

EAST AYRSHIRE COUNCIL

GOVERNANCE AND SCRUTINY COMMITTEE

**MINUTES OF MEETING HELD ON FRIDAY 23 APRIL 2010 AT 1000 HOURS IN
THE ROBERT BURNS SUITE, BURNS MONUMENT CENTRE, KAY PARK,
KILMARNOCK**

PRESENT: Councillors Tom Cook, John McGhee, Helen Coffey, Willie Coffey, John Campbell, Alan Brown, Stuart Finlayson, Jimmy Kelly, Elaine Dinwoodie and Drew Filson.

ATTENDING: Graham Short, Executive Director of Educational and Social Services; Alex McPhee, Executive Director of Finance and Corporate Support; Chris McAleavey, Head of Housing; Martin Rose, Head of Human Resources; David Mitchell, Head of Legal, Procurement and Regulatory Services; John Griffiths, Head of Leisure Services; Gwen Barker, Community Planning and Partnership Manager; and Lynn Young, Administrative Officer.

APOLOGY: Councillor Eric Ross.

CHAIR: Councillor Tom Cook, Chair.

PREVIOUS MINUTES

1. There were submitted and approved as a correct record, the Minutes of the meeting held on 19 March 2010 (circulated).

MATTERS ARISING UPDATE REPORT

2. There was submitted a report dated 26 March 2010 (circulated) by the Executive Director of Finance and Corporate Support which provided the Committee with a consolidated response to information requests made by Members at previous meetings.

Arising from discussion it was agreed that the Executive Director of Educational and Social Services would confirm to the Members of the Governance and Scrutiny Committee, information in relation to the qualification offered to pupils by SQA for those pupils who are native speakers or learners studying Gaelic as a second language.

It was agreed to note the information provided in response to the matters arising as detailed in the report.

CALLED-IN DECISIONS OF CABINET

**HEARING PROCEDURE FOR CONSIDERATION OF CALLED IN CABINET
DECISIONS**

3. There was submitted a report dated 8 April 2010 (circulated) by the Executive Director of Finance and Corporate Support which sought approval to a revised Hearing Procedure to be applied when the Committee were considering called-in decisions of Cabinet.

The Head of Legal, Procurement and Regulatory Services provided a detailed explanation as to the amendments to the Hearing Procedure and following discussion it was agreed:-

- (i) to approve the revised proposed procedure set out at Appendix 1 of the report for inclusion within an updated "Guidelines for Governance and Scrutiny" document, and that the revised procedure be applied with immediate effect;
- (ii) to note that Officers would continue to review the processes and guidance on Governance and Scrutiny and make recommendations as and when required; and
- (iii) otherwise, to note the contents of the report.

CONSIDERATION OF A CALLED-IN DECISION OF CABINET

4.1 PROCEDURE

It was noted that the procedure to be followed in dealing with the undernoted called-in decision of Cabinet had been agreed under Item 3 above.

4.2 EXCLUSION OF PRESS AND PUBLIC

Committee resolved "That under Section 50A(4) of the Local Government (Scotland) Act 1973, as amended, the Press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 11 of Schedule 7A of the Act".

4.3 TERMINATION OF INCENTIVE BONUS SCHEME FOR CRAFT OPERATIVES WITHIN BUILDING AND WORKS (Item 15, Page 1087, 07/12)

In connection with the called-in decision of Cabinet of 24 March 2010 in relation to the termination of the incentive bonus scheme for craft operatives within Building and Works, there were submitted the following (all circulated), namely:-

- (i) the call-in notice;
- (ii) the related Cabinet report;
- (iii) submission by Councillor Barney Menzies; and
- (iv) position statement by the Executive Director of Finance and Corporate Support.

The Head of Legal, Procurement and Regulatory Services advised that following the decision of Cabinet on 24 March 2010, a notification of grievance had been submitted in connection with the decision and as such the decision of Cabinet held on 24 March 2010 in relation to the termination of the incentive bonus scheme for craft operatives within Building and Works should not be implemented until the notification of grievance had been determined in accordance with the Council's agreed Grievance Policy, which required the status quo to be maintained pending determination of the notice.

It was agreed to recommend to Cabinet that Cabinet should review their original decision in light of this development and the advice received as regards the implications arising from the proper application of the Grievance Policy.

It was further noted that the relevant parties present in connection with the called-in decision of Cabinet endorsed the recommendation of the Governance and Scrutiny Committee in respect of their interest.

4.4 RE-ADMITTANCE OF PRESS AND PUBLIC

The Press and public were re-admitted to the meeting.

