the same potholes to be filled over and over again and if there was a more reliable, longer-term way of dealing with recurring potholes.

Councillor Gurney responded by advising that the filling of potholes was quite a complicated process and that the only guaranteed way of doing it was to re-lay the entire road, which was of course a far more expensive option and not to be undertaken lightly. Councillor Gurney reassured the Member that the Council used the best available process when filling potholes.

(4) a question by Councillor Stalker to the Cabinet Member for Finance in the following terms:

“As I’m sure all Councillors here I am spending a lot of time answering emails on pot holes and the state of some of our pavements. Can I ask the Cabinet Member for a total of compensation that North Ayrshire has paid out over the past year for claims against Council for vehicle repairs and personal accidents.”

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

“Since 1 April 2022, the Council has received 23 personal injury claims relating to potholes and pavement defects. To date, no personal injury compensation has been paid for this period. For this period to date, there are currently 17 open personal injury claims that are being handled by the Council’s insurers.

Since 1 April 2022, the Council has received 91 property claims for damage relating to potholes and pavement defects. A total of £337.38 has been paid to date for this period. There are currently 27 open claims.”

(5) a question by Councillor Bell to the Cabinet Member for Education in the following terms:

“Last year the Scottish Government decided to reduce North Ayrshire’s Attainment Challenge funding by £4.4m, with the funding reducing by £1.1m each year. Can the Cabinet Member tell me what impact the £1.1m cut in 2023/24 will have on staff levels, including both teaching and non-teaching staff, and what service changes will come as a result of the cut?”

Councillor Macaulay thanked the Member for his question and referred to the following written response:

“A reduction of £4.4m over the next four years has initiated a formal review of the Scottish Attainment Challenge fund in North Ayrshire, and this is considering the impact on all current workstream areas, including staffing implications.

The Education Service held the first of a series of full-day collaborative improvement events in early May 2022, bringing together all Head Teachers, Attainment Challenge leads and senior officers to commence discussions on the future strategic direction and plans for years 2023-26.

Proposals for prioritisation of areas for future spend have been developed through these collaborative sessions. Draft plans for session 2023-24 have been drawn up and include: a review of the Professional Learning Academy and Nurture delivery models; a review of project governance and leadership arrangements; and adjustments to non-staffing budgets.

Discussions are ongoing with Scottish Government in respect of teacher numbers and support staff hours for next year which will further inform the implementation stage of this work.”

As a supplementary question, Councillor Bell indicated that the response had not addressed his original question and again asked what the effect would be on staffing levels next year.

Councillor Macaulay responded by reiterating that the Council was working with the Scottish Government to confirm the final proposals for staffing levels. The Cabinet Member undertook to share the outcome with all Members when available.

(6) a question by Councillor Murdoch to the Cabinet Member for Economy and Climate Change in the following terms:

“Is the Member for Place happy with North Ayrshire Council’s process for dealing with claims related to damaged vehicles as a result of Roads Faults?”

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

“Yes, I am content with the process as it stands.”

As a supplementary question, Councillor Murdoch asked whether the Cabinet Member agreed that there should be a review of the claims process, when constituents were saying they were not pursuing claims due to obstacles/issues associated with submitting claims and as most claims were not upheld anyway.

Councillor Gurney responded by expressing his disappointment that constituents were having difficulty contacting the Council and referring to a number of alternative options for submitting claims. The Cabinet Member outlined the claims process, which aligned with industry best practice, and advised that all claims were determined on the basis of legal liability. Councillor Gurney concluded by indicating he was always happy to hear suggestions about how the Council might better serve the public and looked forward to hearing from Councillor Murdoch in this regard.

(7) a question by Councillor Inglis to the Leader of the Council in the following terms:

“To ask the Leader of the Council if they like me are concerned about recent reports involving female students at Kilwinning College having to remove their clothes in front of a recently convicted rapist and sex offender?”

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

“I am not going to comment of individual cases when we don’t know all the facts. Of course, I would agree that no student should ever have to remove their clothes in front of a convicted rapist or sex offender.”

