

Thursday, 25th February, 2021 - 10.00 a.m.

AGENDA

Page Nos.

1. APOLOGIES

2. DECLARATIONS OF INTEREST

In terms of Section 5 of the Code of Conduct, members are asked to declare any interest in particular items on the agenda and the nature of the interest(s) at this stage.

3. CIVIC BUSINESS BULLETIN

Circulated to members and available on FISH and Fife.gov.uk.

4. MINUTES – Minutes of Fife Council of 12th November, 2020.

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5. MINUTES OF COMMITTEES AND SUB-COMMITTEES

Minute of the October, 2020 to January, 2021 meetings of the Council's Committee and Sub-Committees, as contained in the volume of minutes uploaded to FISH and Fife Council website, as submitted for accuracy.

6. CO-LEADERS' REPORT

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7. QUESTION TIME

In terms of Standing Orders, copies of these questions will be emailed to members and available on FISH and Fife Council website

8. SETTING OF COUNCIL TAX FOR 2021/2022

The Council is requested to consider the levying of Council Tax for 2021-2022. In this regard, the following papers are submitted:-

(a) Council Tax and Community Charge: Provisions relating to voting by Elected Members - Report by the Executive Director - Finance and Corporate Services; and

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(b) Report by the Executive Director, Finance and Corporate Services.

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9. HOUSING REVENUE ACCOUNT (HRA) BUDGET 2021 - 2022 AND HOUSING REVENUE ACCOUNT (HRA) CAPITAL INVESTMENT PLAN 2021 - 2024 – Joint Report by the Head of Housing Services and the Head of Finance .

(a)/

	<u>Page Nos.</u>
(a) Joint report by the Head of Housing Services and Head of Finance in relation to the Housing Revenue Account Budget 2021/22;	42 – 55
(b) Administration's Motion on the Housing Revenue Account Budget 2021/22;	56
(c) Joint report by the Head of Housing Services and Head of Finance in relation to the Housing Revenue Account Capital Investment Plan 2021/24; and	57 – 63
(d) Administration's Motion on the Housing Revenue Account Capital Investment Plan 2021/24.	64 - 65
<p><u>Note:</u> Any members requiring further information or clarification on the HRA budget proposals are requested to contact John Mills, Head of Housing Services, in the first instance.</p>	
10. CALL-IN - EDUCATION AND CHILDREN'S SERVICES SUB-COMMITTEE DECISION OF 3RD NOVEMBER, 2020 RELATING TO "CHILDCARE SERVICES AND PLAY PRACTICE DEVELOPMENT" (MINUTE REFERENCE PARAGRAPH 186 OF 2020 ECS 70) – Report by the Head of Legal and Democratic Services.	66 - 98
11. STANDARDS COMMISSION FOR SCOTLAND DECISIONS – Report by the Head of Legal and Democratic Services.	99 - 128
12. APPOINTMENT TO PARTNER ORGANISATION - ST ANDREWS LINKS TRUST – Report by the Head of Legal and Democratic Services.	129 - 130
13. NOTICE OF MOTIONS – Report by the Head of Legal and Democratic Services.	131 - 136
14. BUSINESS BROUGHT FORWARD BY THE PROVOST AS A MATTER OF URGENCY	

Members are reminded that should they have queries on the detail of a report they should, where possible, contact the report authors in advance of the meeting to seek clarification.

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Head of Legal and Democratic Services
Finance and Corporate Services
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18th February, 2021

If telephoning, please ask for:
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Agendas and papers for all Committee meetings can be accessed on www.fife.gov.uk/committees

THE FIFE COUNCIL - FIFE COUNCIL – REMOTE MEETING

12th November, 2020

10.00 a.m. – 10.20 a.m.

PRESENT Councillors Jim Leishman (Convener), David Alexander, Lesley Backhouse, Alistair Bain, David Barratt, John Beare, Tim Brett, James Calder, Ken Caldwell, Alistair Cameron, Ian Cameron, Alex Campbell, Bobby Clelland, Dave Coleman, Bill Connor, Altany Craik, Neil Crooks, Colin Davidson, Dave Dempsey, John Docherty, Gavin Ellis, Linda Erskine, Ian Ferguson, Julie Ford, Derek Glen, David Graham, Fiona Grant, Mick Green, Sharon Green-Wilson, Gary Guichan, Garry Haldane, Jean Hall-Muir, Judy Hamilton, Andy Heer, Zoe Hisbent, Linda Holt, Gordon Langlands, Helen Law, Kathleen Leslie, Rosemary Liewald, Carol Lindsay, Jane Ann Liston, Mary Lockhart, Donald Lothian, David MacDiarmid, Mino Manekshaw, Karen Marjoram, Lea McLelland, Alice McGarry, Tony Miklinski, Derek Noble, Dominic Nolan, John O'Brien, Tony Orton, Ross Paterson, Bill Porteous, Graham Ritchie, David Ross, David J Ross, Ryan Smart, Kate Stewart, Alistair Suttie, Jonny Tepp, Brian Thomson, Ann Verner, Andrew Verrecchia, Ross Vettraino, Craig Walker, Darren Watt and Jan Wincott.

193.	DECLARATIONS OF INTEREST
	No declarations were submitted in terms of Standing Order 7.1.
194.	REVIEW OF COMMUNITY COUNCIL SCHEME - UPDATE ON BOUNDARY CONSULTATION AND PROPOSED SCHEME
	<p>The Council considered a report by the Head of Legal and Democratic Services which provided members with an update on progress in relation to the ongoing review of the current Scheme of Establishment of Community Councils, to recommend a response to the submissions received during the consultation process in respect of community council boundaries and election rules and to propose an amended Scheme document for the next stage of consultation.</p> <p>It was noted that a number of amendments to the draft Scheme of Establishment and proposed boundary changes had been received from members.</p>
	<u>Decision</u>
	<p>As the required two thirds majority agreed, the Council:-</p> <p>(1) noted the progress made to date in reviewing the current Scheme of Establishment of Community Councils and the amended consultation timeline as set out in Appendix 1 of the report;</p> <p>(2)/</p>

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| | <ul style="list-style-type: none"><li data-bbox="264 165 1455 246">(2) agreed to defer the decision on the proposed boundary changes to the meeting of Fife Council in March, 2021 to allow for further consultation;<li data-bbox="264 280 1455 392">(3) approved the draft Scheme of Establishment and associated documents as set out in Appendices 4 and 5 of the report and agreed that these be subject to further consultation; and<li data-bbox="264 425 1455 539">(4) noted that a report on the outcome of the second phase of public consultation and a request to approve the final Scheme and boundaries will be submitted to a special meeting of Fife Council in March, 2021. |
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THE FIFE COUNCIL - FIFE COUNCIL – REMOTE MEETING

12th November, 2020

10.20 a.m. – 2.30 p.m.

PRESENT: Councillors Jim Leishman (Convener), David Alexander, Lesley Backhouse, Alistair Bain, David Barratt, John Beare, Tim Brett, James Calder, Ken Caldwell, Alistair Cameron, Ian Cameron, Alex Campbell, Bobby Clelland, Dave Coleman, Bill Connor, Altany Craik, Neil Crooks, Colin Davidson, Dave Dempsey, John Docherty, Gavin Ellis, Linda Erskine, Ian Ferguson, Julie Ford, Derek Glen, David Graham, Fiona Grant, Mick Green, Sharon Green-Wilson, Gary Guichan, Garry Haldane, Jean Hall-Muir, Judy Hamilton, Andy Heer, Zoe Hisbent, Linda Holt, Gordon Langlands, Helen Law, Kathleen Leslie, Rosemary Liewald, Carol Lindsay, Jane Ann Liston, Mary Lockhart, Donald Lothian, David MacDiarmid, Mino Manekshaw, Karen Marjoram, Lea McLelland, Alice McGarry, Tony Miklinski, Derek Noble, Dominic Nolan, John O'Brien, Tony Orton, Ross Paterson, Bill Porteous, Graham Ritchie, David Ross, David J Ross, Ryan Smart, Kate Stewart, Alistair Suttie, Jonny Tepp, Brian Thomson, Ann Verner, Andrew Verrecchia, Ross Vettraino, Craig Walker, Darren Watt and Jan Wincott.

The Provost advised that, in terms of Standing Order 8.1, he had agreed to accept an urgent motion in relation to Mossmorran and that this would be considered under Notice of Motions on the agenda.

195.	DECLARATIONS OF INTEREST
	<p>Councillor Linda Holt declared an interest in paragraph 204 (Urgent Motion) below as she was a member of the Mossmorran Action Group. She intended to leave the meeting for this item.</p> <p>Councillors Jim Leishman and Ann Verner declared an interest in paragraph 203 below as they were Council appointed members of the St Andrews Links Trust. However, as this is a separate entity from the Management Committee, they considered that their interest was so remote and insignificant that they would remain in the meeting and participate in this item.</p> <p>Councillor Lesley Backhouse declared an interest in paragraph 203 below as a Council appointed member of the St Andrews Links Management Committee. She considered that her interest was so remote and insignificant that she would remain in the meeting and participate in this item.</p> <p>Councillor Brian Thomson declared an interest in paragraph 203 below as a Council appointed member of the St Andrews Links Management Committee. He intended to leave the meeting for this item.</p>
196./	

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196.	CIVIC BUSINESS BULLETIN
	<p>There was circulated at the meeting a Civic Business Bulletin, a copy of which is appended as Appendix 1 to the minute.</p> <p>The Provost congratulated all of those listed as having received an award in the Queen’s Birthday Honours List in the local area.</p>
197.	MINUTE
	The Provost, seconded by the Depute Provost, moved that the minute of the Fife Council meeting of 10th September, 2020 be approved.
	<u>Decision</u>
	The minute was approved.
198.	MINUTES OF COMMITTEES AND SUB-COMMITTEES
	<p>The minutes of the undernoted Committees and Sub-Committees, as contained in the volume of minutes, were submitted for accuracy:-</p> <ol style="list-style-type: none"> (1) North East Planning Committee of 26th August, 23rd September and 21st October, 2020. (2) Central and West Planning Committee of 2nd September, 29th September and 28th October, 2020. (3) Fife Planning Review Body of 28th September and 26th October, 2020. (4) Regulation and Licensing Committee of 18th August and 15th September, 2020. (5) Glenrothes Area Committee of 14th October, 2020. (6) South and West Fife Area Committee of 7th October, 2020. (7) Kirkcaldy Area Committee of 8th September and 20th October, 2020. (8) City of Dunfermline Area Committee of 8th September and 20th October, 2020. (9) Levenmouth Area Committee of 9th September and 21st October, 2020. (10) Cowdenbeath Area Committee of 9th September and 14th October, 2020. (11) North East Fife Area Committee of 2nd September, 2020. (12) Policy and Coordination Committee of 27th August and 8th October, 2020. (13) Environment, Finance and Communities Scrutiny Committee of 25th August, 2020. (14) Education and Children's Services, Health and Social Care Scrutiny Committee of 16th September, 2020. (15) Standards and Audit Committee of 31st August and 15th October, 2020. (16) Superannuation Fund and Pensions Committee and Fife Pensions Board of 31st August and 30th September, 2020. (17) Fife Health and Social Care Integration Joint Board of 28th August and 25th September, 2020.
	<u>Decision</u>
	The minutes were noted.
199./	

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199.	CO-LEADERS' REPORT
	The Council considered a report by the Co-Leaders on a number of strategic issues. The Co-Leaders provided updates on a number of issues in response to questions from members.
	<u>Decision</u>
	The Council noted the report.
200.	QUESTION TIME
	In terms of Standing Order 1.7, the questions put by members to the meeting, the written answers and supplementary questions, are contained in Appendix 2 to the minute.
<i>The meeting adjourned at 11.45 a.m. and reconvened at 12 noon.</i>	
201.	FIFE COUNCIL BUDGET MEETING 2021 - TIMESCALES
	The Council considered a report by the Head of Legal and Democratic Services which advised members of contingency plans for the budget process in light of the potential delay in the Scottish Local Government Settlement being received, including contingent changes to Standing Orders to reflect any compressed timescales for decision.
	<u>Decision</u>
	The Council:- <ol style="list-style-type: none"> (1) noted the potential for late receipt of the financial information necessary to allow the Council to set its 2020/21 Budget; (2) agreed that, if required, Standing Orders may be amended so that Budget Proposals are to be delivered by 12 noon on the working day prior to the Budget meeting, with proposed amendments to such proposals to be lodged at the budget meeting; and (3) agreed to delegate authority to the Executive Director (Finance and Corporate Services) and the Head of Legal and Democratic Services to make the foregoing amendments to Standing Orders to give effect to these compressed timescales if this becomes necessary to enable an effective budget setting process, but that such changes will have effect only for the 2021/2022 budget setting process.
202.	CHANGES TO LIST OF COMMITTEE AND OFFICER POWERS
	The Council considered a report by the Head of Legal and Democratic Services which proposed recommendations for changes to the Council's List of Committee Powers and List of Officer Powers.
	<u>Decision</u>
	The/

2020 FC 232

	<p>The Council:-</p> <ol style="list-style-type: none"> (1) approved the changes to the List of Committee Powers as set out in Appendix 1 of the report; (2) approved the changes to the List of Officer Powers as set out in Appendix 2 of the report, subject to the approval of Scottish Government in respect of the proposed changes to the Planning Scheme of Delegation; and (3) delegated authority to the Head of Legal and Democratic Services to make any consequential and non-substantive amendments to the List of Committee and Officer Powers arising from the report.
<p><i>Councillor Thomson left the meeting prior to consideration of the following item having declared an interest.</i></p>	
<p>203.</p>	<p>EXTERNAL ORGANISATION - APPOINTMENT TO ST ANDREWS LINKS MANAGEMENT COMMITTEE</p>
	<p>The Council considered a report by the Head of Legal and Democratic Services seeking appointment of an elected member representative to the St Andrews Links Management Committee.</p>
	<p><u>Decision</u></p>
	<p>The Council agreed unanimously to reappoint Councillor Lesley Backhouse as an elected member representative to the St Andrews Links Management Committee for a four year period from 1st January 2021 to 31st December, 2024.</p>
<p><i>Councillor Thomson rejoined the meeting after consideration of the above item.</i></p>	
<p>204.</p>	<p>NOTICE OF MOTIONS</p>
	<p>The Council considered a report by the Head of Legal and Democratic Services which required the Council consider the motions submitted in terms of Standing Order 8.1.</p>
	<p><u>Motion 1</u></p> <p>Councillor Calder, seconded by Councillor Brett, moved as follows:-</p> <p>Supporting ‘Teach the Future’</p> <p>“Fife Council notes the continuing climate emergency and the efforts, both local and national, being undertaken to tackle this.</p> <p>Fife Council also notes the positive work by ‘Teach the Future’, led by young people in schools and further education, to ensure that the climate emergency is high in the education agenda. Teach the Future has noted that only 4% of students feel they know a lot about climate change, 68% of students want to learn more about the environment and 75% of teachers feel they have not received adequate training to education students about climate change.</p> <p>Council/</p>

Council resolved to support the following asks of the Scottish Government by Teach the Future:

Ask 1: A government commissioned review into how the whole of the Scottish formal education system is preparing students for the climate emergency and ecological crisis.

Ask 2: Inclusion of the climate emergency and ecological crisis in teacher education and a new professional teaching qualification.

Ask 3: Increased priority for sustainability in school inspections and publicly influencing educational rankings

Ask 4: A Scottish Climate and Biodiversity Emergency Education Act
Fife Council asks the Council co-leaders to write to the Scottish Education Secretary in support of this.

Furthermore Fife Council also calls for a paper on Climate Change education to be brought to the Education and Children's Services Subcommittee at some point in the near future, detailing what action is currently being taken."

Decision

The Council agreed the motion unanimously.

Motion 2

Councillor Alexander, seconded by Councillor Beare, moved as follows:-

"Subject to the recommendations in the Report on Changes to the List of Committee Powers and Officer Powers being approved, this motion proposes the following changes to the Conveners of the following Sub-Committees:-

Assets and Corporate Services sub-committee , replace Councillor Craig Walker with Councillor David Barratt.

Education and Children's Services sub-committee, replace Councillor Fay Sinclair with Councillor Craig Walker."

Decision

The Council:-

- (1) agreed the motion unanimously; and
- (2) noted the confirmation by the Head of Legal and Democratic Services that Special Responsibility Allowances transfer to the elected member appointed as Convener of the Sub-Committees of the Policy and Coordination Committee. As such, these changes could be accommodated within the scope of the Council's allocation of Special Responsibility Allowances.

Motion 3

Councillor Hamilton, seconded by Councillor Verrecchia moved as follows:-

WHIR/

WHIR Project/16DAYS

“Council notes that 25th Nov begins the Annual “16 days of action against Gender-based violence;

Recognises that as we have retreated into our homes during an unprecedented lockdown, reports of domestic abuse have increased in Fife.

Believes that we as Councillors are leaders in our communities; and as such have responsibility to highlight and call out domestic or gender-based violence wherever it is found.

We recognise the tireless work of our staff - through the WHIR (Womens’ Health Improvement Research) Project, working in Housing Services and across the Fife Housing Partnership - and other Council Services, through the Violence against Women Partnership; and others who work with victims and survivors to improve housing support and reduce homelessness among this group of clients; and support this work with our communities.

Today, we commit once again to the White-Ribbon Campaign to stand up; speak out and say NO to violence against women. As Leaders in our communities, we will pledge to Never Commit; excuse or remain silent about violence against women.”

Decision

The Council agreed the motion unanimously.

Councillor Richard Watt joined the meeting following consideration of Motion 3.

Motion 4

Councillor Backhouse, seconded by Councillor Glen, moved as follows:-

“Fife Council believes that no child should go hungry in the school holidays. This Council fully supports Marcus Rashford in his campaign to ensure no child in England goes hungry in the school holidays.”

Amendment 1

Councillor Hamilton, seconded by Councillor Guichan, moved as follows:-

“Council further notes the success of the Marcus Rashford campaign in influencing Government policy on this and calls on the Scottish Government to fully fund Scottish local authorities in the long term to ensure that no child goes hungry in Scotland during the school holidays without the need to cut back on other vital local services.”

Amendment 2

Councillor/

Councillor Lothian, seconded by Councillor Calder, moved as follows:-

“Fife Council believes that no child in the UK should go hungry on any day of the year.”

Amendment 3

Councillor Ellis, seconded by Councillor Dempsey, moved as follows:-

“Council

- Notes that the motion as tabled is already well out of date.
- Notes the concern expressed by the proposer and seconder for other parts of our shared and United Kingdom and looks forward to councils in other parts also debating the provision of school meals in Scotland.
- Notes the massive financial measures taken by Government in the face of the pandemic, made possible by one of the world’s strongest economies with currency of its own and its own central bank.
- Notes that it is Scottish Conservative policy to provide free breakfast and lunch to ALL Primary schoolchildren.
- Asks the Co-Leaders to write to the Scottish Government in its support of Elaine Smith MSP’s future Right to Food (Scotland) Bill that would place duties on current and future Scottish Governments to ensure that food is accessible to people – financially and geographically – and that food is adequate in terms of nutrition, safety and cultural appropriateness.