PERFORMANCE

EAST AYRSHIRE COUNCIL'S RESPONSE TO AUDIT SCOTLAND "STATUTORY PERFORMANCE INFORMATION - THE 2008 DIRECTION: A GUIDE FOR AUDITORS"

5. There was submitted a report dated 9 April 2010 (circulated) by the Executive Director of Finance and Corporate Support which informed of proposals that would further strengthen the Council's response to Audit Scotland's 2008 Direction - "A New Direction: SPI Guidance for Audit Bodies 2009/10", and which met the specific requirements of the recently published "Statutory Performance Information: The 2008 Direction - A Guide for Auditors", in relation to volume and coverage of the Council's SPIs; procedures for ensuring accuracy of indicators collected; and arrangements for publication of an annual performance report.

It was agreed:-

- (i) to note the extension to the suite of performance indicators by the addition of a further 29 LPs, that would form the basis of the Council's response to Audit Scotland's 2008 Direction;
- (ii) to note the production of an annual performance report that would make the requirements of the 2008 Direction and the "Statutory Performance Information: The 2008 Direction - A Guide for Auditors";
- (iii) to note the proposed arrangements for ensuring the appropriate verification of the accuracy of the statutory indicators;
- (iv) to note the review of scrutiny arrangements that would be subject to a future report to the Corporate Management Team; and
- (v) otherwise, to note the contents of the report.

SCRUTINY

FINAL MEASUREMENTS ON WORKS CONTRACTS FOR THE PERIOD 1 NOVEMBER 2009 TO 31 MARCH 2010

6. There was submitted a report dated 7 April 2010 (circulated) by the Executive Director of Finance and Corporate Support which provided, for information, details of final measurements for capital works contracts which had been accepted on behalf of the Council for the period from 1 November 2009 to 31 March 2010.

During discussion, Members raised issues relative to the undernoted matters, which were responded to by the appropriate Officers, namely:-

- the Executive Director of Finance and Corporate Support provided an explanation regarding any underspend which had occurred due to the omission of

contingencies from the Council's budgets, and the Head of Legal, Procurement and Regulatory Services confirmed that further information would be provided to Members of the Committee along with clarification on the terminology of the explanation given in Appendix 1 of the report "underspend was due to the omission of contingencies and contract instruction".

It was agreed to note the contents of the report.

AWARDING OF CONTRACTS: PERIOD FROM 6 FEBRUARY TO 9 APRIL 2010

7. There was submitted a report dated 7 April 2010 (circulated) by the Executive Director of Finance and Corporate Support which provided, for information, details of tenders which had been accepted on behalf of the Council for the period from 6 February to 9 April 2010.

During discussion, Members raised issues relative to the undernoted matters, which were responded to by the appropriate Officers, namely:-

- that with regards to the Housing contract - Uplift of Segregated/Unsegregated Waste for Processing and Diversion from Landfill, the Head of Legal, Procurement and Regulatory Services provided an explanation regarding the breakdown of the six lots relative to the contract and confirmed that he would provide information on details of Lot 6 to the Committee Members;
- the Head of Legal, Procurement and Regulatory Services provided a detailed explanation where estimated costs for a contract is Schedule of Rates based and confirmed that he would provide information specifically relating to the supply and installation of office furniture contract to Councillor John McGhee; and
- the Head of Legal, Procurement and Regulatory Services provided a detailed explanation regarding the various tender processes used by East Ayrshire Council following concerns regarding the cost to the Council of the high level of companies tendering for contracts confirming that there is no significant additional cost arising from this approach as such bids are submitted and processed electronically.

It was agreed to note the contract awarded to date.

COMMUNITY PLANNING PARTNERSHIP SINGLE OUTCOME AGREEMENT ANNUAL REPORT 2008/2009: IMPROVEMENT PLAN

8. There was submitted a report dated 30 March 2010 (circulated) by the Executive Director of Finance and Corporate Support which presented for consideration the Single Outcome Agreement Improvement Action Plan, which had been developed to address areas identified for improvement in the Single Outcome Agreement (SOA) Annual Performance Report.

During discussion, the Community Planning and Partnership Manager provided clarification in response to questions asked by Members relative to the following, namely:-

- how the Community Plan and Statutory Performance Indicators integrate with the Council's Statutory Performance Indicators; and
- that in connection with the funding allocated to an international biopharmaceutical company for work in the Dalmellington area, the Community Planning and

Partnership Manager confirmed that information in connection with the allocation and purpose of the funding would be provided to Members of the Committee.

It was agreed:-

- (i) to note that Cabinet had considered and approved the Single Outcome Agreement Improvement Plan at its meeting held on 23 March 2010;
- (ii) to receive progress reports on a six monthly basis;
- (iii) to note that work would be taken forward to review the revised menu of local outcome indicators issued by the SOLACE led Improving Local Outcome Indicators Project; and
- (iv) otherwise, to note the contents of the report.