As a supplementary question, Councillor Inglis asked whether the Leader would agree to engage with the college to ensure that it was sharing our values around women’s safety.

On the advice of the Monitoring Officer and in terms of Standing Order 14.6, the Provost noted that the proposed action fell outwith the remit of the Council in terms of liaising with another body over its own safety policies and the supplementary question was not permitted.

(8) a question by Councillor Kerr to the Cabinet Member for Health and Social Care in the following terms:

“Given the news that the Scottish Government have clawed back over £8 million from the reserves of the HSCP, does the Cabinet Member believe this will have a positive or negative impact on the HSCP meeting its strategic priorities?”

Councillor Johnson thanked the Member for her question and responded in the following terms:

“The funding which has been clawed back by the Scottish Government from IJB reserves was specifically associated with responding to the Covid pandemic. The IJB carried forward £13.3m of Covid related funding into 2022-23.

The Scottish Government has retained this funding in the health and social care system. Health Boards locally and nationally also continue to incur additional costs as a result of the pandemic in services which are not delegated to IJBs and did not initially receive any additional funding to meet these costs in 2022-23. The Covid funding which has been reclaimed from IJBs has been redistributed to Health Boards across Scotland, including NHS Ayrshire and Arran, to meet these additional costs.

This recovery will have no impact on the delivery of the HSCPs strategic priorities, as the funds were not associated with core service delivery and were earmarked for a specific purpose for which they are no longer required and could not be used for any other purpose.”

(9) a question by Councillor Marshall to the Cabinet Member for Finance in the following terms:

“How many members of staff employed by the Council have in their job description any of the following descriptors (or equivalent synonyms) of “Diversity, Inclusion, or Equality” and what is their total salaries?”

In terms of Standing Order 14.4, the question and the following written response by Councillor Larsen were taken as read:

“North Ayrshire Council has 24.5 employees whose job titles refer to “diversity, inclusion or equality”. The total salaries in relation to these employees equates to £885,855.

All employees are bound by North Ayrshire Council’s Code of Conduct which outlines the expectations that employees should respect each other, their beliefs and opinions, behaving in an appropriate manner and in accordance with the Council’s policy on Equalities. This ensures that all employees work in an environment that is free from discrimination, victimisation, intimidation, bullying or harassment.”

(10) a question by Councillor Foster to the Leader of the Council in the following terms:

“Does the Leader of the Council believe that if some families or individuals living in North Ayrshire had to fork out at least an extra £28 every month on Council charges would this increase or decrease poverty levels in North Ayrshire?”

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

“With the greatest respect, Councillor Foster’s question is so vague that I don’t know what he is talking about. I’m sure it’s leading into a cunning supplementary question, so I’d be quite happy to answer that.”

Councillor Foster was invited by the Provost to ask a supplementary question, but declined to do so.

(11) a question by Councillor McLean to the Cabinet Member for Education in the following terms:

“Can the Member please advise if North Ayrshire Council has ever or continues to (i) provide referrals or signpost young people to LGBT Youth Scotland? (ii) provide any funding to this organisation?”

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

“Youth Services are currently working with LGBT Youth Scotland to achieve their Youth Silver Charter Mark. The set fee for the support, training and the charter is £2,100. Individual schools are in the process of achieving charter marks in conjunction with LGBT Youth Scotland.

We signpost young people through social media and our LGBT support groups.”

As a supplementary question, Councillor McLean asked whether, given that LGBT Youth Scotland had reported itself to the Police and was under investigation for a range of serious allegations, the Cabinet Member would (1) commit to ceasing all current funding, signposting/referrals and work with the organisation until such time as it may be cleared of any wrongdoing, and (2) have officers undertake any investigation into referrals already been made and, if any criminality was found, refer this to the Police and keep Members informed.