With the consent of the Provost, the mover of the motion agreed to conjoin with Amendments 1 and 2. For the purposes of the vote, the conjoined motion was as follows:-

Conjoined Motion

“Fife Council believes that no child should go hungry in the school holidays. This Council fully supports Marcus Rashford in his campaign to ensure no child in England goes hungry in the school holidays.

Council further notes the success of the Marcus Rashford campaign in influencing Government policy on this and calls on the Scottish Government to fully fund Scottish local authorities in the long term to ensure that no child goes hungry in Scotland during the school holidays without the need to cut back on other vital local services.

Fife Council believes that no child in the UK should go hungry on any day of the year.”

Roll Call

For the Conjoined Motion – 57 votes

Councillors David Alexander, Lesley Backhouse, Alistair Bain, David Barratt, John Beare, Tim Brett, James Calder, Ken Caldwell, Alistair Cameron, Ian Cameron, Alex Campbell, Bobby Clelland, Bill Connor, Altany Craik, Neil/

Neil Crooks, Colin Davidson, John Docherty, Linda Erskine, Ian Ferguson, Julie Ford, Derek Glen, David Graham, Fiona Grant, Sharon Green-Wilson, Gary Guichan, Garry Haldane, Jean Hall Muir, Judy Hamilton, Zoe Hisbent, Linda Holt, Gordon Langlands, Helen Law, Jim Leishman, Rosemary Liewald, Carol Lindsay, Jane Ann Liston, Mary Lockhart, Donald Lothian David MacDiarmid, Karen Marjoram, Lea McLelland, Alice McGarry, Derek Noble, John O'Brien, Ross Paterson, Bill Porteous, David Ross, Ryan Smart, Kate Stewart, Alistair Suttie, Jonny Tepp, Brian Thomson, Ann Verner, Andrew Verrecchia, Ross Vettraino, Craig Walker and Jan Wincott.

For Amendment 3 – 14 votes

Councillors Dave Coleman, Dave Dempsey, Gavin Ellis, Mick Green, Andy Heer, Kathleen Leslie, Mino Manekshaw, Tony Miklinski, Dominic Nolan, Tony Orton, Graham Ritchie, David J Ross, Darren Watt and Richard Watt.

Decision

Accordingly, the conjoined motion was carried.

Motion 5

Councillor McGarry, seconded by Councillor Stewart, moved as follows:-

Independent Review of the Impact of Policing during the Miners' Strike 84/85

"Fife Council welcomes the Final Report of the Independent Review of the Impact of Policing on Affected Communities in Scotland during the Miners' Strike from March 1984 to March 1985, which was commissioned by the Scottish Government in 2018.

The Report concluded that it was impossible to separate out the impact of policing during the Strike from the many other factors at play during that time and recognised that, despite the constitutional, legal and cultural landscapes in Scotland having changed fundamentally in the 35 years since the Strike, the strength of feeling and the sense of injustice at the treatment of the miners and their families continues to be felt in mining communities.

We welcome the single recommendation in the Report which is that "subject to establishing suitable criteria, the Scottish Government should introduce legislation to pardon men convicted for matters related to the Strike".

Fife Council recognises the positive impact that this will have on ex miners, the families of deceased miners and the mining communities in Fife and we ask that the Scottish Government proceeds to introduce the necessary legislation as soon as practicable.

In its consideration of this legislation, we ask the Scottish Parliament to interpret the recommendation as widely as possible and to also consider the issue of compensation for unjustified loss of livelihoods and pension rights.

We/

We also recognise the need for a UK wide public inquiry into the Strike and ask the Scottish Government to continue to press the UK Government to undertake this.

Finally, Fife Council thanks those who pressed for this Review and all who contributed in any way to the Report and its outcome, particularly the National Union of Mineworkers and the Retired Police Officers' Association as well as individual miners, police officers and members of the mining communities who provided accounts of their experiences in order to aid understanding and reconciliation."

We ask the Co Leaders to convey the views of Fife Council on this matter to the Cabinet Secretary for Justice."

Amendment

Councillor Clelland, seconded by Councillor Noble, moved as follows:-

"Para 3 , third line , remove MEN and insert ALL THOSE

Para 6 , second line, after , as widely as possible ,insert :-

To ensure that all those convicted during the 84 - 85 miners strike , are pardoned.

Will read as follows , :- see below

Independent Review of the Impact of Policing during the Miners' Strike 84/85

"Fife Council welcomes the Final Report of the Independent Review of the Impact of Policing on Affected Communities in Scotland during the Miners' Strike from March 1984 to March 1985, which was commissioned by the Scottish Government in 2018.

The Report concluded that it was impossible to separate out the impact of policing during the Strike from the many other factors at play during that time and recognised that, despite the constitutional, legal and cultural landscapes in Scotland having changed fundamentally in the 35 years since the Strike, the strength of feeling and the sense of injustice at the treatment of the miners and their families continues to be felt in mining communities.

We welcome the single recommendation in the Report which is that "subject to establishing suitable criteria, the Scottish Government should introduce legislation to pardon ALL THOSE convicted for matters related to the Strike".

Fife Council recognises the positive impact that this will have on ex miners, the families of deceased miners and the mining communities in Fife and we ask that the Scottish Government proceeds to introduce the necessary legislation as soon as practicable.

In its consideration of this legislation, we ask the Scottish Parliament to interpret the recommendation as widely as possible, TO ENSURE THAT ALL THOSE CONVICTED DURING THE 84 - 85 MINERS STRIKE ARE PARDONED , and to also/

also consider the issue of compensation for unjustified loss of livelihoods and pension rights.

We also recognise the need for a UK wide public inquiry into the Strike and ask the Scottish Government to continue to press the UK Government to undertake this.

Finally, Fife Council thanks those who pressed for this Review and all who contributed in any way to the Report and its outcome, particularly the National Union of Mineworkers and the Retired Police Officers' Association as well as individual miners, police officers and members of the mining communities who provided accounts of their experiences in order to aid understanding and reconciliation.”

We ask the Co Leaders to convey the views of Fife Council on this matter to the Cabinet Secretary for Justice.”

With the consent of the Provost, the mover of the motion agreed to accept the amendment to paragraph 6 and the conjoined motion was as follows:-

Independent Review of the Impact of Policing during the Miners' Strike 84/85

“Fife Council welcomes the Final Report of the Independent Review of the Impact of Policing on Affected Communities in Scotland during the Miners' Strike from March 1984 to March 1985, which was commissioned by the Scottish Government in 2018.

The Report concluded that it was impossible to separate out the impact of policing during the Strike from the many other factors at play during that time and recognised that, despite the constitutional, legal and cultural landscapes in Scotland having changed fundamentally in the 35 years since the Strike, the strength of feeling and the sense of injustice at the treatment of the miners and their families continues to be felt in mining communities.

We welcome the single recommendation in the Report which is that “subject to establishing suitable criteria, the Scottish Government should introduce legislation to pardon men convicted for matters related to the Strike”. Fife Council considers this to apply to all those convicted.

Fife Council recognises the positive impact that this will have on ex miners, the families of deceased miners and the mining communities in Fife and we ask that the Scottish Government proceeds to introduce the necessary legislation as soon as practicable.

In its consideration of this legislation, we ask the Scottish Parliament to interpret the recommendation as widely as possible to ensure that all those convicted during the 84 – 85 miners strike are pardoned, and to also consider the issue of compensation for unjustified loss of livelihoods and pension rights.

We/

We also recognise the need for a UK wide public inquiry into the Strike and ask the Scottish Government to continue to press the UK Government to undertake this.

Finally, Fife Council thanks those who pressed for this Review and all who contributed in any way to the Report and its outcome, particularly the National Union of Mineworkers and the Retired Police Officers' Association as well as individual miners, police officers and members of the mining communities who provided accounts of their experiences in order to aid understanding and reconciliation."

We ask the Co Leaders to convey the views of Fife Council on this matter to the Cabinet Secretary for Justice."

Decision

The Council agreed the conjoined motion unanimously.

Councillors Langlands and Leslie left the meeting following consideration of Motion 5.

Urgent Motion

Councillor Lockhart, seconded by Councillor Erskine, moved as follows:-

"Council notes with dismay last week's Sepa report of the emission of up to 13,800 tonnes of CO2 into the atmosphere from the Shell Exxon plant at Mossmorran between the 4 and 6 October.

This was the fourth period of unscheduled elevated flaring at the plant in 2020, was followed by an extended period of ground flare operation and has prompted weekly protests of growing numbers of residents outside the plant. Last weekend there was further noisy elevated and ground flaring, with neither notice not subsequent explanation.

Council further notes that whilst the Scottish Government has set up a Just transition Board for Grangemouth, no such Board has been established for Mossmorran.

Council reaffirms its call to the Scottish Government to commission an Inquiry into the Health and Social Impacts of operations at both Mossmorran plants: and calls on the Scottish Government to establish a Just Transition Board to examine all options for the short, medium and long term future of the plants, including phased decommissioning.

In the event that, despite these continued operational failures at the plant, the Scottish Government continues to refuse to act, Council will explore setting up a Just Transition Board of its own, as a follow on from the work of the Working Group set up by former MP Lesley Laird.

Council/

2020 FC 240

Council will also urge the IJB and NHS Fife to act to fill the gaps identified in its 2019 report on the health impacts of flaring at Mossmorran, and in particular to set up a dedicated facility to record and monitor the flaring related health complaints of residents.”

The meeting adjourned at 1.45 p.m. and reconvened at 1.50 p.m.

Amendment

Councillor Vettraino, seconded by Councillor Backhouse, moved as follows:-

“Council notes with dismay last week's SEPA report of the emission of up to 13,800 tonnes of CO2 into the atmosphere from the ExxonMobil plant at Mossmorran between the 4th and 6th October 2020.

Council also notes that that was the fourth period of unscheduled elevated flaring at the plant in 2020 and that it was followed by an extended period of ground flare operation, which has prompted weekly protests of growing numbers of residents outside the plant. Over the weekend of 31st October and 1st November last, there was further noisy elevated and ground flaring, with neither notice nor subsequent explanation.

Council further notes that the Scottish Government announced on September 1st 2020 the formation of a Just Transition Board for Grangemouth.

Council notes, too, that SEPA have referred ExxonMobil Chemical Limited to the Crown Office and Procurator Fiscal Service for consideration of prosecution related to flaring that took place over Easter 2019 and that SEPA remains ‘frustrated by the frequency of flaring and the flow of information from the operator’ and that in October this year it confirmed that it is ‘investigating whether there has been a breach of permit conditions which would inform our next steps in line with our published Enforcement Policy’.

Council welcomes these legal proceedings and notes that the current consideration by the Crown Office and Procurator Fiscal Service may preclude a concurrent Scottish Government Inquiry.

Given the foregoing, the Council:

- Calls on Fife Council and NHS Fife to work together to commission a further report into the Health and Social Impacts of operations at both Mossmorran plants;
- calls on the Scottish Government to work with the Council to establish a Just Transition Board similar to that at Grangemouth, to examine all options for the short, medium-and long-term future of the plants, including phased decommissioning. This Board to look at all key issues, including the recognition of the large numbers of jobs involved and to seek the inclusion of the GMB and Unite Unions in the Board and
- in/

2020 FC 241

	<ul style="list-style-type: none">in the event of anticipating a delay in the creation of a Just Transmission Board, will commence the process of establishing a Working Group to progress the relevant issues until a such a Board is established by the Scottish Government and will seek the inclusion of the GMB and Unite Unions in that Group.”
	<p><u>Roll Call</u></p> <p><u>For the Motion</u> – 39 votes</p> <p>Councillors Tim Brett, James Calder, Alistair Cameron, Ian Cameron, Alex/ Alex Campbell, Bobby Clelland, Dave Coleman, Altany Craik, Neil Crooks, Colin Davidson, Dave Dempsey, Linda Erskine, David Graham, Mick Green, Gary Guichan, Garry Haldane, Judy Hamilton, Andy Heer, Helen Law, Jim Leishman, Jane Ann Liston, Mary Lockhart, Donald Lothian, Mino Manekshaw, Tony Miklinski, Derek Noble, Dominic Nolan, Tony Orton, Ross Paterson, Bill Porteous, Graham Ritchie, David Ross, David J Ross, Ryan Smart, Jonny Tepp, Brian Thomson, Andrew Verrecchia, Darren Watt and Jan Wincott.</p> <p><u>For the Amendment</u> – 26 votes</p> <p>Councillors David Alexander, Lesley Backhouse, Alistair Bain, David Barratt, John Beare, Ken Caldwell, Bill Connor, John Docherty, Ian Ferguson, Julie Ford, Derek Glen, Sharon Green-Wilson, Jean Hall Muir, Zoe Hisbent, Rosemary Liewald, Carol Lindsay, David MacDiarmid, Karen Marjoram, Lea McLelland, Alice McGarry, John O’Brien, Kate Stewart, Alistair Suttie, Ann Verner, Ross Vettraino and Craig Walker.</p> <p><u>Decision</u></p> <p>Accordingly, the motion was carried.</p>
	<p><i>Councillor Richard Watt left the meeting during consideration of the Urgent Motion.</i></p>
205.	BUSINESS BROUGHT FORWARD BY THE PROVOST AS A MATTER OF URGENCY
	<p>It was noted that there was no business to be brought forward under this item as the Urgent Motion had been considered under Notice of Motions.</p>

CIVIC BUSINESS BULLETIN

12th November, 2020

The Queen's Birthday Honours List

A number of people associated with Fife have received recognition in The Queen's Birthday Honours List –

The following persons were awarded the O.B.E. –

Dr Lesley Holdsworth of Newport-on-Tay for services to Physiotherapy and Health Services..

Dr Sarah Nelson of Newport-on-Tay for services to Victims of Childhood Sexual Abuse.

The following persons were awarded the M.B.E. -

Mr Collieson Briggs of Kirkcaldy for services to vulnerable people in the community of Fife during the Covid-19 response.

Professor Nigel Mathers of Pittenweem for services to General Practice.

Mrs Alison Milne of Auchtermuchty for services to Rural Scotland and Agriculture.

The following persons were awarded the B.E.M. -

Mrs Agnes Cook of Kelty for services to the community in Kinross during Covid-19.

Helen Duncan of Kirkcaldy for services to the Children's Hearings System and the community in Glenrothes, Fife.

Mr Thomas Kenny of Kincardine for services to Policing and the community in Tulliallan.

Mr Paul Mackean of Dalgety Bay for services to the NHS during the Covid-19 response.

Miss Lorraine Mullen of Glenrothes for services to the community of Lochgelly during Covid-19.

Mrs Kirsten Urquhart, Limekilns for services to Young People in Scotland during Covid-19.

Deaths of Former Councillors

Sadly we have been informed of the deaths of Danny Leslie (former Kirkcaldy District Councillor, Vice Chair of the Housing Committee) and Peter Douglas (former North East Fife & District Councillor, Vice Chair of the East Fife Development Committee). We send out condolences to both families.



MEETING OF FIFE COUNCIL

THURSDAY, 12TH NOVEMBER, 2020

AGENDA ITEM NO. 7 - QUESTION TIME

QUESTION 1 FROM COUNCILLOR JONNY TEPP

What role does Fife Council have to play with regard to the roll-out of 5g in Fife? Is Fife Council supporting or investing in the roll-out of 5g technology in Fife?

Answer

- The Council is not investing in 5G roll out (this is State Aid)
- To support 5G investment – the Council has signed up as a participant in the Scotland's 5G Centre's Intralink programme that started this month. This is an 18 month programme to prepare for 5G investment in Scotland. More information below.
- The Intralink programme will help the Council determine its role in 5G roll out. The Policy & Coordination Committee would consider the options available and determine the role based on an officers' report once the programme is further on in its development.

We have many potential roles e.g. public health. The Public Health team have created a page on the Council's website with information on 5G

[https://www.fife.gov.uk/kb/docs/articles/environment2/environmental-health/5g-mobile-](https://www.fife.gov.uk/kb/docs/articles/environment2/environmental-health/5g-mobile-network)

[network](https://www.fife.gov.uk/kb/docs/articles/environment2/environmental-health/5g-mobile-network). There is more information on the Scotland 5G centre's website

<https://scotland5gcentre.org/knowledge-bank/does-5g-have-implications-for-health-and-safety/>

I'm not aware of any plans for investment in 5G in Fife by the Mobile Network operators. Their current priority is the cities, in areas with high population density as this is a commercial investment decision by them. The Council's role would be small – their first step if they decide to invest in Fife - would be to upgrade the equipment on existing masts. The Council would likely have no role in that commercial decision.

The 5G signal doesn't travel as far as the 4G one so there may be investment required to fill in the gaps. Any new masts or poles may require Planning and/or Roads Consents (so the Council's role is regulator) but this would be handled by those teams as part of their normal service delivery. Generally, Mobile Network operators will try to use adopted ground but might require a site from the Council's Estates team if there was one available. Telecoms is a reserved matter so UK Government policy is to make it easier for investment to take place and remove perceived barriers. You may have seen press coverage recently mentioning relaxing regulation.

The Intralink programme is being delivered by the Scotland 5G Centre. The Centre is the Scottish Government's lead body to encourage 5G investment in Scotland and to get the maximum socio-economic benefit from the technology. The Intralink programme is looking to take some of the burden from individual organisations by developing standard agreements and processes for use in Scotland. Not just Local Authorities but national agencies. More information can be found in this article

<https://www.scotsman.com/business/business-organisations-join-forces-ramp-scotlands-5g-roll-out-plans-2948240> or on the Scotland 5G Centre's website.

Dundee City Council is trialling 5G in the Waterfront with UK Government investment to support the development there. Through the regional partnership, I expect that they'll share the results so we can assess what is relevant to Fife. Scotland's 5G centre is anticipating that 5G investment in larger towns follows on from the cities and smaller towns and rural areas over the longer term. I'm hoping that the Intralink programme will help influence what interventions they intend to make to accelerate this.

QUESTION 2 FROM COUNCILLOR JONNY TEPP

Can the administration set out its aspirations with for the delivery of online face to face teaching across the key Nat 5 and Higher curriculum in the event of a further lockdown or partial lockdown.

Answer

All Secondary schools as part of their recovery planning in June have developed a full range of models for Recovery. These include plans for phased approaches of blended learning for options ranging from up to 30%, up to 50% or a full online learning model.

In addition to this, there is a SLWG already established (this was approved by the P&C committee on 27 August) to ensure that there is clear guidance on supporting National qualifications since there will be no exam. This group will also develop a contingency for Highers and Advanced Highers. Senior officers are also linking directly with SQA on national moderation.

Guidance on planning and delivering effective blended learning, using a flipped approach, has been prepared for schools and companion guidance for parents/learners on making the most of blended learning is also ready.

To further support face to face delivery of lessons, where appropriate, there is a variety of support and guidance in place for schools to access and to contribute to. Comprehensive guidance has been shared with all schools on planning for delivering live lessons safely and effectively. This has been well received and put into practice in many schools.

The National eSgoil offer to schools features the Scholar Programme which has revision notes and assessments along with online study support sessions for pupils in the senior phase. Schools can also access online live video courses at senior phase and BGE levels (primary and secondary) as required, for a cost.