EXCLUSION FROM SCHOOLS IN EAST AYRSHIRE 2008/2009

9. There was submitted a report dated 31 March 2010 (circulated) by the Executive Director of Educational and Social Services which advised of the exclusion of pupils from schools in East Ayrshire during session 2008/2009 and which described the supports in place designed to reduce these figures on an annual basis.

During discussion, the Executive Director of Educational and Social Services responded to questions put and matters raised, by Members relative to the following matters, namely-

- the reasons for special schools not being included within the body of the report;
- the length of time taken to diagnose primary aged children with a learning difficulty or behavioural disorder;
- confirmed that information on the figures relating to the number of children expelled from primary school who are then transferred to a special school following diagnosis of a learning difficulty or a behavioural disorder would be provided to the Members of the Committee;
- in connection with the number of appeals against exclusions from primary or secondary school, the Executive Director of Educational and Social Services confirmed that he would provide this information to Members of the Committee; and
- in respect of the reasons for exclusion, the Executive Director of Educational and Social Services confirmed that he would further clarify the information detailed in paragraph 6.3 of the report to Members of the Committee, to include all categories of reasons.

It was agreed:-

- (i) to remit to the Executive Director of Educational and Social Services to continue to report annually to the Governance and Scrutiny Committee on exclusions from schools within East Ayrshire;
- (ii) that future reports include information relative to appeals against exclusions and the outcome, and a fuller breakdown of the reasons for exclusion; and
- (iii) otherwise, to note the contents of the report.

TOPICS FOR REVIEW 2010/11

- 10.** There was submitted a report dated 25 March 2010 (circulated) by the Executive Director of Finance and Corporate Support which presented, for consideration, the proposed scoping papers for the two reviews to be undertaken by the Committee during 2010/11 and on the topics “Anti-Social Behaviour Orders in East Ayrshire since their Introduction” and “Insurance Arrangements provided by Contractors Carrying out Work on Behalf of East Ayrshire Council”.

The Head of Legal, Procurement and Regulatory Services advised that in respect of the topic “Anti-Social Behaviour Orders in East Ayrshire since their Introduction”, any review of the Anti-Social Behaviour Orders should necessarily involve a review of the lesser measures implemented prior to the use of Anti-Social Behaviour Orders and suggested the Committee may wish to consider broadening the heading for the review of Anti-Social Behaviour Orders to “Anti-Social Behaviour Measures in East Ayrshire since their Introduction”.

Arising from discussion, the Chair and the Head of Legal, Procurement and Regulatory Services confirmed that the debrief on the adverse weather conditions in 2009 would be presented to the Governance and Scrutiny Committee at an appropriate time.

It was agreed:-

- (i) to approve the scoping papers for each of the topics as set out in Appendices 1 and 2 of the report, subject to the amendment to Appendix 1 in that the review topic be “Review of Anti-Social Behaviour Orders and Other Measures in East Ayrshire since their Introduction”; and
- (ii) otherwise, to note the contents of the report.

FINANCE AND STRATEGY REPORT TO PERIOD 11 (7 FEBRUARY 2010)

- 11.** There was submitted a report dated 7 April 2010 (circulated) by the Executive Director of Finance and Corporate Support which advised of the projected financial position for the year based on expenditure to 7 February 2010 (Period 11) and information provided by Executive Directors.

The Executive Director of Finance and Corporate Support made reference to the undernoted matters, namely:-

- the reasons for the £0.715M projected variance within Educational and Social Services and the £0.546M projected variance within Neighbourhood Services;
- that information in connection with the £0.618M projected variance for Corporate Support was detailed at page 30 of the Finance and Strategy Report;
- the reasons for the £2.098M projected variance within Central Services budget;
- the reasons for the £0.614M projected variance within Building and Works; and
- information on the total capital project projected expenditure for 2009/2010.

During discussion, the Executive Director of Finance and Corporate Support responded to questions put, and matters raised, by Members relative to the following matters, namely:-

- the projected recovery from the Icelandic Bank collapse and that money had been set aside to cover any potential loss;
- the possibility of further refining the reporting of the Educational and Social Services budget to include detail on the budgets held by individual schools;
- the reasons as to why any underspend in Educational and Social Services could not be utilised for an underspend in balances; and
- the reasons as to the tender process for the Patna/St Xavier's Primary School co-location commencing in March 2011.

It was otherwise agreed to note the position with regard to the general fund accounts, performance on key indicators and progress in relation to major projects included within the capital programme as set out in the report.

The meeting terminated at 1145 hours.