Councillor Macaulay responded by advising that, given this was a Police matter, he would not comment on the detail of it. The Cabinet Member expressed the view, however, that one person or incident did not reflect a whole organisation and advised that he was confident in the processes the Council had in place to keep its young people safe.

(12) a question by Councillor McDonald to the Cabinet Member for Education in the following terms:

“Can the Cabinet Member for Education tell us how many North Ayrshire pupils have visited Arran Outdoor Education Centre as part of a school residential since the centre reopened following Covid restrictions?”

Councillor Macaulay the Member for his question and responded in the following terms:

“The centre returned to normal operations at the start of the 2022/23 academic year. 1,424 pupils from North Ayrshire have attended since then, accompanied by 120 teachers.

A further 549 visitors from outwith the area or non-school groups have also attended.”

The Cabinet Member also referred to the assurances provided in his response to an earlier question on this subject.

As a supplementary question, Councillor McDonald asked whether the Cabinet Member agreed that the feasibility of the centre going forward should be a full Council decision and if he would commit to engaging with Members fully on any sustainability issues.

Councillor Macaulay responded by confirming that the future sustainability of the centre would involve a range of partners, including Members of North Ayrshire Council.

(13) a question by Councillor T. Ferguson to the Cabinet Member for Education in the following terms:

"To ask the Cabinet Member for Education to provide an update on the use of Facial Recognition Technology in schools following the recently published report from the Information Commissioner's Office."

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

"The facial recognition system was discontinued in October 2021 and all data held was deleted. There is no intention to reinstate this part of the system."

As a supplementary question, Councillor T. Ferguson made reference to the Information Commissioner's findings in this matter and asked the Cabinet Member to provide all Members with information on the total cost in relation to the roll-out of facial recognition technology.

Councillor Macaulay responded by confirming that he would be happy to provide the requested information.

(14) a question by Councillor Kerr to the Cabinet Member for Education in the following terms:

"Anti-poverty charities such as Child Poverty Action Group (CPAG) have been campaigning to reduce the Cost of the School Day, pointing out that the costs associated with sending children to school are a financial barrier to a good education for many families and their children. The last Administration introduced North Ayrshire's Cost of the School Day policy, with £500,000 of recurring annual funding, which was warmly welcomed by those anti-poverty charities. Can the Cabinet Member tell us how, to date, the funding has been used?"

Councillor Macaulay thanked the Member for her question and referred to the following written response:

"In 2021/22 half of the fund was spent on providing ICT devices for pupils.

The balance of the expenditure was focused on the key themes identified through a process of consultation and engagement with young people, including the CoSD conference. These were:

- Access to Food
- Activities/ Excursions and Trips
- Transport
- Uniforms

Schools were allocated funding for clothing and COSD activities which were determined locally. This included seasonal activities and trips and vouchers to support families at Christmas.

Facilities Management provided reusable water bottles to avoid expenditure on single plastics to reduce weekly costs to families.

Funding allocations were made to community partners to increase their offer to children and families, which included breakfast club support, family cooking sessions and free access to larders for families with school aged children.

In 2022/23, the themes have remained consistent, with schools again being allocated funding to support locally identified priorities.

Again, the largest investment has been in the continuation of a programme of purchasing IT devices for children and young people.

School clothing, uniforms and equipment has this year been identified as the most valued area of spend across school communities. The Council is currently completing a procurement process to ensure best value is achieved through the spend.

The 'Winter Warmer Breakfast' was also funded from the CoSD funds and was introduced across secondary schools, beginning in winter 2022.

Arrangements are being made to carry forward remaining unspent balances to be able to achieve best value from the funding across the school session, and this will be ring-fenced and spent before the end of this current academic session."

(15) a question by Councillor Billings to the Cabinet Member for Finance in the following terms:

"How much has North Ayrshire Council paid to Calmac in 2022 for following ferry travel to and from Arran and Cumbrae:

- Staff employed by North Ayrshire Council
- Staff employed by the Health and Social Care Partnership
- Waste vehicles
- Other vehicles"

In terms of Standing Order 14.4, the question and the following written response by Councillor Larsen were taken as read:

"In 2022, payments to Calmac processed through North Ayrshire Council's purchase ledger totalled £326,838. On some occasions, staff travel on the ferry services will not be included in these totals where they are recovered via staff expenses. This information cannot easily be extrapolated from the information held."