Nationally, support for learners and teachers is developing through a shared resource centre of teaching resources and recorded videos of live lessons. This is being grown through collaboration across all local authorities with practitioners contributing to the resource and the quality assurance processes. This will be free to access using Clickview on Glow, licences for which are being provided by Education Scotland for all authorities.

This broad range of options facilitates each school in developing its own local online support for learners should they go into lockdown. Schools are looking at the guidance and security around live video learning but it is also acknowledged that this does not suit all families, so a variety of options will be essential to supporting all learners to effectively engage.

Supplementary

When do we hope to achieve 100% ability to deliver online learning?

Answer

This matter will be discussed further at the Education and Children's Services Sub-Committee.

QUESTION 3 FROM COUNCILLOR JONNY TEPP

Local authorities in England can set energy standards beyond building regulations*. Can we do the same in Fife and require higher standards through the planning process now in order to address both climate change and fuel poverty?

* <https://www.ukgbc.org/news/government-confirms-local-authorities-can-set-energy-standards-beyond-part-l-in-nppf/>

Answer

It is not entirely clear that the premise in the question is entirely accurate. The link provided takes you to a July 2018 lobby group response to a draft of the English National Planning Policy Framework. The English NPPF was then published in February 2018 and Page 44, Para 150(b), states; "New development should be planned for in ways that: (b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.

Fife Council can set its own policy but a change in national planning and building standards legislation would be required to make such a change enforceable.

Section 2F of The Town and Country (Scotland) Planning Act 1997 (as amended by the Planning (Scotland) Act 2019) states local development plans must include policies requiring all developments to in their area to be designed to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use. This is to be achieved through the installation and operation of low and zero-carbon generating technologies.

Scottish Planning Policy states local development plans should support new build developments, infrastructure, or retrofit projects which will deliver energy efficiency and the recovery of energy that would otherwise be wasted.

FIFEplan LDP Policy 11 *Low Carbon Fife* is used to discharge the statutory obligation in section 3F of the Act. The policy was adopted after being subject to examination. The policy requires proposals for new development to meet the current carbon dioxide emissions target and notes that the target will rise during the Plan period. *Low Carbon Fife* Supplementary Guidance was adopted in January 2019 and provides more detail on how the low carbon policy will be applied. The targets - and exemptions - are defined in Scottish Building Standards and the point here is that this is separate from planning legislation.

The Council could seek to apply higher standards but risks:

1. being unable to enforce those standards; and
2. being challenged if a planning application were to be refused because a development does not exceed national standards.

Supplementary

Will the Administration show leadership on this issue?

Answer

Issue has already been raised with Scottish Government and already taking action.

QUESTION 4 FROM COUNCILLOR MARGARET KENNEDY

Next month (December), sees the fifth anniversary of the application to develop land to the North of Cupar. Can I ask if there any timescales set by Planning for determination of this application and indeed for the retention of the allocated Strategic Development Area status?

Answer

The Cupar North Strategic Development Area consists essentially of two parts, land at Gilliesfaulds and the larger area of land to the North of the town. The NE Planning Committee recently approved an application for residential development at Gilliesfaulds subject to a legal agreement. The application referred to for the remaining part of the Strategic Development Area has been with the Council for a considerable period of time, as Cllr Kennedy's question notes. Whilst it is not unusual for applications of this scale and complexity to take a number of years to assess and consider, the Planning Service has been awaiting for some time revised assessments (such as environmental assessment) to be submitted. The Planning Service is currently discussing the application with the applicant to again seek further clarity on their intention on the timing of submitting assessments in order the application can be progressed. Once this is clarified the Planning Service will seek to agree with the applicant timescale for processing the application.

The Cupar North Strategic Development Area has been allocated in the Development Plan for many years, both at local and strategic level for many years. It is part of the Council's agreed strategy, as well as the agreed TAYPlan strategy, it is therefore part of the Council's agreed strategy to deliver new homes within this part of Fife and the necessary infrastructure. A review of the Fife Local Development Plan is due to formally commence late 2021.

Supplementary

Can you give local residents assurances that there will be public consultation if there are any changes.

Answer

Any changes would need to come to a committee of the council if there were to be any changes.

QUESTION 5 FROM COUNCILLOR JONNY TEPP

What annual tonnage of household waste was generated in Fife in 2017,18,19 – and what percentage was recycled, diverted from landfill, and landfilled in each year?

(We appear to be one of the 7 LAs whose recycling rates have decreased since 2011 and 1 of 11 LAs that have decreased since 2016 – if I've read the tables correctly – do we know why this might be?)

Year	Household Waste Generated (tonnes)	% Recycled	% Diverted from Landfill	% Landfilled
2017	178,478	54.7	6.8	38.5
2018	167,353	51.1	6.3	42.6
2019	174,977	44.5	10.8	44.7

Recycling rates across Scotland have plateaued in recent times and I suspect that every local authority is encountering the same problems, although they are more pronounced in those local authorities, such as Fife, which is one of the leaders in terms of the percentage of waste that is recycled.

Contributing factors to that situation include stricter guidelines on compost accreditation thereby reducing the percentage of material, which can be recycled and increasing the percentage sent to landfill. Moreover, wood waste is now used as biomass for district heating and cannot now be included in the recycling tonnage.

Perhaps most significant of all, however, is the contamination to which the brown, grey and green bins are subject. For example, the contamination of the brown bins now stands at around 13%. I am at a complete loss to understand why that should be so. There cannot be any doubt in anyone's mind that the brown bin is for food and garden waste only. Nor can there can be no dubiety about what is food and what is not and what is garden waste and what is not. I can only conclude, therefore that it is down to some members of the community flatly refusing to use properly using the comprehensive recycling facilities, which the council provides and which must rank among the very best in the country. For that situation to improve, there will have to be a change in attitude on the part of those members of the community, but I don't know how to effect that. We all have the attitude that we have, because of our experiences up to and including this minute. Changing attitudes, therefore, is a profound thing for a council to try to do. For the community, however, as far as recycling is concerned, it is easy. Simply use the recycling services properly. There is, therefore, a great deal that the community can do to help itself.

The position relative to the green bins, Provost, is even worse! Prior to a month or so ago, less than 50% of the content of these bins could be recycled, mainly because 30% of the contents were plastic film. I will confess, however, that it is not always clear what is plastic film and what is not. It is also possible, however, that some people may not have read the Council's advice about not putting plastic film in the green bins.

The good news, however, is Fife Resource Solutions, on behalf of the Council, has internalised all of the processing of recyclable materials, so that all of the material collected in Fife, is processed in Fife and, because it is controlled internally, a higher quality of product is obtained thereby opening up additional markets at a better price. In addition, a new process which renders plastic film suitable to be recycled has been commissioned by Fife Resource Solutions and that process, together with working with other organisations, means that previously worthless low-quality plastic products can now be recycled and produce significant income. I am confident, therefore that these measures will contribute to a sharp improvement in the recycling statistics.

Supplementary

Will the Administration not accept any responsibility?

Answer

The Administration always accepts responsibility for those issues within its control and in this case, as always, does whatever it can to help the community to utilise properly the services which it provides. I am, however, always pleased to listen to any views about how the Council can improve on what it does.

QUESTION 6 FROM COUNCILLOR GORDON LANGLANDS

There are growing concerns by residents regarding the continuing closure of the Burntisland Beacon Leisure Centre and in particular the Swimming Pool.

Can we please have an update on the appointed pool consultant's investigations and whether a possible short term solution has been identified to allow the opening of swimming pool in 2021 and the progress of any longer term permanent plan.

Answer

The Trust is working with Fife Council, as well as industry experts, with regard to the issues around the pool and ventilation systems to explore, which, if any, solutions can be delivered. These investigations will allow us to determine any possible short-term, and further long-term, measures which are needed. I can confirm that Barr & Wray were on site at the Beacon Leisure Centre on Wednesday 28th October to review the pool, pool plant equipment and operational practice, as well as carry out a dye test. We are currently awaiting the final report however the investigation work and resulting outcomes will determine the timescales involved in delivering solutions.

For the reason stated above, I am not in a position to set out a date for the re-opening of the Centre at this stage; however, we will be updating the local community with any progress and developments which may allow for parts of the building to become operational in 2021.

The Beacon Leisure Centre closure is not solely down to the swimming pool, the design of the building does not lend its self to the current COVID-19, 2 metre social distancing measures. However if the government guidance on COVID-19 restrictions ease on social distancing, FSLT will endeavour to phase the re-opening of indoor facilities.

I hope you appreciate that we cannot compromise the safety of our staff and customers.

QUESTION 7 FROM COUNCILLOR TIM BRETT

How much EU funding has the Council received in each of the last three years? Where has this funding been spent and on what projects?

Answer

EU Funding programmes operate on a 7-year programme cycle with the current cycle running for the period January 2014 to December 2020. Many programmes will continue to be delivered beyond the end date of 31 December 2020 due to on-going implementation and completion of approved projects.

Fife is involved in the following programmes:

- European Structural and Investment Funds (ERDF and ESF)
- LEADER
- Inter-territorial Programmes (ERASMUS and INTERREG)

In all cases Fife Council leads on these programmes on behalf of a partnership and the funds that are awarded and claimed are paid to both Fife Council and a range of partner organisations, primarily those in the third sector. The amounts noted below are the total funding drawn down to Fife, and not just to the Council.

European Structural and Investment Funds

The **ERDF programme** provides additional funding for Business Gateway interventions, allowing Fife to provide activities that go beyond the scope of mainstream Business Gateway contracts to add activities such as the Expert Help programme, an HR Specialist Advisory Service and an IT Specialist Advisory Service. The following claims have been paid during the last 3 years:

2018	Claims of £189,978.19 + £167,463.62	£357,441.81
2019	Claims of £197,549.45 + £140,060.99	£337,610.44

A further claim has been submitted and is currently being verified. Payment is expected in this financial year.

The **ESF programme** is the largest in terms of grant awarded in Fife, supporting employability services through the Opportunities Fife Pathway programme aimed at combatting the barriers faced by the most disadvantaged individuals and those furthest from the job market. The following claims have been paid during the last 3 years:

2018	Claims of £668,867.58 and £1,205,509.26	£1,874,376.84
2020	A claim of £1,063,505.09	£1,063,505.09

The last claim was paid in June and staff are currently working on the next claim which should be submitted before the end of the calendar year.

A smaller ESF programme has been awarded to help combat Poverty and Social Inclusion. This is also an employability project providing a holistic and preventative approach; delivering a range of support services to ensure that the barriers faced by individual members of the household are not treated in isolation, but rather as a planned approach to supporting the whole family. The following claims have been paid during the last 3 years:

2018	£25,150.31
2019	£132,943.47

The Programme came to an end in July 2019 and the final claim is currently being prepared for submission.

LEADER

Fife also delivers a LEADER EU rural development programme. The LEADER Programme has been worth £3.7 million to Fife for both community and rural business projects and has supported a wide variety of activities since its launch in 2015. Fife Council manages this programme on behalf of the Scottish Government and the European Commission with the majority of funds supporting local community-based projects. The claims paid in the last 3 years are as follows:

2018	£502,140.75
2019	£960,036.39
2020	£782,163.51

A small number of projects in the LEADER Programme have still to be completed and claims will continue to be made up to end of March 2021.

Inter-territorial Programmes

Fife Council also benefits from funding from 2 of the transnational programmes as detailed below. 4 projects have been funded in the last 3 years (some starting prior to 2018) as noted below. Information on individual claims for these project can be provided if required for each of the 3 years in question.

INTERREG – Fife is currently taking part in 3 projects: **CLIPPER** (supporting SMEs in the maritime sector); **UNEET** (tackling unemployment of young people); **RIGHT** (designing and testing tailored educational and training programmes and initiatives in a fast changing skills environment). These projects are worth around of €740,000 to Fife.

ERASMUS - Fife also benefits from funding for an ERASMUS project focussed on developing a skills, apprenticeship and employment pathway for the heritage building sector to address a recognised global shortage in Traditional Building Skills – value €204,680.

Supplementary

Can you provide an update on where we are with replacement funding from the UK Government?

Answer

Quantum will be similar but have received no details yet.

QUESTION 8 FROM COUNCILLOR TIM BRETT

What preparations and plans has the Council made for a No Deal Brexit on the 1st January 2021?

Answer

There remains a lot to clarify at national level to prepare for the 1st January 2021 and the current end date for the transition period for the UK to exit the European Union

There is as yet not trade deal in place though negotiations continue.

The UKG led Internal Market deal is still in process of passage with a key milestone decision in the Lords last Tuesday.

Scottish level

- The national PrepareforBrexit.scot website is being updated by Scottish Enterprise – as in 2019, this will be the single point of information for business advice and support relating to Brexit.
- The Scottish Government has announced initial funding of £2.9m to fund additional Environmental Health support posts for a year to help deal with the increased workload required after the end of the Transition Period as well as the ongoing work on Covid. Challenges still remain and there is still a need for more fully qualified Environmental Health Officers, particularly given the likely considerable increase in Export Health Certificates post-EU exit. COSLA continues to pursue further resourcing to meet this need.

- An enforcement letter has been received advising Local Authorities of the Scottish Government's decision to continue certain flexibilities against the Food Law Code of Practice in recognition of the continued efforts of Environmental Health Services in the National response to COVID-19. The flexibilities outlined in this letter will apply until 28th February 2021; this will allow prioritisation of resource to deal with COVID and Brexit related issues.
- UK assumptions are now available and being reviewed for impact. It is indicated that the Scottish Government will not be leading any separate assumptions at this time.

Fife Council Level

- The Fife Council EU Exit IMT was stood up from the 28th October and is meeting every 2 weeks to monitor and take action as necessary.
- Fife has stood up its Brexit Business Advisory Group, first meeting held on 5th November. The Group is formed of business representative organisations including the Federation of Small Businesses, Fife Tourism Partnership, Fife Chamber of Commerce and Scottish Engineering, together with FVA, Fife College, Fife Economy Partnership and University of St. Andrews. The Group highlighted areas of readiness requirements for workforce, visitors, trade and export, and potential opportunities for Fife businesses for onshoring of activity. The Group will meet on a monthly basis into early 2021.
- Fife Council has engaged with the Fife fisheries fleet through the Mutual Association to encourage preparation for Brexit and in particular usage of the Lanarkshire export health certification hub for fish exports. All Fife fishing vessels require inspection prior to 31st December 2020 to allow them to export produce after this date. Officers within Environmental Health have received training and these vessels (just under 100) will be inspected prior to this date.
- Local Authority approved freezer, reefer or factory vessels that land frozen or processed fish and fishery products directly into the EU or NI will require, among other documents, a Captain's Certificate signed by a captain who is designated by APHA (Animal and Plant Health Agency) as a 'Captain of the Food Approved Vessel'. Fife Council has made contact with the owners of these factory/freezer vessels to make them aware of the changes.
- There is ongoing engagement with Fife exporters to understand the number and quantity of consignments which will require Export Health Certificates from 1 January 2021; the Council's Environmental Health team has been training staff in preparation for this certification activity.
- Senior officers from Business & Employability, Protective Services and Communities & Neighbourhoods are involved in fortnightly Brexit readiness calls led by COSLA.
- Fife Council's resilience plans and arrangements are in place and can be activated as required. Council is already in response mode due to COVID.
- EU Exit risks are being reviewed considering current situation and taking into account COVID impacts where appropriate.
- Officers are Linking with Fife LRP partners to ensure a co-ordinated approach. Officers will be attending Resilience Partnership Workshops during November.

Supplementary

Can a briefing to all elected members be prepared?

Answer

An elected member briefing will be prepared and circulated in due course.

QUESTION 9 FROM COUNCILLOR DAVE DEMPSEY

Since the governance changes earlier in the year that converted Committees into Sub-Committees, which reports have gone to a Committee or Sub-Committee that is a distinctly different body from that to which they would have been submitted under the preceding arrangements?

I've included "distinctly" as I don't want to be told of reports that went to the X Sub-Committee rather than the X Committee, where X is the same in each of those.

Answer

Since the governance changes made at the Council meeting on 6th August 2020, there has been one full Committee Meetings cycle and we are part way through another. There have been two meetings of the Policy & Co-Ordination Committee.

At the meeting on 27th August, the Policy & Co-Ordination Committee received a verbal update on Recovery and Reform that included areas that would otherwise have fallen within the remit of the previous Strategic Committees.

At the meeting of 8th October, the committee considered a written report on Recovery and Reform, again covering a wide range of subjects that would otherwise have been reported to the previous Strategic Committees.

Supplementary

Is the Co-Leader in a position to predict when we will get a substantive report going to a different committee from that which it would have gone to prior to these changes?

Answer

Recovery and Reform are the most substantive areas of focus for the Council. In addition, we have asked the sub-committees to look at specific areas and any reports flowing from these will be dealt with in terms of the new governance arrangements.

QUESTION 10 FROM COUNCILLOR DAVE DEMPSEY

From time to time a member of the public alerts the Council to a road or street lighting problem whose resolution is down to an external body such as Scottish Water or Scottish Power. If and when the member of the public enquires about progress, is it Council policy to invite the member of the public to enquire directly with the outside body?

Answer

If a utility company is installing a new service or supply for the Council or repairing a fault that affects the continuity of a service such as street lighting, then Fife Council deals directly with the customer enquiries. These responses include reference to current information from the utility regarding their expected repair times. Occasionally, if a customer is unhappy with Scottish Power's planned repair date, and they want to contact Scottish Power direct, the Service may advise the customer of the Utility's customer care line if asked.

If the works are part of a utility's routine commercial activity, we will advise the enquirer what we know about the works. If this is insufficient or if they wish to complain, we will pass their complaint on to the point of contact that we have for the utility so they can reply direct. We sometimes also advise the enquirer of a publicly available contact 'helpline' number so they can contact them directly.

Recent heavy rainfall has resulted in some Scottish Water sewers that the council relies upon for road drainage, to exceed capacity. If the drainage issue relates solely to the sewer capacity and is not an issue with the road drains that connect to it, then customers are directed to Scottish Water. It is understood that this has led to confusion for some customers and we are working towards clearer communications as part of our partnership working with Scottish Water to resolve road flooding problems.

QUESTION 11 FROM COUNCILLOR DARREN WATT

Every year, beginning on the 9th of October, Baby Loss Awareness Week aims to raise awareness about pregnancy and baby loss in the UK.

In 2018, Sands, the still born and neonatal death charity, found almost half (49%) of employers did not discuss entitlements to pay and leave with people following the death of their baby. Furthermore, four in ten people were not offered any additional time away from work, four in ten did not feel their employers' communication was sensitive and appropriate and 43% reported that no one talked to them about the death of their baby after returning to work.

What support do Fife Council currently provide for staff who have been impacted by pregnancy loss or the death of a baby?

Answer

The Council recognises the need to provide immediate support to employees in times of bereavement and loss.

The Parental Bereavement (Leave and Pay) Act 2018 (known as 'Jack's Law') came in to force in April 2020.

Fife Council introduced this leave from April 2020 on the basis of two weeks full pay (the legislation is only statutory pay) for all employees, regardless of length of service (the legislation has statutory limitations). This entitlement applies to parents who suffer the loss of a child from a stillbirth after 24 weeks of pregnancy. It gives reasonable paid time off work in addition to the 5 days given under the Compassionate Leave Policy.

In addition, all employees have access to Time for Talking counselling. Time for Talking provides support to employees which is psychological, emotional and practical. Counselling is for both work-related and personal problems and cover issues such as personal or emotional difficulties, relationship or family concerns, dealing with change, stress, harassment or bullying, bereavement, etc. The Time for Talking website provides information, podcasts and self-help strategies www.timefortalking.co.uk

QUESTION 12 FROM COUNCILLOR DARREN WATT

Following an onsite meeting with fellow ward Councillors, Councillor Vettraino, Councillor Graham and senior managers from Fife Resource Solutions, it was agreed for a report to be carried out to determine if Cowdenbeath Recycling Centre can safely be reopened. Several weeks later, the report came back positive and outlined some changes required to facilitate the reopening of the centre, albeit at a cost of £45,000.

Could the report and breakdown of costs be shared for the benefit of local residents who have been without their local recycling centre for over seven months?

Answer

Yes, it can and I will do so by way of making them available by way of the Ward 7 Elected Members.

Fife Council Co-Leaders Report 25th February 2021

Covid 19

As stated in the last Leader's report we believe Fife has one of the best and most effective collaborations in Scotland between the Council, Public Health, NHS Fife and the IJB. We have weekly meetings including all political group leaders with the Chief Executive, the Executive Director Finance and Corporate Services, and the Director of Public Health, with other senior members of staff attending as required, where issues and challenges are openly discussed. At an operational level Council staff are working very closely with Public Health.

At the time of writing the levels of infection in Fife have dropped substantially. The vaccination programme is continuing to ensure protection for the most vulnerable in our communities. We have had full discussions with Health about the problems that occurred during the first days of the mass vaccination programme in Fife and have had assurances that these have been addressed.

We are planning for the return to school for some of our pupils with the enormous organisational challenges this brings. Council staff are putting huge efforts into ensuring that businesses and individuals receive the financial help they are entitled to. The huge efforts made by schools to undertake remote learning over this difficult period are recognised and appreciated, but the challenge of maintaining contact with all pupils is a significant difficulty and extra efforts are being made to address the issue of pupils who are not engaging in remote learning.

Fife was also subject to severe weather conditions stretching resources to the limit. However, thousands of staff throughout the public sector are working through the problems at all levels despite the dangers, helping to ensure people get the care needed and they all deserve our thanks and support for the efforts that are being put in.

Budgets

Rather than risk any delays in leaving Council Tax and Rents to the last minute it was deemed sensible to set both at this Council meeting on 25th February. It is equally sensible to approve the HRA Capital Budget at the same time.

The UK Budget will be set on the 3rd of March and the Scottish Government Budget will be approved on the 9th March. Given that both these events that may result in changes to Fife's Council's Revenue and Capital Budget it has been decided to designate the meeting on 11th March 2021 as the 'Budget Setting' meeting for the purposes of Standing Order 1.9 (Budget Motions).

For the purposes of the meeting on 11th March, any amendments to the proposed Budget can be submitted at the meeting.

Given the remote format of meetings makes it more difficult to ensure all members are able to view documents it would be preferable if amendments were presented sooner, rather than waiting until the last minute.

Meeting with David Duguid, Scottish Office Minister

We met with David Duguid MP on Thursday 11th February. Topics discussed included Bifab in particular, Renewables in general, and the City deals. Whilst there was little given away regarding the UK Budget it was confirmed that the UK Prosperity Fund will be included and it was also hinted that a “Levelling UP Fund” would possibly generate some interest.

Working Group Reports

It is the intention to present the reports from the sub-committee working groups on:

- REFORM AND RECOVERY IN FIFE
- TACKLING POVERTY AND CRISIS PREVENTION
- LEADING ECONOMIC RECOVERY
- COMMUNITY WEALTH BUILDING
- SUSTAINING SERVICES THROUGH NEW WAYS OF WORKING
- CLIMATE EMERGENCY WORKSTREAM

at a Special Meeting of the Policy and Coordination on 4th March. The reports will also be presented to the Fife Partnership.

Members of the sub-committees should have seen the draft reports for comment. The Reports cut across all aspects of Council activities and present an opportunity to formulate the reform and recovery plan for Fife by empowering the Sub-Committees and the Policy and Coordination Committee to take forward the projects best suited to their remit.

Bifab

We were aware in early February that a potential buyer was negotiating with the Administrators of Bifab to purchase the assets of the company. On the 10th of February Harland & Wolff shipyards owner InfraStrata publicised the news that they had completed the acquisition of the Methil and Arnish sites. Unfortunately the Burntisland site is not part of the transaction. The company said that Methil will be heavily focussed on fabrication for the oil and gas, commercial and renewables markets, while Arnish has multiple opportunities across all Harland & Wolff's five markets – defence, oil and gas, renewables, commercial and cruise and ferry. They also said they were confident that they will turn Methil and Arnish into highly successful businesses that generate jobs and investment into their local economies in due course. This is positive news for Fife and the company showed good intent by employing the remaining Bifab workforce. We will work with the company to help achieve their ambitions and will continue to attempt to find a role for Burntisland in this competitive market.

H100 Fife

Gas network company SGN has received approval to build a world-first 100% green hydrogen-to-homes demonstration network in Fife. SGN has been working closely with the Council on this ground breaking project.

Local customers in Fife, will be the first in the world to heat their homes and cook their food using 100% zero carbon hydrogen, produced through electrolysis powered by an offshore wind turbine, supplied through a new network connected to 300 homes.

The commitment from SGN follows confirmation that Ofgem, the energy regulator, will award up to £18million from its annual Network Innovation Competition, to support the development of the new hydrogen network. Ofgem's decision triggers a further investment of £6.9million from the Scottish Government. SGN's shareholders and Britain's three other gas distribution networks are also providing funding for the project¹. Participating customers will use hydrogen boilers, heaters and cooking appliances in their homes during the 4.5 year initial trial, providing valuable insight into how 100% hydrogen can support day-to-day living all year round.

Called H100 Fife, phase one of the project will connect an initial 300 homes in Levenmouth to a new hydrogen network from the end of 2022, with potential expansion of up to 1000 homes following a successful completion of phase one.

H100 Fife is a key component of the national hydrogen programme and aims to deliver the critical evidence base that proves hydrogen as a viable and zero carbon alternative to heat the 23 million homes currently fitted with natural gas boilers.

The proposal is subject to Planning Permission which will be considered shortly.

Meeting with the new Exxon Plant Manager

In December we had a meeting with Martin Burrell, the new Plant Manager at Exxon.

ExxonMobil noted that £140 million was planned for investment in the site. They said that with the additional investment (to complement the £20m annual maintenance investment spend) it was anticipated that up to 1,000 jobs would be required. It was agreed that the Council would liaise with the plant on opportunities for local employment and supply, in line with the Community Wealth Building approach being taken forward.

The company offered to attend a future meeting of the Council's Environment and Protective Services Subcommittee in early 2021, which was welcomed by the Council

The parties agreed that the work carried out by the Council's Head of Protective Services in reshaping and streamlining Liaison Committee arrangements had been helpful and will assist with better communications.

The company further welcomed an opportunity for the Council to facilitate linkages to community groups currently not in dialogue with the plant management. It was noted that Shell had attended a range of community meetings to address concerns, and this had been appreciated by affected communities. We agreed to continue dialogue regarding contributions to the community.

Fife Council's Co-Leaders advised that they recognised the importance for jobs and suppliers in Fife arising from the plant and would wish to understand the investments planned to address community concerns regarding flaring and impacts to communities. Issues regarding the long term future of the plant were also discussed.

Housing Award

Congratulations to Fife Council's Housing Services, Building Services and Business Support teams for winning the 'Housing Team of the Year' award at this years Chartered Institute of Housing awards.

The CIH Scotland housing awards recognise and celebrate the creativity, passion and innovation of housing organisations and individuals across the sector in Scotland and this year's awards received over 75 entries across eleven categories. This is another great example of how well Fife Council services have worked together throughout these challenging times to deliver for the people of Fife.

Cllr David Alexander and Cllr David Ross
Co-Leaders of the Council
Fife Council,
Fife House, North Street,
Glenrothes,
KY7 5LT Tel: 03451 555555 (Ext: 450636)

25th February, 2021

Agenda Item No. 8(a)

COUNCIL TAX AND COMMUNITY CHARGE: PROVISIONS RELATING TO VOTING BY ELECTED MEMBERS

Report by: Eileen Rowand, Executive Director (Finance & Corporate Services)

Wards Affected: All

Purpose

To remind members of:

- the provisions restricting voting rights of elected members; and
- the exclusions under the Councillors' Code of Conduct relating to declaration of interests for all members in relation to the setting of the Council Tax.

Recommendation(s)

Members are asked to note the report. If the terms of Section 112 of the Local Government Finance Act 1992 applies to a member, the member must, at the meeting and as soon as practicable after its commencement, disclose the fact that the section applies, and shall not vote on any question in relation to the setting of the Council Tax.

Resource Implications

None

Legal & Risk Implications

If a member fails to comply with the provisions of Section 112 of the 1992 Act outlined in this report, he or she will be guilty of an offence.

Impact Assessment

An impact assessment is not required.

Consultation

None

1.0 Background

Local Government Finance Act 1992

- 1.1 The Local Government Finance Act 1992, which introduced the council tax, also introduced other provisions restricting voting rights of elected members.
- 1.2 In terms of Section 112 of the 1992 Act if, at any time:-
- (a) a sum relating to council tax has become payable by an elected member and has remained unpaid for at least two months; or
 - (b) a sum relating to community charge has become payable by an elected member and has remained unpaid for at least three months;

then, in a number of specific instances – including the matter of the setting of the council tax – the member must, at any meeting considering the matter as soon as practicable after its commencement, disclose the fact that Section 112 applies to him or her. Section 112 also provides that the member must not vote on any question with respect to the matter.

Councillors' Code of Conduct

- 1.3 Members should note that the Councillors' Code of Conduct provides that a member does not have a financial interest which has to be declared in connection with -
- (a) the setting of the council tax (including the approval of the total estimated expenses of the authority to be incurred during the year in question); and
 - (b) the setting of any substitute council tax (including the approval of any revised total estimated expenses).

notwithstanding that the member may have an interest in any item of expenditure.

- 1.4 Subject to Section 112 of the 1992 Act, this enables members to participate, discuss and vote on matters relating to the setting of Council Tax without the need to declare a financial interest.

2.0 Conclusions

- 2.1 If a member fails to comply, he or she will be guilty of an offence and will, for each offence, be liable on summary conviction to a fine not exceeding level 3 on the standard scale (unless the member proves that he or she did not know (a) that Section 112 applied to him or her at the time of the meeting, or (b) that the matter in question was the subject of consideration at the meeting).

Report Contact

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25th February 2021

Agenda Item No. 8(b)

Council Tax Setting 2021-22

Report by: Eileen Rowand, Executive Director Finance and Corporate Services
Directorate

Wards Affected: All

Purpose

This report provides information relating to the setting of a Council Tax position for the next financial year 2021-22.

Recommendation(s)

Members are asked to:

- a) consider the financial information available to the Council at the time and agree that Council Tax can be set ahead of the remainder of the Council's General Revenue Budget;
- b) set a Band D equivalent Council Tax figure for 2021-22; and
- c) note that the General Fund Revenue Budget Report will be reported to Council on 11th March 2021 and will be subject to all relevant information being available from Scottish Government.

Resource Implications

None in relation to this report.

Legal & Risk Implications

Fife Council has a legal duty to set its Council Tax by the 11th March each year. In doing so, it must consider all available financial information at that time.

Impact Assessment

An EqIA has not been completed because the report does not involve any change in policy.

Consultation

None in relation to this report.

1.0 Introduction

- 1.1 The Scottish Government announced their budget on the 28th January 2021 and subsequent Grant Settlements for Councils. Officers are assessing the implications of this information with the intention of presenting the General Fund Revenue Budget Report to Council on 11th March 2021.
- 1.2 Within the Budget announcement, the Cabinet Secretary for Finance stated that the Scottish Government would compensate councils who choose to freeze their council tax at 2020-21 levels.
- 1.3 This report seeks members approval to freeze Council Tax at 2020-21 levels.

2.0 Council Tax

- 2.1 The option to split the decision-making process between setting a Council Tax rate and the rest of the General Revenue Budget is deemed appropriate in current circumstances. This is after consideration by the Section 95 Officer and takes account of the scope to set a balanced budget given the budget settlement. As stated, Fife Council must set an amount of Council Tax by the 11th March in the year preceding the financial year in which it applies. By agreeing Council Tax ahead of the final details of the Grant Settlement, allows Fife residents to be informed of their new bills in time before their revised payments start to be made.
- 2.2 The Council Tax levy to be charged for 2021-22 for Band D and equivalents are detailed in the table below, frozen at 2020-21 levels:-

Valuation Band	Council Tax
A	£853.87
B	£996.18
C	£1,138.49
D	£1,280.80
E	£1,682.83
F	£2,081.30
G	£2,508.23
H	£3,137.95

3.0 Conclusion

- 3.1 Members are asked to agree that Council Tax rates will be frozen at 2020/21 rates and note that a General Fund Revenue Budget will be presented for approval on 11th March 2021.

Report Contact

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25th February, 2021

Agenda Item No. 9(a)

Housing Revenue Account (HRA) Budget 2021-22

**(Including Options for the HRA and General Fund Housing Account
[GFHA] Rents and Charges)**

Report by: John Mills, Head of Housing Services and Elaine Muir, Head of Finance

Wards Affected: All Fife

Purpose

This report presents budget proposals for the HRA within the context of the HRA Business Plan 2020 and the HRA Medium Term Financial Strategy agreed by the Policy and Coordination Committee (24th January 2019). It includes recommendations for an increase in HRA rent and charges for 2021-22, informed by consultation with Council tenants. As in previous years, proposals for GFHA housing charges are also brought forward, aligned to any decision around the HRA rent increase.

Recommendation(s)

It is recommended that Fife Council:

- (a) Considers the context of the HRA Business Plan 2020 and the HRA Medium Term Financial Strategy (Policy and Coordination Committee 24th January 2019) which support an overall rent increase policy of RPI+1%, and offer flexibility for a lower rent increase to be applied for a limited term providing key risks are controlled;
- (b) Considers the outcome from the Policy & Coordination Committee's decision (25th November 2020) to consult with Council households around an option for increasing housing rents and service charges from April 2021 (Section 2);
- (c) Agrees a rent increase of 1.5% for HRA rents and service charges from April 2021 (Section 2);
- (d) Agrees to freeze charges for lock-ups for one final year following the continuing review into asset condition and to remove any remaining direct debit discounts (Section 2);
- (e) Sets the HRA budget for 2021-22 while noting the HRA savings and pressures for 2021-22 (Section 4);
- (f) Agrees to an increase of 1.5% in GFHA rents and charges from April 2021 (Section 5).

Resource Implications

There will be no significant resource implications providing the Council works within the assumptions set by the HRA Business Plan 2020 which allows for the implementation of a 1.5% rent increase for 2021-22. Both the HRA and GFHA Business Plans will be updated in the Summer of 2021.

Legal & Risk Implications

The HRA and GFHA Business Plans are designed to support the Council in meeting statutory requirements and housing investment requirements. Legal, financial and risk implications are assessed within these frameworks. The impact of the Covid-19 pandemic on HRA from 2020-21 onwards is currently being assessed and will be an important input to the HRA Business Plan review of 2021.

Impact Assessment

An EqIA has been completed and the summary form is provided in Appendix 3.

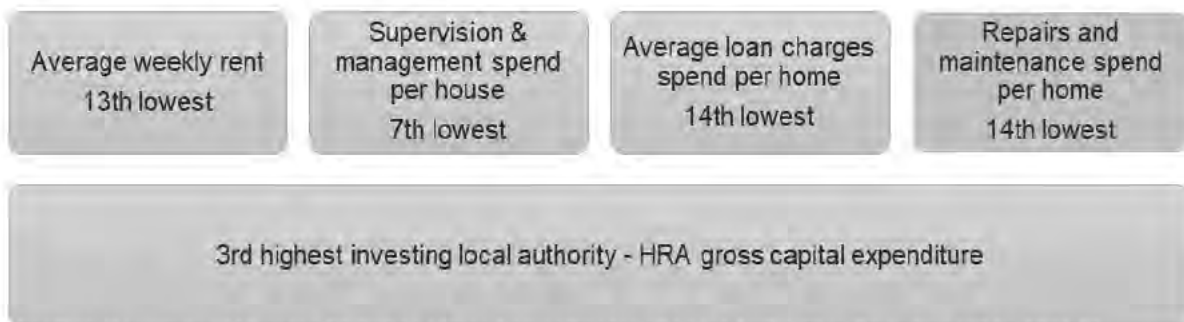
Consultation

The Housing (Scotland) Act 2001 requires the Council to consult with tenants affected by any proposal to increase rents and charges and have due regard to the views expressed by those consulted. Feedback from consultation with tenants and their representatives is detailed in this report.

1.0 Background

- 1.1 **Housing Revenue Account (HRA)** – the HRA is required by legislation to operate as a ring-fenced account to solely benefit Council tenants. It is financed by rents and other charges with no contribution made from Council Tax revenues or other forms of subsidy.
- 1.2 Latest published Scottish Government data for 2019-20 shows that Fife Council’s HRA performs well in terms of supervision and management costs per property. Spend on loan charges and repairs costs are closer to, but still below, the average for Scotland. Fife’s average weekly Council rent of £73.25 in 2019-20 remained below the average of £73.73 for Scotland. The Council was the third highest investor in new house building and housing improvements.

Figure 1: HRA Performance 2019-20



Scottish Government Housing Statistics / Based on estimates of Local Authorities Operating HRAs 2019-20

- 1.3 Data from the Scottish Housing Regulator for 2019-20 shows that Fife Council’s average weekly rent of £73.25 was 39th lowest out of 179 social landlords in Scotland (local authorities operating HRAs and Registered Social Landlords). Local comparison shows that Fife Council’s average weekly rent of £75.45 in 2020-21 is between £7.44-£17.58 (9%-19%) lower than the average rents charged by the Fife-based Registered Social Landlords (Table 1).

Table 1: Average Weekly Rents (2020-21)

Organisation	Average Weekly Rent 2020-21	Difference / Comparison with Fife Council
Fife Housing Association	£93.03	£17.58
Glen Housing Association	£82.89	£7.44
Kingdom Housing Association	£83.35	£7.90
Ore Valley Housing Association	£84.69	£9.24
Fife Council	£75.45	-

Source: Fife-based social landlords 2020-21

- 1.4 **HRA Business Plan** - in 2005, a 30-year HRA Business Plan was established to provide a long-term financial perspective for Council housing. This initially focused on the delivery of the Scottish Housing Quality Standard, but over time has built in a

broader range of investment priorities, including energy efficiency, housing regeneration, specific needs housing, improved estates and new Council housing.