(16) a question by Councillor McDonald to the Leader of the Council in the following terms:

“To ask the Leader of the Council in her role as our representative on the NHS Ayrshire and Arran board how many patients in the health board waiting more than 12 hours in A&E in the past year?”

In terms of Standing Order 14.4, the question and the following written response by Councillor Burns were taken as read:

“NHS Ayrshire and Arran Health Board consider regular performance reports which are publicly available and published on their website. The most recent report which was considered by the Health Board on 31 January 2023 details the performance against key indicators for the year to December 2022, this includes the monthly Emergency Department waits over 12 hours across both acute hospital sites since February 2020. An extract of the performance information and trend is included in my written response for ease of access for members:



The performance report details that in the last year, i.e. from January to December 2022 there have been 8,888 waits of more than 12 hours in EDs in Ayrshire and Arran.”

(17) a question by Councillor Marshall to the Cabinet Member for Education in the following terms:

“A leading Scottish athletic champion has spoken out about Scottish government regulations which permit children to enter competitions in which gender they identify with.

She said at a school athletic championship in 2022 pupils there was a boy who identified as a trans girl.

The advice given by local council's active schools team was that children can compete in the gender they identify on the day.

The trans girl entered the girls' events and won all her events.

What advice does North Ayrshire Active Schools Team give in such a situation?"

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

"The "Supporting Transgender Pupils in Schools Guidance" says:

"We recommend:

"If PE classes are organised by sex, a transgender young person should be allowed to take part within the group which matches their gender identity."

The North Ayrshire Active Schools Team follows the national guidance."

As a supplementary question, Councillor Marshall referred to the original question, which had been about an athletic championship, while the response had been in respect of PE classes, and went on to ask if the Cabinet Member could provide Members with a link to the document to which he had referred.

Councillor Macaulay responded by agreeing to have the document link circulated to all Members. The Cabinet Member also noted that the Council was not responsible for athletic championships and reminded the Member of the importance of encouraging children to enjoy sports and physical activity regardless of how they identified.

(18) a question by Councillor Billings to the Cabinet Member for Finance in the following terms:

"How many new contracts has North Ayrshire Council set up with companies and individuals based in North Ayrshire that can be directly accredited to the Community Wealth Building initiative set up in 2020?"

In terms of Standing Order 14.4, the question and the following written response by Councillor Larsen were taken as read:

"Procurement contracts since 2020 to December 2022 awarded to local companies, which include tender awards, quick quotes and direct contract awards, totalled 291 contracts with a total value of £31,316,759. In terms of the total value of procurement spend with local companies and suppliers, this has increased from £43.243million (19.96% of total spend) in 2019/20 to £51.220million (22.93% of total spend) in 2021/22."

(19) a question by Councillor Billings to the Cabinet Member for Economy and Climate Change in the following terms:

“How many new jobs have been created within North Ayrshire that can be directly accredited to the Community Wealth Building initiative set up in 2020?”

In terms of Standing Order 14.4, the question and the following written response by Councillor Gurney were taken as read:

“It is not possible to directly accredit the creation of a specific new job with any one specific intervention or initiative as there are a number of factors that contribute to the creation of new jobs.”

17. Motion to Amend Standing Orders

A Notice of Motion having been submitted in terms of Standing Order 24 and duly noted at the last ordinary meeting of the Council on 14 December 2022, the Council was invited to consider the proposed changes set out in the following motion.