- 1.5 The HRA Business Plan assumes that rents will increase by the Retail Price Index inflation plus one percent (RPI+1%) each year over 30 years. This is based on a national Treasury assumption for business planning that inflation will average at 2.5% per annum, therefore RPI+1% equals 3.5%. Fife Council uses the September RPI rate to inform rent setting for the year ahead. The RPI rate for September 2020 was 1.1%, with RPI+1% therefore being 2.1%. The December RPI rate is also showing inflation in a relatively static position of 1.2%, with RPI+1% being 2.2%.

Table 2: Inflation Comparison / Proposed Rent Increase

Comparison of Inflation	RPI	RPI+1%
HRA Business Plan / Treasury Assumption	2.5%	3.5%
RPI Inflation September 2020	1.1%	2.1%
RPI Inflation December 2020	1.2%	2.2%
Proposed HRA 2021-22 rent increase	1.5%	

- 1.6 In a 'normal' year, discussions around rent proposals would be based around the September 2020 inflation plus 1% position of 2.1%. In considering the financial impact of Covid-19 on Council households, the HRA Business Plan 2020 modelling assessed that a lower rent increase policy could be supported over the coming year, providing risks to the HRA are controlled.
- 1.7 In previous years the HRA's key risks have related to bad debt and increasing repair, improvement and change-of-tenancy costs. However, potential financial impacts of costs associated with Building Services' Covid-19 lockdown and unproductive time were also tested within the plan, and £6.6 million increased unit costs for the Phase 3 affordable housing programme. The value of the cost sharing agreement with Building Services is uncertain at this time and will be quantified towards the end of the financial year.
- 1.8 **HRA Medium Term Financial Strategy** – the three-year financial strategy agreed by the Policy and Coordination Committee (24th January 2019), highlighted key challenges for the HRA, including the sustainability of rent increases of RPI+1%; the commitment to build 3,500 (1,500 Fife Council) houses across Fife by 2022; and the financial impacts of increasing housing standards such as the Energy Efficiency Standard for Social Housing.
- 1.9 The financial strategy highlighted a preference to keep the HRA below a specific borrowing threshold, this being up to 30% of HRA income servicing loan debt. A borrowing level of 30%-33% is deemed to be medium risk within the HRA business plan, and 34% to the prudential limit of 38% is high risk.
- 1.10 The impact to the HRA Business Plan, affordability and risks associated with the proposed rent increase, are discussed further in paragraphs 4.3-4.4.

2.0 HRA Options / Tenant Consultation

- 2.1 The Housing (Scotland) Act 2001 requires the Council to consult with tenants on any proposal to increase rents and charges and to give due consideration to the views of those consulted. The Covid-19 emergency put on hold plans for a Better Homes Exhibition and tenant gatherings. In June 2020, the Fife Tenant Forum was invited to gather views from tenant groups on the level of rent increase that would be appropriate for 2021-22. Reflecting concern for tenants on lower incomes and the impact of Covid-19, the individual federations reported back preferences for a low or zero rent increase.
- 2.2 In response to this feedback, rent scenarios were tested through the HRA Business Plan review with the aim of supporting tenants through the Covid-19 emergency. In previous years the Council has consulted on high/medium/low rent options based around the RPI+1% figure, however, a different approach was considered appropriate during the pandemic.
- 2.3 The modelling identified that the lowest rent increase that could be offered in 2021-22, without leading to reduced service delivery or adding undue risk to the HRA Business Plan, was 1.5%. It was concluded that this could be supported if there was a return to the RPI+1% rate from April 2022 and no further Covid-19 impacts and risks emerged, over and above those identified in paragraph 1.7. This proposal would represent the third consecutive year that a rent increase lower than the HRA Business Plan assumption of RPI+1% has been agreed in support of tenants:

Table 3: Annual Rent Increases / Comparison with RPI+1%

Financial Year	Percentage Increase Applied	September RPI+1%	Percentage difference in relation to RPI+1%
2017-18	3.0%	3.0%	Balanced
2018-19	4.9%	4.9%	Balanced
2019-20	3.2%	4.3%	-1.1%
2020-21	3.0%	3.4%	-0.4%
2021-22 (proposed)	1.5%	2.1%	-0.6%

Source: Housing Services' Annual Rent Increases

- 2.4 The proposal would extend to rents, service, garage site charges and temporary accommodation. The increase would not apply to lockups for one final year, until the improvement programme is more fully implemented. A temporary direct debit discount was removed for most lock-up lessees in April 2019 and it is proposed that this will be applied consistently across all customers paying by direct debit from April 2021.

- 2.5 The rent increase of 1.5% would have the following impact on the average Council rent:

Table 4: Average Council Rents 2020-22

Year	Average Weekly Rent	Average Weekly Rent Increase
2020-21	£75.45	-
2021-22	£76.58	£1.13

- 2.6 On the 25th November 2020, the Policy and Coordination Committee agreed to survey all Council tenants around the proposal for a rent increase of 1.5% in 2021-22. Table 3 shows the results of the tenant survey with a total of 1,218 responses (excluding incomplete and spoiled returns). The majority of 760 respondents (62%) agree with the rent proposal of 1.5% and 458 (38%) are not in agreement.

Table 5: Results from the Annual Tenant Survey

Rent Proposal	Total Number of Respondents	% of Respondents
In agreement with 1.5%	760	63
Not in agreement with 1.5%	458	37
Total	1,218	100

Source: Fife Council Rent Survey for 2021-22/ issued Dec 2020 (spoiled responses excluded)

3.0 Tenant Impact / Rent Affordability

- 3.1 **Housing Benefits** - the affordability of housing rents will depend on the circumstances of individual tenants. Given the general profile of Council tenants, the uptake of Housing Benefit is of importance. As of the 10th January 2021, 10,659 (36%) of Council households were claiming Housing Benefit, and an estimated 8,000 (27%) are now receiving Universal Credit. The total uptake of Housing Benefit throughout 2019-20 is shown in Table 6.




Table 6: Housing Benefit Uptake / Council Households 2019-20

Household Circumstances	Estimated Number (%) of Council Households	Comment
Total households claiming Housing Benefit in year	14,129 (48%)	Council households claiming Housing Benefit during year
- Receiving Passported Housing Benefit in year	9,598 (68%)	Rent increase covered by Housing Benefit
- Receiving Non-Passported Housing Benefit in year	4,531 (32%)	Rent increase covered by Housing Benefit

Source: Fife Council, 2019-20 / Estimates of Households and Housing Benefit Uptake

- 3.2 In 2019-20, 48% of Council households claimed Housing Benefit at some point during the year. Following the ‘unfreezing’ of benefits for working age households in April 2020, all tenants on Housing Benefit will now have any rent increase covered through Housing Benefit.
- 3.3 Tenants in receipt of Universal Credit are entitled to an increase in their housing costs in a similar way to those on Housing Benefit. However, the Department for Work & Pensions administers Universal Credit applications, holds data around claimants and requires tenants to complete the necessary steps following changes in housing costs. This makes it difficult to predict with any accuracy how tenants will respond to, or be impacted by, a rent increase.
- 3.4 Based on the current uptake in benefits it can be assumed that around 10,600 (36%) Council households will not claim benefits and will be required to fully fund any rent increase. These figures should be considered indicative in view of the element of unknown through Universal Credit. There is also the potential for further job losses and increased benefit uptake arising from Covid-19.
- 3.5 **Living Rent** - the introduction for a ‘living rent’ was recommended by the Fairer Fife Commission and an appropriate definition for social housing was agreed by the Fife Housing Partnership. A ‘living rent’ is defined as being affordable for a household with someone in full-time employment and not assisted through benefits, based on a calculation of charging a fixed percentage (28%) of net lower quartile earnings. In 2020, the ‘living rent’ threshold for a single person in Fife is £102.20 per week. Housing costs below this threshold are affordable and above the threshold are unaffordable.
- 3.6 The affordability of the proposed average weekly rent of £76.58 can be tested against different types of Council households on low income and not in receipt of benefits.

Table 7: Affordability Scenarios

	Household / Income Scenario	28% of Weekly Earnings (net of tax)	Affordability of FC Rent Proposal
	Single person household, in full-time employment with lower quartile earnings (i.e. ‘Living Rent’ scenario’)	£102.20	Rent proposal affordable / below threshold
	Two-person household with a full-time and part-time employee, both with lower quartile earnings	£146.50	Rent proposal affordable / below threshold
	Single person household, in full-time employment with lower <u>decile</u> earnings	£89.32	Rent proposal affordable / below threshold

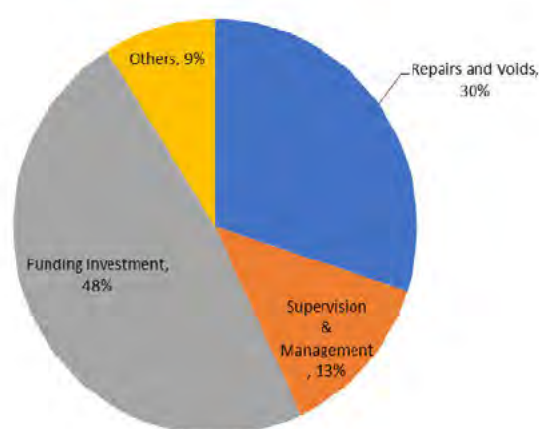
Source: Annual Survey of Hours and Earnings 2020 / Fife Statistics

- 3.7 Table 7 indicates that single people and working couples on lower quartile earnings would be able to afford the proposed rent increase without the assistance of benefits. Even if the ‘living rent’ definition is remodelled to assess lower decile earnings lowering the living rent threshold, the average full-time employee would be able to afford the proposed rent increase. Therefore, the proposed average Council rent would remain affordable to those on the lowest earnings and would continue to be classed as a ‘living rent’.

4.0 HRA Budget 2021-22

- 4.1 After applying the 1.5% rent increase in 2021-22, the gross income to the HRA would total £128.088 million. When compared with the HRA Business Plan assumption of 3.5%, this represents a difference of -£2.386 million in rent income in 2021-22, and -£0.718 million when compared to the September RPI+1% rate of 2.1%.
- 4.2 A profile of spend for the draft HRA Budget for 2021-22, based on a 1.5% rent increase indicates that over three-quarters (78%) of the budget could be focused on investment in repairs, maintenance, improvements and funding for new Council homes, as shown in Figure 2. This profile is relatively unchanged from previous years, and a separate HRA Capital investment report is being provided to Council to outline investment proposals for 2021-24.

Figure 2: HRA Draft Budget 2021-22 – Expenditure Headings



- 4.3 The key impact of both a low rent increase, and the added financial consequences of Covid-19 outlined in paragraph 1.7, is a change in borrowing levels within the HRA. As previously indicated, the Policy and Co-ordination Committee through the HRA Medium Term Financial Strategy, agreed that any change that would breach the debt level of 30% should be reported back to Committee.
- 4.4 It is expected that the rent increase proposal would result in a debt level of 30%, based on current levels of investment and known Covid-19 financial impacts. This takes the HRA up to the borrowing limit agreed by Committee and into medium risk. Low rent increases beyond 2021-22, combined with any need for new investment, will increase the debt and risk position towards high risk. This will require to be further considered through the HRA Business Plan review in 2021.
- 4.5 Housing Services is committed to minimise service pressures during 2021-22 to mitigate any further risk to the HRA. The pressures on the HRA total £0.610 million arising from Committee agreement to improve responses to anti-social behaviour, salary increases and increments, and reduced income from heating charges in retirement housing following a review of energy providers and costs.

Table 8: HRA Budget Pressures 2021-22

Pressures	2021-22 £m
Policy pressure – staff costs to improve responses to anti-social behaviour (agreed by Community & Housing Services Sub-Committee 21 st January)	0.320

Pressures	2021-22 £m
2021)	
Supervision and management – annual salary increases for 2021-22 at 1.0% plus estimate of £59k for increments	0.186
Retirement housing – reduction in income for heating charges from previous budgeted figure following a review of energy providers and costs	0.104
Total Pressures	0.610

- 4.6 Impacts to the HRA can be minimised through improved focus on core services, delivering a programme of efficiencies and supporting growth in relevant parts of the business. The proposal for efficiency based on the assumption of a 1.5% rent increase includes £0.610 million savings in 2021-22 in supervision & management costs, and through the transformation of HRA homeless hostels into supported accommodation managed on the General Fund Housing Account. A review of the charging structure for hostels is being conducted as part of this process to cover service costs and avoid any negative financial impacts on the General Fund.

Table 9: HRA Budget Savings 2021-22

Savings	2021-22 £m
Supervision & Management – combined savings on travel expenses, postage, consultation and communication budgets	0.108
Homeless hostels – delivery of Rapid Rehousing Transition Plan commitment to transfer HRA homeless hostels into supported accommodation with the operational model held on the GFHA	0.502
Total Savings	0.610

- 4.7 The savings identified in Table 9 fully mitigate the estimated pressures shown in Table 8. While a position of balance in savings and pressures is presented at this point, further options are being considered to mitigate against the unknown future impacts of Covid-19 and Brexit. Where possible, this will include an enhanced level of balances held within the HRA.
- 4.8 The HRA current balances in 2020-21 are £3 million. It is proposed to use £1 million of these in across 2020-21 and 2021-22 to fund the Covid-19 rent support fund for employed tenants with jobs impacted by the pandemic. This will allow the HRA to maintain the Covid-19 fund at £1 million in 2021-22 by using both budget and available balances. In addition to the £1 million Covid-19 fund, the £1 million rent support scheme for tenants on Universal Credit will also be maintained in 2021-22, providing combined support of £2 million.
- 4.9 The HRA aims to add £0.500 million to balances each financial year as part of its business plan assumptions. Any withdrawals or contributions to balances take place at the end of each of financial year and these proposals will require to be reconsidered once the level of the cost sharing with Building Services has been confirmed (paragraph 1.7)
- 4.10 The Council has also asked Directorates and Services to seek to enhance the current decentralised service arrangements in order to develop People and Place

Leadership at area level. Historically, Housing Services has been a localised service with significant support for area delivery of services, working with tenants and local Members. The proposed rent increase for 2021-22 will enable the Service to begin to implement its two-year plan to develop this position further, in close alignment with Safer Communities Service, including enhancing and devolving appropriate HRA budgets for local decision making.

5.0 General Fund Housing Account (GFHA) 2021-22

- 5.1 As in previous years, members are asked to consider proposals for increasing rents for GFHA homelessness temporary accommodation alongside those of the HRA. The GFHA has been under significant pressure from welfare changes through the removal of the management fee for homelessness temporary accommodation. Parts of the Council's stock of temporary accommodation, including homeless hostels are being remodelled into supported housing as part of the Rapid Rehousing Transition Plan (RRTP). The transformation of the council's approach to the prevention of homelessness is being supported by Scottish Government external grant funding to accelerate the process.
- 5.2 It is proposed to continue to align the rent increase for GFHA-funded accommodation to that of the HRA in 2021-22 to allow wider work to be progressed nationally and locally through RRTPs, including developing the sustainable financial framework for temporary accommodation. It is anticipated that the outcomes of this work will be reported to Committee during 2021-22.
- 5.3 In the meantime, it is a recognised nationally that rent levels for general needs temporary accommodation are unaffordable to the average homeless customer if not fully covered through welfare benefits. However, where a person currently living in temporary accommodation is in employment or further education, a reasonable contribution to rent will be agreed to maintain employability and educational achievement.

6.0 Conclusion

- 6.1 The HRA Business Plan assumes a policy based on RPI +1% to increase rents and other charges to maintain the viability of the plan. There is flexibility within that policy to allow a lower rent increase for a limited term. The unusual circumstances arising through the Covid-19 emergency suggest that there is a need to offer greater support to tenants during this time and a 1.5% rent increase is proposed. Agreement on the increase in rents and charges will allow the HRA budget to be set for programmes from April 2021.

Report Contacts:

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Appendices:

Appendix 1: Housing Revenue Account Budget 2021-22 / Rent Increase Option

Appendix 2: Housing Revenue Account Proposed Budget 2021-22

Appendix 3: Equality Impact Assessment Summary Report

Appendix 1: Housing Revenue Account Budget 2021-22 / Rent Increase Option

	CURRENT SCENARIO 2021-22 £000	CURRENT SCENARIO 2022-23 £000	CURRENT SCENARIO 2023-24 £000
Rent Increase of 1.5% (rent freeze on Lock-Ups for 21-22)			
NET EXPENDITURE	(128,088)	(131,314)	(134,858)
RENT INCOME			
Income from House Rents	120,954	124,148	127,643
Income from Lockups/Garage Sites	2,841	2,827	2,830
Other Income	4,293	4,338	4,385
	128,088	131,314	134,858
TOTAL TO BE FINANCED FROM HOUSE RENTS	120,954	124,148	127,643
Average Weekly Standard Rent (£)	76.58	79.26	82.03
Increase/(Decrease) In Rent in Rent (£)	1.13	2.68	2.77
Percentage Increase/(Decrease)	1.50%	3.50%	3.50%

**Appendix 2: Housing Revenue Account Proposed Budget 2021-22
(Rent Increase 1.5%)**

Division of Service	ANNUAL BUDGET	PROPOSED BUDGET	PROVISIONAL BUDGET	PROVISIONAL BUDGET
	2020-21	2021-22	2022-23	2023-24
	£000s	£000s	£000s	£000s
Repairs and Maintenance	32,023	32,645	33,282	33,934
Locality Managed Expenditure	2,843	3,091	3,101	3,113
Supervision & Management	15,970	16,405	16,528	16,652
Funding Investment	59,486	61,397	63,668	66,236
Voids	2,102	2,134	2,166	2,198
Housing Support Costs (Supporting People)	(362)	(362)	(362)	(362)
Garden Care	376	386	396	406
Bad or Doubtful Debts	2,984	2,944	2,944	2,944
Other Expenses	9,668	9,448	9,591	9,737
	125,090	128,088	131,314	134,858
RENT INCOME				
Income from House Rents	(117,973)	(120,954)	(124,148)	(127,643)
Income from Lockups/Garage Sites	(2,869)	(2,841)	(2,827)	(2,830)
Other Income	(4,248)	(4,293)	(4,338)	(4,385)
	(125,090)	(128,088)	(131,314)	(134,858)

Appendix 3: Equality Impact Assessment Summary Report

<p>Which Committee report does this IA relate to (specify meeting date)?</p> <p>Fife Council 25th February 2021</p>
<p>What are the main impacts on equality?</p> <p>While tenants within the protected characteristics living in Fife Council housing will be affected by the proposal to increase rents, there will be no difference in the treatment of tenants who share a protected characteristic and those who do not.</p>
<p>What are the main recommendations to enhance or mitigate the impacts identified?</p> <p>The use of the agreed HRA budget has the potential to benefit those tenants with a protected characteristic, subject to agreement of investment priorities through Housing Services' planning framework.</p>
<p>If there are no equality impacts on any of the protected characteristics, please explain.</p> <p>See above – specific policy proposals will be impact-assessed through the planning and policy framework.</p>
<p>Further information is available from: Name / position / contact details:</p> <p>John Mills, Head of Housing Services</p>



FIFE COUNCIL MEETING

THURSDAY, 25 FEBRUARY 2021

AGENDA ITEM NO. 9(b) – HOUSING REVENUE ACCOUNT BUDGET 2021-22

MOTION ON BEHALF OF THE ADMINISTRATION

“That the Council: -

1. Approves the Housing Revenue Account (HRA) Budget 2021-22 report by the Head of Housing Services and the Head of Finance and agrees the following recommendations: -
 - (a) Approves a rental increase of 1.5% for HRA rents and charges for 2021-22.
 - (b) Approves to freeze charges for lock-ups for one final year following the continuing review into asset condition and to remove any remaining direct debit discounts.
 - (c) Approves the proposed HRA savings and pressures for 2021-22.
 - (d) Approves a rental increase of 1.5% on Homelessness Temporary Accommodation to keep rental increase on the General Fund Housing Account in line with increases on HRA rents and charges for 2021-22.