(1) a motion by Councillor Foster, seconded by Councillor McDonald in the following terms:

"(a) that clause 14.1 of Standing Orders be amended as follows:

the words “The question as tabled should not include supplementary or contextual text.” where they occur on the fourth to fifth lines thereof shall be deleted and the words “The question as tabled should only contain contextual information as preamble that is directly related and sufficient to facilitate understanding of the question.” substituted therefor

(b) that clause 14.2 of Standing Orders be amended as follows:

- (i) the number “45” where it occurs on the first line thereof shall be replaced with the number “60”
- (ii) the words “within one hour of the meeting ending” shall be inserted between the words “provided” and “included” where they occur on the last line thereof.

(c) that clause 14.3 of Standing Orders is deleted and replaced with the following:

“The process for selecting the order of questions for the agenda is as follows:

- Questions received are divided into lots:
 - Lot one - main Opposition;
 - Lot two - second Opposition;

- Lot three - Independent Members and Opposition Parties with fewer than 2 members and
- Lot four - the Administration;
- Questions will be put into each lot, by list, in the order received by the Chief Executive, unless all Members of the relevant group have given prior written agreement to the Chief Executive, that the order in which questions are listed in the lot for allocation can be specified by the leader of that group.
- Questions will be allocated to the agenda in turn from each lot list.
- The process proceeds until all questions have been allocated to the agenda.

(d) that clause 14.4 of Standing Orders be amended as follows:

- (i) the words “with contextual preamble” will be inserted between the words “question” and “tabled” where they occur on the first and second lines thereof.
- (ii) the word “further” shall be inserted between the words “No” and “preamble”
- (iii) the words “with contextual preamble” shall be inserted between the words “question” and “arising” where they occur on the sixth line thereof
- (iv) the words “use best endeavours to” will be inserted between the words “will” and “arrange” where they occur on the penultimate line thereof
- (v) the words “within 24 hours from the 10am deadline.” shall be added after the word “provided” where it occurs on the last line thereof

(d) that clause 14.7 of Standing Orders be amended as follows:

with regard to the rule contained in the third bullet point thereof, the words “unless it is seeking a progress update on a previous answer given” shall be added after the word “months” where it occurs on the last line thereof

(f) clause 15.2 of Standing Orders be amended as follows:

the words “For amendments proposed in relation to motions lodged under Standing Order 15.1, notice of amendment from the proposer and seconder must be emailed to the Chief Executive not later than 2pm on the Monday prior to the Council meeting and after having been checked for competency, will be circulated to Members in advance of the meeting.” where they occur on the fourth to eighth lines thereof shall be deleted

(g) that clause 15.4 of Standing Orders be amended as follows:

with regard to the rule contained in the eighth bullet point thereof, the words "and agreement" where they occur on the penultimate line thereof shall be deleted.

(h) that clauses 6.5, 19.5, 23.1 and 25.1(i) of Standing Orders be amended as follows:

the words "two thirds" where they occur within said clauses shall be deleted and the words "a majority" substituted therefor."

As an amendment, Councillor Marshall, seconded by Councillor T. Ferguson, moved as follows:

"That Council refuse the motion by Councillor Foster seconded by Councillor McDonald, to amend Standing Orders.

Council agrees:

- (a) that a Member/Officer working group is established to review the content of Standing Orders for Meetings; and
- (b) that a report, informed by discussions at the working group, with proposals for review/amendment of standing orders will be brought to the full meeting of Council in May 2023 as part of the annual review of Standing Orders for decision."

In terms of Standing Order 16.5, Councillor Foster, with the agreement of his seconder, agreed to withdraw his motion in favour of the amendment, which became the substantive motion. There being no further amendment, the substantive motion was declared carried.

18. Notice of Motion to Amend Standing Orders

- (1) a Notice of Motion by Councillor Marshall, seconded by Councillor T. Ferguson, was submitted in terms of Standing Order 24 to seek to amend Standing Orders as follows:

"That clause 3.4 of Standing Orders be amended as follows: the words "at least nine Members of the Council" where they occur on line 3 are deleted and the words "at least seventeen Members of the Council" substituted therefor."

In terms of Standing Order 16.5, and in light of the decision on the previous item of business, Councillor Marshall, with the agreement of his seconder, agreed to withdraw the Notice of Motion.