Proposed by Councillor Judy Hamilton

Seconded by Councillor Lesley Backhouse

25th February 2021

Agenda Item No. 9(c)

Housing Revenue Account: Capital Investment Plan 2021-24

Report by: John Mills, Head of Housing Services and Elaine Muir, Head of Finance

Wards Affected: All

Purpose

This report asks the Council to consider the overall affordability of Housing Revenue Account (HRA) capital investment in 2021-24 to meet the priorities agreed by the Fife Council on 27 February 2020, and to agree the capital programme for 2021-24.

Recommendations

Members are asked to agree:

1. An HRA Capital Investment Plan of £244.230m over the three years 2021-2024 across the component replacement, wider works and affordable housing programmes.
2. Additional new borrowing of £6.435m funding in 2021-22 to complete the affordable housing Phase 3 programme delivery to May 2022.
3. A commitment to review the potential to enhance the proposed programme of works within the HRA Capital Investment Plan in the summer of 2021-22. In particular, to seek to maximise opportunities to accelerate the speed of the component replacement programme.

Resource Implications

The resource requirements set out in this report have been accounted for in the HRA Business Plan review completed in 2020 and reflect the requirements of the HRA Medium Term Financial Strategy agreed by the Policy and Coordination Committee (24th January 2019). The additional £6.435m requirement for the Phase 3 AHP has been assessed taking account of increased construction costs arising from Covid-19 impacts.

Legal & Risk Implications

Relevant legal requirements and risk implications have been considered in providing the HRA Business Plan 2020 and in determining the HRA Medium Term Financial

Strategy agreed by the Policy and Coordination Committee (24th January 2019). The added risks to investment arising through the Covid-19 pandemic are discussed within the report.

Impact Assessment

An EqIA has not been completed and is not necessary as no change to policy is being proposed in relation to the component replacement programme and wider works. The proposals for affordable housing have been subject to an EQIA through the frameworks for the Local Housing Strategy and Strategic Housing Investment Plan.

Consultation

HRA investment proposals are subject to regular consultation with local Members and Area Housing Managers. Tenants are invited to review investment priorities through tenant surveys and through discussion with their representative organisations. Fife Council on the 27th February 2020 agreed priorities for housing investment following completion of the HRA Business Plan 2020. However, Covid 19 has resulted in some changes to the planned delivery of works. A reprofiled HRA Capital Plan was developed and approved by Policy and Co-ordination Committee on the 16th July 2020. A further Covid-19 impact of the current lockdown has been the rescheduling of some further projects from 2020-21 into 2021-22.

1.0 Introduction

- 1.1 This report provides the overall budget requirements over the next 3 years to deliver the HRA Capital Investment Programme including the component replacement, wider works and affordable housing programmes. These programmes are aligned to the assumptions of the 30-year HRA Business Plan and their affordability is tested annually within that framework.
- 1.2 The update of the HRA Business Plan in 2020 included assumptions for £1.23bn capital investment in existing Council housing over 30-years (excluding fees and inflation) with average annual investment of £41m in component replacements and wider works. The plan also accounted for the completion of the Phase 3 affordable housing programme by 2022.
- 1.3 This continued scale of investment depends on the delivery of the HRA Business Plan assumptions, including the level of annual rent increases. The Policy & Coordination Committee on the 25th November 2020 agreed to consult with tenants on a rent increase of 1.5% from April 2021. This lower rent increase for one year, combined with investment commitments, was considered affordable and within the limits of medium risk to the HRA.
- 1.4 Further scenario testing has been carried out to ensure the level of borrowing required to fund the proposed HRA Capital Investment Plan is affordable. This scenario testing takes into account the current known pressure such as the potential for cost sharing of Covid 19 lockdown costs and £6.435m additional borrowing for the Phase 3 affordable housing programme.

- 1.5 The key impact of both a low rent increase, and the added financial consequences of Covid-19, is a change in borrowing levels within the HRA. The Policy and Co-ordination Committee through the HRA Medium Term Financial Strategy (24th January 2019), agreed that any change that would breach the debt level of 30% should be reported back to Committee.
- 1.6 It is expected that the rent increase proposal would result in a debt affordability level of 30%, based on current levels of investment and known Covid-19 financial impacts. This takes the HRA up to the borrowing limit agreed by Committee in 2019 and into medium risk. Low rent increases beyond 2021-22, combined with any need for new investment, will increase the debt and risk position towards high risk. This will require to be further considered through the HRA Business Plan review in 2021. Further consideration of current HRA investment priorities will be required in 2021-22 to support the Council potentially embarking on a Phase 4 Transitional AHP in 2022-24.

2.0 HRA Capital Investment Programme

- 2.1 **Component Replacement** - programmes are developed to ensure compliance with Energy Efficiency Standards for Social Housing (EESH) and other current and emerging legislation e.g. electricals safety standards. Roofs and roughcast are replaced under a responsive schedule of works when warranted by condition, as previously agreed by Committee. The planned budget for the component replacement programme is £31m in each year across 2021-2024.
- 2.2 **Wider Works** - the current planned budget for the wider works programme and property and land acquisitions is £19.667m in 2021-22, £21.175m in 2022-23 and £20.713m in 2023-24. The programme includes:
- Major projects – Projects for improvement / replacement works.
 - EESH2 and fuel poverty measures – support of energy innovation which contributes to the Climate Fife Plan and eradicates fuel poverty. Also, delivery of the HEEPS programme and development of a ten- year plan to address non-traditional stock.
 - Regeneration/estates action - regeneration projects including town centre regeneration in line with the Plan4Fife.
 - Specific needs – including improvements to older persons housing, enhancement of Gypsy Traveller sites and accommodation, and homeless hostel upgrades
 - Safety & structural - ensuring the highest levels of safety in stock Fife wide.
 - Property acquisition – acquiring properties to provide permanent affordable homes for tenants and other housing applicants, those with specific requirements and to address areas of high demand, including for homeless families.
 - Land acquisition- Investment in land assets to rebuild the HRA land bank suitable for future new build programmes

- 2.3 **Affordable Housing** – this reflects continuing progress delivering the Phase 3 affordable housing programme to provide 3,500 affordable houses by May 2022, including 1,500 new Council houses. The current planned budget for the programme is £30m in 2021-22, £30m in 2022-23 and £29.675m in 2023-24. The assumed level of Scottish Government subsidy is £59k for each unit delivered.
- 2.4 The HRA Business Plan 2020 has assumed a cost of £155k for each property delivered, this being £96k net of subsidy. Recent outturns through the affordable housing programme have shown that gross unit costs in 2020-21 have increased to £165k (net £104k) and future delivery is likely to cost £175k (net £116k). The estimated impact on the HRA is a requirement of additional investment of £6.435 m to complete the Phase 3 programme.
- 2.5 This level of increased investment has now been accounted for in the HRA Business Plan scenarios (discussed in paragraph 1.4-1.5). To maintain the HRA's high level of investment into maintaining existing stock and continue the affordable housing programme beyond Phase 3, preservation of the HRA Business Plan assumptions around HRA rent increases must be considered in future years, as any changes to these assumptions may put the business plan at risk. Any future deviations from the current HRA business plan assumptions would require further testing of affordability.
- 2.6 **HRA Capital Investment Programme** - the total existing commitment through the HRA Capital Investment Programme including through the component replacement, wider works and affordable housing programmes is £80.667m in 2021-22, £82.175m in 2022-23 and £81.388m in 2023-24. (Appendix 1).

3.0 Impact of Covid19 on HRA Capital Investment Plan

- 3.1 The Covid19 pandemic had an immediate and widespread impact on the construction and property maintenance sectors nationally. Many workstreams were halted and others were subject to additional rigorous health and safety measures which added to delivery timescales.
- 3.2 As a consequence, a reprofiled Capital Plan was developed and approved by Policy and Co-ordination Committee on 16 July 2020. This reflected the level of delivery achievable within the constraints of Covid 19 during 2020-21.
- 3.3 Component replacement continued across all workstreams. However, there was an increase in “no access” from tenants and in the installation times required. This has resulted in an extension of the delivery timescales for the 2020-21 programme into 2021-22.
- 3.4 In order to increase access rates to properties, additional reassurance, information and guidance is being provided to tenants. It is hoped, this support, will have a positive impact on access to properties.
- 3.5 In conjunction with the above actions, partner services in the housing function are continually reviewing the operational ability to deliver all works as Covid 19 restrictions alter and hopefully ease. The existing delivery model has been designed to be flexible and allow for opportunities to increase delivery across the various workstreams in year. A review of the position will be carried out at the end of the first quarter in 2021/22 A reprofiled HRA Capital Investment Plan, identifying any

opportunities for an accelerated programme, will be presented to Policy and Co-ordination Committee in Summer 2021.

- 3.6 Therefore, notwithstanding the difficulties faced in delivering works in tenants' homes and the additional support required, the Capital Investment Plan for 2021-22 supports delivery of those projects impacted by Covid19, the continuation of component replacement works, EESSH2 and fuel poverty measures, and compliance with health and safety and other legislative requirements. The needs of specific groups will continue to be met through targeted projects and the affordable housing programme and property acquisition policy.

4.0 Conclusions

- 4.1 The HRA capital programme 2021-24 is designed to meet a range of housing needs. Whilst, the Covid19 situation has had an impact on operational capacity and timescales, 2021-24 is envisaged as a period of recovery with a return to full delivery of component replacement, wider works and affordable housing programmes.
- 4.2 Opportunities to deliver an enhanced programme of works will continue to be explored. Increased delivery levels may require an advancement of budget. If this position arises, an update report and reprofiled budget would be presented to the Policy and Co-ordination committee at the appropriate time.
- 4.3 The overall HRA capital commitment of £244.230m confirms the Council's policy to continue to improve existing council house condition, but also to continue to build much needed new council houses to meet growing housing needs in Fife.
- 4.4 There is a requirement for additional borrowing of £6.435m to support the continued delivery of the Phase3 affordable housing programme. This has arisen due to increased costs within the building and construction sector, with material, supply chain and on-site costs having been impacted by Covid19 closures and new working practices.

John Mills & Elaine Muir
Head of Housing Services & Head of Finance

List of Appendices

1. HRA Capital Investment Programme / Summary of Proposals 2021-2024

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Appendix 1

HRA Capital Investment Programme / Summary of Proposals 2021-2024

	2021-22	2022-23	2023-24	Total Investment 2021-24
	£m	£m	£m	£m
Component Replacement	31.000	31.000	31.000	93.000
Wider Works				
Major Projects	1.362	0.525	1.650	3.537
EESH 2 & Fuel Poverty	2.075	4.075	3.500	9.650
Regeneration/ Estates Action	4.950	4.850	5.950	15.750
Specific Needs	1.630	2.075	0.905	4.610
Safety & Structural Works	2.650	2.650	1.708	7.008
Land Acquisitions	2.000	2.000	2.000	6.000
Property Acquisitions	5.000	5.000	5.000	15.000
Sub-total	19.667	21.175	20.713	61.555
Affordable Housing Programme	30.000	30.000	29.675	89.675
Total	80.667	82.175	81.388	244.230



FIFE COUNCIL MEETING

THURSDAY, 25TH FEBRUARY 2021

**AGENDA ITEM 9(d) – HOUSING REVENUE ACCOUNT: CAPITAL INVESTMENT
PLAN 2021-24**

MOTION ON BEHALF OF THE ADMINISTRATION

“That the Council: -

1. Approves the Housing Revenue Account: Capital Investment Plan report by the Head of Housing Services and the Head of Finance and agrees the following recommendations within the report:
 - a) An HRA Capital Investment Plan of £244.230m over the three years 2021-2024 across the Component Replacement, Wider Works and Affordable Housing Programmes.
 - b) Additional new borrowing of £6.435m included within the proposed investment plan for 2021-22 to complete the affordable housing Phase 3 programme delivery to May 2022.
 - c) A commitment to review the potential to enhance the proposed programme of works within the HRA Capital Investment Plan in the summer of 2021-22. In particular, to seek to maximise opportunities to accelerate the speed of the component replacement programme
2. Agrees to the apportionment of funding as recommended in appendix 1 of the report. A summary of the total recommended investment is detailed below:

Recommendation A – HRA Capital Investment	2021-22	2022-23	2023-24	Total Investment 2021-24
	£m	£m	£m	£m
Component Replacement	31.000	31.000	31.000	93.000
Wider Works				
Major Projects	1.362	0.525	1.650	3.537
EESHS 2 & Fuel Poverty	2.075	4.075	3.500	9.650
Regeneration/ Estates Action	4.950	4.850	5.950	15.750
Specific Needs	1.630	2.075	0.905	4.610
Safety & Structural Works	2.650	2.650	1.708	7.008
Land Acquisitions	2.000	2.000	2.000	6.000
Property Acquisitions	5.000	5.000	5.000	15.000
Sub-total	19.667	21.175	20.713	61.555
Affordable Housing Programme	30.000	30.000	29.675	89.675
Total	80.667	82.175	81.388	244.230

Proposed by Councillor Judy Hamilton

Seconded by Councillor Lesley Backhouse

25th February, 2021

Agenda Item No. 10

Call-In – Education & Children’s Services Sub-Committee Decision of 3rd November 2020 Relating to Childcare Services and Play Practice Development

Report by: Executive Director, Finance & Corporate Services

Wards Affected: All

Purpose

The purpose of the report is to ask the Council, in terms of Standing Order 12(5)(b), to make a final determination in relation to the call-in of the Education & Children's Services Sub-Committee decision of 3rd November 2020 relating to Childcare Services and Play Practice Development.

Recommendation(s)

The Council is asked to determine whether the decision of the Sub-Committee should stand or if an alternative decision should be substituted.

Resource Implications

There are no resource implications arising directly from this report. However, a budget saving of £488,000 has been identified for the Education & Children's Services Directorate to be achieved, in part, through the development of an alternative, commercial model for Childcare Services, as set out in the report of 3rd November 2020. Should Council not endorse the recommendations of that report, consideration will require to be given to how this saving will be achieved.

Legal & Risk Implications

There are no legal implications arising from this report.

Impact Assessment

An EqIA is not required as this report does not propose a change or revision to existing policies or practices. Should Council decide to endorse the decision of the Education & Children's Services Sub-Committee, the impact of any changes to policy and practice implemented as a consequence will require an EqIA to be carried out.

Consultation

No consultation has been carried out in relation to this report. The consultation carried out prior to the Education & Children's Services Sub-Committee decision of 3rd November 2020 is set out in that report and the subsequent report of 9th February 2021 to the Education & Children's Services Health & Social Care Scrutiny Committee, which reports are appended.

1.0 Background

- 1.1 At its meeting on 3rd November 2020, the Education and Children's Services Sub-Committee considered a report from the Executive Director, Education and Children's Services in respect of Childcare Services and Play Practice Developments. The report is set out as Appendix 1 to this report.
- 1.2 The Education and Children's Services Sub-Committee decision is set out in the extract minute of the meeting, which forms Appendix 2 to this report.
- 1.3 A call in of the Education and Children's Services Sub-Committee's decision was received in terms of Standing Order 12. The call-in requisition forms Appendix 3. In terms of the Standing Order, the matter was then remitted to E&CSH&SC Scrutiny Committee, who considered the matter at its meeting of 9th February 2021. The report that accompanied the call-in forms Appendix 4.
- 1.4 The Scrutiny Committee decided as follows:

“To defer implementation of the new approach to Childcare Services and Play Practice and request further reports to the Education and Children's Services Sub-Committee detailing:

1. the impact of these proposals on children and families and on disadvantaged communities;
2. options for maintaining or expanding these services to better meet needs and where possible increase income;
3. a full business plan for the future provision of childcare and play practice development.”

In terms of Standing Order 12(5)(b), the matter is now referred to Council for final determination.

2.0 Options for the Council

- 2.1 Standing Order 12(5) directs that, where the Scrutiny Committee does not agree with the decision of the Strategic Sub-Committee (in this case Education and Children's Services Sub-Committee) the decision is to be referred to the next meeting of the Council for final determination.
- 2.2 Council may decide to uphold the original decision of the Education & Children's Sub-Committee from 3rd November 2020, uphold the decision of the E&CSH&SC Scrutiny Committee of 9th February or substitute its own decision in respect of this matter.

3.0 Conclusions

- 3.1 Council is asked to consider the matter and make a final determination in respect of this.

List of Appendices

1. Report by the Executive Director, Education and Children's Services to Education and Children's Services Sub-Committee, 3rd November 2020.
2. Extract minute of Education and Children's Services Sub-Committee, 3rd November 2020.
3. Call in requisition.
4. Report by the Executive Director, Education and Children's Services to the E&CSH&SC Scrutiny Committee, 9th February 2021

Background Papers

No background papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act, 1973:

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COPY Education and Children's Services Sub-Committee REPORT



3 November 2020

Agenda Item No. 8

Childcare Services and Play Practice Development

Report by: Carrie Lindsay, Executive Director, Education and Children's Services

Wards Affected: All

Purpose

To seek approval on proposals to modernise Childcare Services in Fife, moving to a more commercialised model of delivering services.

Recommendation(s)

It is recommended that members:

- note the range of services operating before the COVID19 closure of schools, early learning and childcare services
- consider the benefits of the proposals for change
- agree that Childcare Services progress the proposed next steps

Resource Implications

A budget saving, of £488k, has been identified for the Education & Children's Services Directorate to achieve through the commercialisation of services and the Council's Change to Deliver programme. This efficiency saving includes the development of an alternative, commercial model for Childcare Services.

Legal & Risk Implications

There are no direct legal implications arising from this report. Fife Council is not legally required to deliver Childcare Services. With the exceptional situation this year, there is the risk that the development of a commercial model for Childcare Services will not deliver the budget efficiency expected.

Impact Assessment

An EqIA has not been completed and is not necessary as this is an update report to highlight progress in the development of a commercial model for Childcare Services.

Consultation

Ongoing engagement with Children's Services Managers, the Play Practice Development Team and managers of voluntary sector childcare services.

Feedback from families, to ensure services provided are of high quality and are meeting the needs of children and families.

Workshop held with members of the Education & Children's Service's Sub-Committee.

1.0 Background

- 1.1 This paper, originally presented to the Education and Children's Services Committee on 1 September 2020. has been reviewed in light of the discussion and feedback from an elected members workshop, to consider the details of the proposals being set out and the potential impacts at local area level, as recommended. The workshop took place on 21st September and a presentation shared with all members of the Committee. Feedback on the proposals was invited. Appendix 2 details the Workshop Presentation and Appendix 3 the feedback from elected members following the workshop.
- 1.2 It has been recognised, in recent years, that Fife Council Childcare Services need to reform, to become more financially sustainable whilst continuing to provide a much-needed service to parents and carers. Through the wider council's Change to Deliver programme, the service has taken the opportunity both to review current provision and practices and to develop an improved commercialised approach to delivering childcare in the future.
- 1.3 The financial challenge facing the Directorate is to generate sufficient income, to close a significant budget gap, within a context of a significant increase in service costs and demand. The budget gap means that the current approach to delivering services required review, in response to Council and service priorities.
- 1.4 Fife Council's Childcare Services provide childcare to families through the delivery of Breakfast Clubs, Breakfast Cafes, After School Clubs, Holiday Clubs and childcare for younger children in Creches.
- 1.5 Fife's Play Practice Development Team ensures increased opportunities for children and families in Fife to engage in quality play experiences, including the provision of professional development for staff. As part of the commercialisation work, it has been identified that the work of this team aligns well with, and can support, the work of Childcare Services, whilst also considering how to modernise service delivery.
- 1.6 During January and February 2020, and prior to lockdown, the Childcare Services Managers and the Play Practice Development team were engaged in several workshop sessions, to review the current service offerings and to determine what a future modernised service delivery model could look like. One of the guiding principles was to consider how the Service could provide quality experiences for children and families, whilst operating in a more financially viable way.

- 1.7 In undertaking a review of service delivery, the Childcare Services and Play Practice Development teams have considered all aspects of childcare and play development and agreed the following set of guiding principles to apply to their thinking around the modernisation and commercialisation of service delivery:
- identification of key areas of provision
 - reduction in overlaps across services
 - assessment of areas of financial loss/gain or cost neutrality
 - development of proposed changes for future services, including benefits and risks
 - advancement of the commercialised model of delivering services and guiding principles
- 1.8 This paper provides details of the outcome of those workshops, including proposals for the future delivery of Childcare Services and Play Development in Fife.
- 1.9 Through this work, service provision has been categorised more clearly and the offer for families described differently, to enable parents to plan and organise their childcare provision more easily. As part of this, a mapping exercise was necessary to identify provision across Fife (**Appendix 1**). The main areas of childcare and play provision are now being described in the following 5 key areas:
- Early Learning and Childcare (ELC)
 - Before School
 - After School
 - School Holidays
 - Quality of Play
- 1.10 The closure of schools, early learning and childcare services, to protect families against Covid-19, meant that Childcare Services and the Play Development Team had to suspend all services. Between March and June, Childcare Services staff were deployed to support the work of the Children's Activity Centres, (CACs), alongside colleagues from across the Education and Children's Services Directorate. From June, Childcare Services oversaw the full operation of the Summer Activity Centres in primary and special schools across Fife, with support from the Play Practice Development team. This was vital for key workers that were involved in the delivery of key frontline services.
- 1.11 However, as we begin to phase our services back into operation, it is clear that the impact of Covid-19 has been significant. Children's attendance at a number of services has reduced as childcare needs have changed, although there are early signs that this will start to recover over the coming months. The impact of Covid-19 has also meant that Childcare Services and the Play Development Team have been able to see how some of the proposals for change within this report work in practise.
- 1.12 In modernising Childcare Services, and in light of Covid-19, some changes will need to be made to ensure services are viable in terms of demand and costs and that they are of a quality that provides good value for money to parents, as well as ensuring the long-term generation of income. In moving towards this, some previous services, including some out of school clubs, will not be recovered initially, but phased back where appropriate, applying the guiding principles identified.

2.0 Proposals for Change

2.1. Through the commercialisation work undertaken by Childcare Services and the Play Practice Development Team, proposals have been developed to ensure we continue to provide the key services which are most in demand for families across Fife.

2.2 Out of School Care

2.2.1 It is proposed that Childcare Services will return its focus to its core business of Out of School Clubs, which involves breakfast clubs and after school clubs. This will ensure clarity of provision on offer, as well as the quality and sustainability of these core services. The breakfast club and after school club elements of the service, which are highly valued by families, are the more commercially viable parts of the service. If prioritised effectively these may also help to generate additional income. Although this part of the service has been temporarily affected by Covid-19, service demand in some areas has increased, and has potential to increase further (as new families, during lockdown and the introduction of CACs, have become more aware of the service offering). This increase in demand has been aided through the work done with key worker children who accessed these centres.

2.2.2 The many breakfast clubs and after school clubs are well attended and most have the potential to operate in a cost neutral way. The commercial viability of each of the services has been considered. Where a service is underutilised, and unable to be operated in a commercial way, the offer will be reviewed, changing the delivery model or not reinstating that service. In many situations this occurs where schools also provide their own breakfast services, in the same setting, reducing the numbers of children attending the provision provided by Childcare Services, creating a duplication of services offered.

2.2.3 Changing the model, or not reinstating a service, may mean that a small number of families will no longer be able to access this childcare through a service directly provided by Fife Council, at this setting, before or after school. However, there are a range of other childcare options available to families, including childminders and other private or voluntary sector services. The benefits to Childcare Services are that services which are unsustainable will not require to be subsidised. There will also be a review where there is a duplication of service offering, so that families have a clear option available to them.

2.3 Breakfast Cafes

2.3.1 The Breakfast Cafes are a funded provision, provided in areas of high deprivation, to ensure children can access a breakfast before attending school. These Breakfast Cafes collectively receive funding of £150k, through targeted investment following a budget decision. The cost to Childcare Services in delivering this provision is £380k. The shortfall in funding is currently covered by income generated in other parts of Childcare Services, which in turn makes these services less financially viable. The review leads to the proposal to move to a model where the breakfast café service is delivered within budget, and at a local level, through the transferring of services directly to schools.

2.3.2 The benefits of changing to this model include the empowerment of schools to utilise their own staff, who know the children and families, and to make decisions on how best to deliver the cafe at a local level, as they are best placed to know how to support their families and to meet their needs. Schools can access additional funding through a range of different sources, such as local and national business and charitable organisations.

2.3.3 Across Fife there are a variety of ways that breakfast is provided across schools and a variety of ways these are funded. Childcare Services can develop several models, looking at existing provision at a local and national level, so that guidance and support can be provided to any school or group wishing to open their own breakfast provision.

2.4 Creche Service

2.4.1 The introduction of 1140 hours of Early Learning and Childcare (ELC), and the impact of COVID19, has affected the attendance at and future demand for our creche services. In most circumstances, families have cancelled existing places within the service to take up the funded places provided within a Fife Council nursery or a private funded provider setting. The suspension of this service during lockdown, in conjunction with the implementation of 1140 hours ELC, means that there has been minimal impact on families and it is anticipated that demand will not increase. Therefore, the development work acknowledged that this offering was not commercially viable.

2.4.2 Many of the creche services are based within community centres which do not meet the regulatory requirements of the Care Inspectorate, and therefore are not required to provide children with the standard of care and experience expected in regulated services and essential to support them to develop in their early years.

2.4.3 Providing the Creche Service has cost Fife Council £498k per annum and generates £114k in income from families using the service. Therefore, following the introduction of 1140 hours, not recovering creche facilities would generate a £384k budget efficiency saving

2.4.4 While not recovering this service may mean that a small number of families would be unable to afford childcare through other private and voluntary sector services, due to the increased costs, Childcare Services will work with other local providers to identify spaces available in the area, providing support to other businesses within the local economy. Families will also be signposted to the wide range of support provided by government to reduce the cost of accessing registered childcare providers.

2.5 Additional Support Needs Out of School Clubs

2.5.1 Childcare Services provides three after school clubs, across Fife, which are specifically designed for children with complex additional support needs. These services support families to attend work and further education and they also support families, where possible, to obtain some respite.

2.5.2 The Additional Support Needs Out of School Club provision is often oversubscribed. The review has also considered the difference between childcare and a respite service. Although Childcare Services work hard to accommodate all the

requirements of families, there is a significant strain placed upon the services as the demand is always higher than the provisions can offer.

- 2.5.3 The review determined that there needs to be clarity around the service offering and that there should be priority within this provision to families who require this to attend work or further education. Where additional places are available, these could be purchased for respite, however this may be at an increased cost, especially when places are being bought by another service. This will ensure that additional places are provided on a cost neutral basis. Families who require respite can access a range of services, through Social Work; privately using other agencies or funding privately provided through self-directed support. Special schools offer more and more after school activities for children and Childcare Services would propose working with schools to signpost families to a range of offerings for families.
- 2.5.4 It is recognised that this part of the service is unable to become commercially viable due to the high staff to child ratio required to provide the correct level of care to children and young people who attend. Some families may no longer have respite access; however, this is not what the service is designed for.

2.6 Holiday Childcare

- 2.6.1 During School Holidays and In-Service Days, Childcare Services provides care for school aged children, within our Out of School Club and Additional Support Needs service. During these periods, the number of services provided is reduced and operated from key locations across Fife. Through speaking with families and through the commercialisation review, it has become clear that these are not always in the best possible location for our families and often do not make the best use of our natural outdoor resources. Moving forward the proposal is to place services strategically, across Fife, to ensure all families can apply for places in a service within their local area.
- 2.6.2 Relocating some holiday clubs may mean that some families do not have a service as close as they did previously, however the benefits of this are that a consolidated service will ensure more opportunities for families, a better quality of service for children and a service which is commercially viable.

2.7 Playschemes

- 2.7.1 Childcare Services provides a number of Playschemes, across Fife, which are funded through direct investment of £300k, following a budget decision. This service is provided for children who may experience food poverty or other social exclusion during school holiday periods. The playschemes aim to mitigate against the effects of this. Children are referred to the scheme through education, social work and other professionals.
- 2.7.2 Childcare Services also holds a fund (£15k), through which key partners can refer children for consideration for a funded place. The Protected Places Scheme is available, during term time and school holidays, for children who are young carers, in kinship care, experience social exclusion, where there are family health issues or a crisis has developed at home. Places are funded within a suitable play provision. This fund is currently ring-fenced within the childcare services budget specifically for the purpose.

2.7.3 It is proposed that these funded offerings are merged, to establish a new fund where professionals can access support on behalf of families, throughout the year, within the other existing services. Not only does this provide children with a better quality of experience, it will also remove any stigma attached with attending a funded provision. Children would continue to be referred by key partners, such as Education, Social Work and Health, to ensure that as a partnership we are able to meet the needs of those most vulnerable and at greatest need of support. Childcare Services and the Play Development Team would do further work to implement a revised approach to managing applications for funded provision, to ensure a consistent approach and a reduced need for multiple applications, and most importantly to ensure children are being placed with the provision that will best meet the needs of children and families.

2.7.4 The benefits of managing the scheme in this way are that it not only removes the stigma attached to attending the playscheme service, it enables childcare services to utilise underused spaces within existing provision.

2.8 Fife Play Resource

2.8.1 The Fife Play Resource is one element of the Play Practice Development Team's work in Fife. The play resource has been established as a membership based, toy and equipment lending library, targeting all age groups, from very young children in nurseries to elderly residents in care homes. Currently there are around 100 members of the lending library service.

2.8.2 This service was suspended at the start of lockdown in March and has not been operating since. As part of the review of Childcare Services, the toy and equipment lending library was identified as a financially unsustainable and outdated service. However, in moving forwards, in our current and post Covid-19 context, the appropriateness of staff making non-essential deliveries around multiple sites and continuing to lend toys and play equipment across sites, is in serious question. The proposal is that we do not resume the lending library service once Covid-19 restrictions are lifted and we remove the Fife Resource Base as a Directorate resource. This would involve:

- communication with any current customers, particularly those who have renewed their memberships in the last year
- ending the lease
- use of a small set of the equipment to support the Play Practice Development Team training and development work
- permanent distribution of the toys and equipment (mainly to after-school clubs & P1 classes)
- selling/recycling of remaining resources

2.9. Voluntary sector support

2.9.1 Historically, Childcare Services has provided a range of support to the voluntary sector out of school clubs across Fife. This support includes financial and management support, which equates to £60k per annum. The financial support enables services to reduce their running costs, which includes the delivery of

transport to bring children into their out of school clubs. In some instances, the delivery of voluntary sector services is a duplication of services provided by Childcare Services.

- 2.9.2 During lockdown all voluntary sector services have been closed, which means that the financial support has not been required. Childcare Services has been working closely with the voluntary sector services to phase out the reliance of financial support, while supporting services to become financially viable. The Service is also ensuring that voluntary sector services can access the training provided by childcare services. This provides a saving for the voluntary sector as they are currently paying a higher price for quality play training.
- 2.10 Implementation of a new billing and management system
- 2.10.1 Childcare Services currently has an electronic billing system which has become outdated. The system relies on manual intervention to ensure it continues to operate effectively, which is very time consuming and resource intensive. It is proposed that a new IT system is procured that removes the need for manual intervention while supporting families to plan their childcare in advance; have full control over their payments; avoid any culmination of debt and providing the service with transparent data to better manage individual services and the overall service provision.
- 2.11 Revised Service Structure
- 2.11.1 The childcare management team identified that delivering the commercialisation and modernisation of the service would be difficult through the existing structure. As part of any review of Childcare Services it is imperative to ensure that clear career opportunities and pathways are identified for staff at all levels. A review of the structure and roles would support the team to ensure that clear strategic and operational responsibilities can be undertaken.

3.0 Recovery

- 3.1 Childcare Services are working with the School Age Childcare Guidance issued by the Scottish Government, to ensure services are as safe as possible.
- 3.2 Childcare Services have begun a phased reopening of services, from 17 August, with after school and before school care being prioritised. This is to enable families to return to work, education etc. Breakfast Cafes will follow, over the coming weeks, assuming there is no change in the route map. Childcare Services are working with the School Age Childcare Guidance issued by the Scottish Government, to ensure services are as safe as possible.
- 3.3 It is not possible to re-open all services immediately and it is proposed that some services are not recovered, due to the impact of Covid-19 and the changes in families' childcare requirements.
- 3.4 Social media has been used to share Childcare Services messages. Parents have been advised that they can stay up to date with all information by following Childcare Services on Facebook at www.facebook.com/FifeChildcareServices and, for further information about childcare options, to visit www.parentclub.scot. Staff from

Childcare Services are contacting all families, who already use out of school clubs, to discuss childcare requirements.

4.0 Delivering Reform

4.1 The key next steps are:

- **Introduce a modernised billing and management system**

This will allow families to manage their bookings, pay their childcare fees and keep on top of their payments. It will remove the need to peruse unpaid invoices and will make the service more commercially viable. It will also provide the service with more dynamic information to enable the team to be more data led in decision making.

- **Modernise the support provided to Voluntary Sector Out of School Care Services**

Continue to work with voluntary sector services to phase out the reliance on grant funding through supporting services to become financially viable and substituting this financial support with access to quality training, learning and development opportunities. Voluntary sector services have been consulted on this already and are comfortable with this way forward.

- **Remove Creche Services from the Childcare offer**

Through the review work, and following the implementation of 1140hours Early Learning & Childcare, it is clear that these services are no longer viable. As we emerge from lockdown most families who used this service no longer require it.

- **Change the delivery model of Breakfast Cafés**

Over time Childcare Services will support schools to deliver this service. The cafés do not provide childcare, but provide breakfast only, and staff within schools can be offered additional hours within their own settings.

- **Recover the Additional Support Needs Services**

This service is a lifeline to families and is always oversubscribed. Work will continue to develop the service in two parts: support for working families and respite for families. Work with Special Schools, to complement their after-school family experiences with the childcare services out of school clubs, will increase the offer available to parents.

- **Amalgamate Holiday Provisions**

Playschemes merge with holiday childcare clubs, offering protected places for children referred for childcare. The Play Practice Development Team will continue to provide Free Range experiences for referred children and to generate income through holiday clubs.

- **Remove the Fife Play Resource offer**

The toy and equipment lending library service is not reopened and the team concentrates on their role of improving the quality of practice relating to indoor and outdoor play.

- **Modernise the Childcare Services Structure**

Develop a more specialist management team, ensuring there are clear opportunities for career progression through the service. This will also enable a focus on the quality of services, the development of staff and, through a geographical management model, support the identification of local childcare needs.

5.0 Conclusion

- 5.1 It has not been possible to re-open all services due to the current Covid-19 context. Consequently, this has enabled the completion of the review of Childcare Services and the development of the proposals for reform of current service provision, including a phased approach to resuming business and consideration of a new modernised and commercial approach to delivering services to children and families.
- 5.2 The Education and Children’s Services Directorate recommends moving forward with a modernised and commercialised approach to childcare services, through the proposals detailed above.