Accordingly, the Council agreed to note the withdrawal of the Notice of Motion.

19. Motions

In terms of Standing Order 15, submitted:

- (1) a motion by Councillor McDonald, seconded by Councillor Kerr, in the following terms:

“The decision of workers to withdraw their labour is a fundamental democratic right. With workers across many sectors and industries currently taking industrial action to protect themselves from the cost-of-living crisis, the Conservative Government is attacking the unequivocal right to strike, forcing them to work against their will with their latest anti-trade union legislation.

North Ayrshire Council respects the legal right of all workers taking industrial action to defend jobs, protect their terms and conditions and for a fair wage rise. North Ayrshire Council opposes the Tories’ anti-strike legislation and asks the Chief Executive to write to:

- (a) the Secretary of State for Business, Energy and Industrial Strategy to state the Council’s opposition to their ‘The Strikes (Minimum Service Levels) Bill’; and
- (b) the General Secretary of the STUC to express North Ayrshire Councillors’ support for the existing legal right to strike for fair pay, jobs and conditions.”

There being no amendment, the motion was declared carried.

- (2) a motion by Councillor Foster, seconded by Councillor Bell, in the following terms:

“The revenue budget performance paper at January’s Cabinet meeting reported “underspends in employee costs as a result of the teachers’ industrial action” of £278,000 to date with further reductions if industrial action continues.

This is money allocated by the Council towards teachers and their education of North Ayrshire school pupils and therefore Council agrees that any underspend relating to teachers taking industrial action should be earmarked for alternative investment in teachers’ health and wellbeing. If the earmarking of funds creates an overall overspend of the Council budget at 31st March 2023 then the balance of overspend should be met from the Council’s unearmarked reserves

Council agrees to work with the teaching unions to develop proposals for a teachers’ health and wellbeing programme funded by cost reductions related to teachers’ industrial action.”

As an amendment, Councillor McLean, seconded by Councillor S. Ferguson moved the direct negative.

As a further amendment, Councillor Macaulay, seconded by Councillor Larsen, moved approval of the terms of the motion, subject to the following:

“Deletion of all after

“The revenue budget performance paper at January’s Cabinet meeting reported “underspends in employee costs as a result of the teachers’ industrial action” of £278,000 to date with further reductions if industrial action continues”

and addition of

“Council agrees that any budget proposal, including how to allocate any underspend, is considered at the Special Council meeting on 1.3.23”

Members asked questions, and received confirmation from the Monitoring Officer, on the competence of the motion in terms of assigning underspends in employee costs in the way proposed.

Thereafter, in terms of Standing Order 16.5, Councillor McLean, with the agreement of his seconder, agreed to withdraw his amendment in favour of that proposed by Councillor Macaulay.

There followed debate and summing up.

Councillor Murdoch left the meeting in the course of the debate.

On a division and roll call vote, there voted for the remaining amendment, Councillors Billings, Burns, Collier, Davidson, Dickson, S. Ferguson, T. Ferguson, Gallacher, Glover, Gurney, Hill, Inglis, Johnson, Larsen, Macaulay, Marshall, McClung, McLean, McTiernan, Donald L. Reid, Robertson, Stalker and Stephen (23) and for the motion, Councillors Bell, Cullinane, Foster, Kerr, McDonald, McPhater, Montgomerie, Donald Reid and Sweeney (9) and the amendment was declared carried.

Accordingly, the Council agreed as follows:

- (a) to note that the revenue budget performance paper at January’s Cabinet meeting reported “underspends in employee costs as a result of the teachers’ industrial action” of £278,000 to date with further reductions if industrial action continues; and
- (b) that any budget proposal, including how to allocate any underspend, be considered at the Special Council meeting on 1 March 2023.

20. Urgent Items

There were no urgent items.

Noted.

21. Provost's Closing Remarks

The Provost closed the meeting by thanking Members for their participation.

The meeting ended at 5.55 p.m.