List of Appendices (delete section if none)

1. Mapping Exercise – Provision Across Fife (Attached)
2. Elected Members Workshop Presentation – September
3. Elected Member Feedback from Workshop ([Link to Appendices 2 and 3](#))

Background Papers

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act, 1973:

- Scottish Government Updated Childcare Guidance

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Appendix 1

Fife Council (FC), Private (P) and voluntary sector (V) childcare:

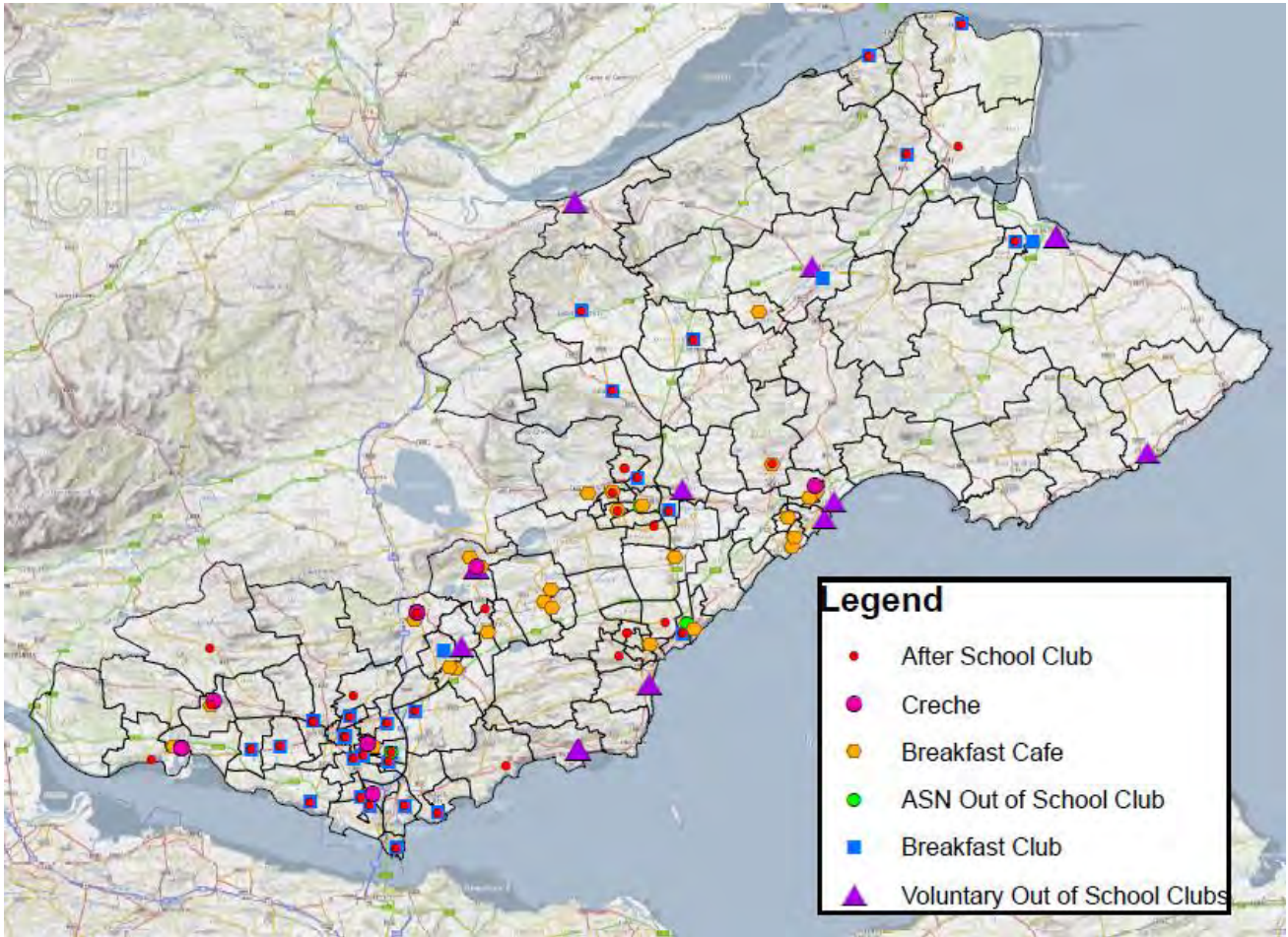
SW1 – Dalgety Bay and Inverkeithing		
Aberdour OOSC	FC	
Dalgety Bay OOSC	FC	Accommodates children from Dalgety Bay and Donibristle PS's
Inverkeithing OOSC	FC	
North Queensferry OOSC	FC	
SW2 – Rosyth to Cairneyhill		
Camdean OOSC	FC	
St Johns OOSC	FC	Accommodates children from Camdean PS and Kings Road PS
Limekilns OOSC	FC	
Cairneyhill OOSC	FC	
SW3 – West Fife Villages		
Culross OOSC	FC	Accommodates children from Culross PS and Torryburn PS
Oakley OOSC	FC	Accommodates children from Holy Name PS and Inzievar PS
Saline OOSC	FC	
D1 – Dunfermline North and West		
Baldridgeburn OOSC	FC	Accommodates children from McLean PS and Pittencrieff PS
Bellyeoman OOSC	FC	
Crossford OOSC	FC	
Garvock OOSC	P	Accommodates children from Bellyeoman PS
Townhill OOSC	V	

D2 – Dunfermline Central		
Abbeyview OOSC	V	Accommodates children from Canmore PS, St Leonards PS, St Margarets PS, Lynburn PS and Woodmill DAS
Commercial OOSC	FC	
Garvock OOSC	P	Accommodates children from Bellyeoman PS, Commercial PS, Touch PS and St. Margaret's PS
St Margarets OOSC	FC	
D3 – Dunfermline East		
Calaiswood ASN OOSC	FC	Accommodates children with complex additional support needs for Calaiswood School and surrounding areas
Carnegie OOSC	FC	
Duloch OOSC	FC	
Garvock OOSC	P	Accommodates children from Carnegie PS
Pitreavie OOSC	FC	
Masterton OOSC	FC	
C1 – Ballingry to Kelty		
Kids Come First	V	Accommodates children from Benarty PS and St Kenneth's PS
Kelty OOSC	FC	Accommodates children from Kelty PS and St Joseph's PS
C2 – Lochgelly		
Lochgelly OOSC	FC	Accommodates children from Cardenden PS, Lochgelly South PS, Lochgelly West PS, St Ninian's PS and St Patrick's PS
C3 – Cowdenbeath		
Crossgates OOSC	FC	Accommodates children from Cardenden PS, Lochgelly South PS, Lochgelly West PS, St Ninian's PS and St Patrick's PS
Cowdenbeath OOSC	V	Accommodating children from St Brides, Foulford PS, Hill of Beath PS, Lumphinnans PS

G1 – Glenrothes North and East		
Collydean OOSC	FC	
Markinch OOSC	V	
Pitcoudie OOSC	FC	
G2 – Glenrothes South		
Carleton OOSC	FC	
Pitteuchar East OOSC	FC	Accommodates children from Pitteuchar West PS
John Fergus ASN OOSC	FC	Accommodates children with complex additional support needs for John Fergus School and surrounding areas
Rainbow Nursery	P	
G3 – Glenrothes Central and West		
Caskieberran OOSC	FC	Accommodates children from South Parks PS and Rimbleton PS
Southwood OOSC	FC	Accommodates children from Leslie PS and Newcastle PS
Rainbow Nursery	P	
K1 – Kirkcaldy South		
Strathallan OOSC	FC	Accommodates children from Kinghorn PS
WASP	V	Accommodates children from Kirkcaldy West PS
Burntisland OOSC	V	
Little Beehive Nursery	P	
K2 – Kirkcaldy North and West		
Strathallan OOSC	FC	Accommodates children from Kinghorn PS
Templehall OOSC	FC	Accommodates children from Fair Isle PS, Valley PS and Torbain PS
St Marie's OOSC	FC	Accommodates children from Capshard PS, St Marie's PS and Pathhead PS

Little Beehive Nursery	P	
K3 – Kirkcaldy East		
Sinclairtown OOSC	FC	Accommodates children from Dystar PS and Coaltown of Wemyss PS
Windmill ASN OOSC	FC	Accommodates children with complex additional support needs for Rosslyn School and surrounding areas
Little Beehive Nursery	P	
L1 – Levenmouth Central		
Kennoway OOSC	FC	
Leven Baptist	V	Accommodates children from Mountfleurie PS, St Agatha's PS and Parkhill PS
Poppyview	V	Accommodates children from St Agatha's PS, Balcurvie PS, Kennoway PS, Mountfleurie PS and Parkhill PS
L2 – Levenmouth South		
Poppyview	V	(Accommodates children from Buckhaven PS, Coaltown of Wemyss PS, Denbeath PS and Methilhill PS
NE1 – East Neuk		
East Neuk Kids	V	Accommodates children from Anstruther PS and St Monans PS This service is currently closed
NE2 – St Andrews		
Cosmos OOSC	V	Accommodates children from Canongate PS, Lawhead PS and Greyfriars PS
Lawhead OOSC	FC	
Leuchars OOSC	FC	
Rainbow Nursery	P	Accommodates children from Lawhead PS, Strathkinness PS and Lawhead PS
NE3 – Taybridgehead		
Balmullo OOSC	FC	
Tayport OOSC	FC	

Wormit OOSC	FC	
NE3 – Taybridgehead (cont'd)		
Little Beehive Nursery	P	
NE4 – Howe of Fife		
Auchtermuchty OOSC	FC	
Falkland OOSC	FC	
Dino OOSC	V	Accommodates children from Dunbog and Newburgh OOSC
NE5 – Cupar		
Ladybank OOSC	FC	Accommodates children from Letham PS and Kettle PS
Cupar OOSC	V	



EXTRACT OF MINUTE OF EDUCATION & CHILDREN'S SERVICES SUB-COMMITTEE

3rd November, 2020

10.05 a.m. – 1.15 p.m.

PRESENT: Councillors Fay Sinclair (Convener), James Calder, Bobby Clelland, Dave Dempsey, Linda Erskine, Ian Ferguson, Julie Ford, Gary Guichan, Helen Law, Kathleen Leslie, Rosemary Liewald, Dominic Nolan, Ross Paterson, Alistair Suttie and Craig Walker; Mr. Alastair Crockett, Mr. George Haggarty and Mr. William Imlay.

ATTENDING: Carrie Lindsay, Executive Director, Education & Children's Services; Kathy Henwood, Head of Education & Children's Services (Children & Families and Criminal Justice Services); Maria Lloyd, Head of Education & Children's Services (Secondary Schools and Specialist Support); Angela Logue, Head of Education & Children's Services (Primary Schools & Improvement Support; Shelagh McLean, Head of Education & Children's Services (Early Years and Directorate Support); Sarah Else, Education Officer, Avril Graham, Sustainable Estate Officer, Jane Gray, Education Officer (Acting), Jacqueline Price, Education Manager (Early Years); Rona Weir, Education Officer, Gary Peattie, Team Manager, Childcare Services, Vivienne Sutherland (Principle Educational Psychologist), Education & Children's Services; Alan Paul, Senior Manager (Property Services); Louise Playford, Service Manager (School Estate), Property Services; and Diane Barnet, Committee Officer, Legal & Democratic Services.

ALSO ATTENDING: Lee Cowie (Clinical Service Manager), Fife Child & Adolescent Mental Health Services (CAMHS) for Item No. 184.

APOLOGY FOR ABSENCE: Mr. Bailey-Lee Robb, MSYP.

186.	CHILDCARE SERVICES AND PLAY PRACTICE DEVELOPMENT
	<p>The Committee considered a report by the Executive Director, Education and Children's Services seeking approval on proposals to modernise Childcare Services in Fife, moving to a more commercialised model of delivering services.</p> <p><u>Motion</u></p> <p>Councillor Sinclair, seconded by Councillor Ferguson moved to approve the recommendations detailed in the report relating to proposals to modernise Childcare Services in Fife.</p> <p><u>Amendment/</u></p>

Amendment

Councillor Law, seconded by Councillor Erskine moved as an amendment to defer the report to allow for further consideration of the impact of the proposals for change on already disadvantaged communities.

Roll Call

For the Motion - 11 votes

Councillors Dempsey, Ferguson, Leslie, Liewald, Nolan, Sinclair, Suttie and Walker and Mr. Alistair Crockett, Mr. George Haggarty and Mr. William Imlay, religious representatives.

For the Amendment - 6 votes

Councillors Calder, Clelland, Erskine, Guichan, Law and Paterson.

Having received a majority of votes, the motion was accordingly carried.

Decision

The Committee:-

- (1) noted the range of services operating before the COVID-19 closure of schools, early learning and childcare services;
 - (2) noted the benefits of the proposals for change; and
 - (3) agreed that Childcare Services progress the proposed next steps.
-

Call In Request

Under Section 12 of the Council's Standing Orders we request the call in of the decision on Childcare Services and Play Practice Development taken by the Education and Children's Services Sub-Committee on 3rd November for further scrutiny. (Minute 186 refers.)

We believe that the decision was taken without full consideration of the impact of the proposals or consultation with those who will be affected.

Cllr David Graham

Cllr Jan Wincott

Cllr Judy Hamilton

Cllr Helen Law

Cllr Derek Noble

Cllr Ryan Smart

Cllr Gary Guichan

Cllr Bobby Clelland

Cllr Garry Haldane

Cllr Andrew Verrecchia

Cllr David Ross

9th February, 2021

Agenda Item No. 6

Childcare Services and Play Practice Development

Report by Carrie Lindsay, Executive Director, Education and Children's Services

Wards Affected: All

Purpose

Following the Education & Children's Services Sub-Committee, of 3rd November, a call-in was submitted that reads 'Under Section 12 of the Council's Standing Orders we request the call in of the decision on Childcare Services and Play Practice Development taken by the Education & Children's Services Sub-Committee on 3 November for further scrutiny. (Minute 186 refers.) We believe that the decision was taken without full consideration of the impact of the proposals or consultation with those who will be affected.' This report provides the information to support members in undertaking this further scrutiny.

Recommendation(s)

It is recommended that members:

- consider the report by the Executive Director, Education & Children's Services seeking approval on proposals to modernise Childcare Services in Fife, moving to a more commercialised model of delivering services (Agenda Item No. 6(c)).
- scrutinise the decision of the Education & Children's Services Sub-Committee.
- consider the benefits of the proposals for change.
- agree the next steps.

Resource Implications

A budget saving, of £488k, has been identified for the Education and Children's Services Directorate to achieve through the commercialisation of services and the Council's Change to Deliver programme. This efficiency saving includes the development of an alternative, commercial model for Childcare Services.

Legal & Risk Implications

There are no direct legal implications arising from this report. Fife Council is not legally required to deliver Childcare Services. With the exceptional situation this year, there is the risk that the development of a commercial model for Childcare Services will not deliver the budget efficiency expected.

Impact Assessment

An EqIA has not been completed and is not necessary as this is a report for further scrutiny.

Consultation

Ongoing engagement with Children's Services Managers, the Play Practice Development Team, and managers of voluntary sector childcare services.

Feedback from families, to ensure services provided are of high quality and are meeting the needs of children and families.

Workshop held with members of the Education & Children's Service's Sub-Committee.

1.0 Background

- 1.1 A paper was presented to the Education and Children's Service's Sub-Committee on 1 September 2020, outlining proposed changes to Childcare Services and Play Practice Development, with the aim of moving to a more sustainable model of delivering services. The Committee, whilst acknowledging the information presented in the report:-
 - (1) agreed to continue consideration of the proposed commercialised model of delivering services to a future meeting of this Committee; and
 - (2) delegated to officers to arrange a member workshop in the interim to enable a more detailed analysis of the proposals for future delivery of services.
- 1.2 A member workshop took place, on 21 September 2020, to provide additional information and address any questions and concerns raised.
- 1.3 Following the feedback received through the workshop, an updated report was presented to the Education and Children's Services Sub-Committee, on 3 November 2020 (Agenda Item No. 6 (c)), which included the workshop presentation and contained the additional information shared. The Committee: -
 - (1) noted the range of services operating before the COVID-19 closure of schools, early learning and childcare services;
 - (2) noted the benefits of the proposals for change; and
 - (3) agreed that Childcare Services progress the proposed next steps.
- 1.4 This decision of the Education and Children's Services Sub-Committee has been called in for further scrutiny as several members 'believe that the decision was taken without full consideration of the impact of the proposals or consultation with those who will be affected.

2.0 Introduction

- 2.1 Changes to service delivery are being proposed to protect the core service of Out of School care, to be able to meet changing childcare demands, to tackle on-going overspends and to ensure quality of services as we move forwards.
- 2.2 Current Services Delivered

Fife Council's Childcare Services Team exists to provide high quality, affordable and accessible childcare, to allow parents to return to or continue in employment, attend training or further education.
- 2.2.1 Originally, this work focused solely on out of school clubs, however this has expanded over time and now includes the following:

- Out of School Clubs
- Creches
- Breakfast Cafes
- Playschemes
- Protected Places Scheme
- Voluntary Sector Support

2.3 Childcare Services Budget

Over the last 10 years, all services across the council have been asked to make efficiencies, which has resulted in a reduction in the resources available. The proposals outlined in the paper show how Childcare Services needs to create a delivery model built around the services which are sustainable and meet the demand from families who are working or attending education, while generating an income.

2.3.1 In financial year 2019 – 2020, Childcare Services had an overspend of over £100k. This can be attributed to several reasons, including:

- reduction in attendance at a small number of services
- unsustainable delivery model for creche services
- staff absence
- an under recovery of income
- popularity of breakfast cafes

2.3.2 This overspend would have been greater, however the service reduced spending across all areas that generate an income. However, the impact of this was a reduction in spending on resources for children, removing outings during school holidays and continuing to reduce the training and development opportunities for staff. All these decisions have an impact on the quality of services delivered, the play and learning experiences for children and the quality of staffing. There is a real risk that if this position continues, we will not be able to generate the income required to continue to deliver any of the services offered or additional budget will have to be allocated to cover a shortfall.

2.3.3 Childcare Services was identified, through Fife Council's Commercialisation Board, as a service where there are opportunities to increase income and review service delivery, with a target saving of up to £488k. In response to this, a review of Childcare Services took place between July 2019 and March 2020. This review involved all Childcare Services Managers and the Play Practice Development Team.

2.3.4 The review considered several approaches including:

- Stopping delivering parts of the service
- Delivering services differently
- Reviewing the charges in place to increase income.

All the approaches are applicable to different parts of the service.

2.4 Coronavirus

Childcare Services has been significantly impacted due to the ongoing Coronavirus pandemic. All services were closed between March and August 2020 where Childcare Managers, and their teams, initially supported the Children's Activity Centres, before fully managing these during the school summer holidays.

2.4.1 When reactivating the services, in August 2020, several staff continued to be unavailable to work due to the restrictions in place to minimise the spread of the

virus. This resulted in the service having to prioritise the reopening of out of school clubs, over all other parts of the service, as all families who use the out of school clubs do so for work or education.

2.4.2 As of January 2021, we are currently providing out of school clubs to our existing key worker families who have secured a place within their associated primary school. This is a substantial reduction in normal attendance, which is well below our maximum capacity. This has resulted in the service projecting a significant loss of income, which is currently estimated to be greater than £1.37 million.

2.4.3 We have used the UK Government Job Retention Scheme to try to minimise any losses made by the service. So far, we have received £110k and we have recently furloughed practitioners and managers for a second time, in response to the current situation.

2.5 Out of School Clubs (Breakfast Club and After School Club)

Out of school clubs provide formal childcare to primary aged children within their own or a nearby school. This part of the services generates the most income, as it has 1648 families registered to use the service (which equates to 2090 children accessing 6738 session per week). These figures relate to pre-pandemic levels.

2.5.1 We considered whether stopping the delivery of out of school clubs would be a feasible option, however with this being the most utilised part of the service, which generates the biggest income, and contributes to the local economy in doing so, there was no reason for closure.

2.5.2 We do consider there to be opportunities to review the charging for services, however increasing charges can lead to outpricing families who struggle to meet the cost of childcare. We currently provide discounts to families who are in receipt of certain benefits, however this will need to be reviewed to ensure it continues to meet the needs of families. There has been recognition that increasing charges does not necessarily result in an increase in income, as we run the risk of reducing demand from families, which would have a negative impact on children, families, the service, and the Fife economy.

2.5.3 We have been asked to consider delivering services to areas of Fife where there are currently no other out of school care options for families, such as the East Neuk. Decisions to open new services are based on feasibility studies, to determine if there is a sustainable demand. We want to be able to expand into these areas, however current staffing and budget limitations make this difficult. Without services in areas such as the East Neuk, parents are having to rely on friends and family members to collect children from school, or they go home unaccompanied.

2.5.4 We are proposing that where attendance is below a minimum level, we would review those services and consider how we can continue to provide a service to families, which may mean merging with another nearby service, or signposting families to other local providers such as voluntary or private run out of school clubs or childminders. These decisions would consider the geography of Fife.

2.5.5 Schools have opened their own free breakfast services, which are not childcare. If the opening times are suitable for parents, they opt to use this as it is at a reduced or no cost. This has resulted in a reduction in numbers to single figures, and on some days no children attending. Currently, we have three services which have been significantly impacted by school breakfast services.

2.5.6 Regardless of how we move forward, we must decide when a service becomes unsustainable. We do not believe we can continue to deliver services at any cost to an exceptionally small number of children, at a significant cost to Fife Council.

2.5.7 Current Charging Structure

Breakfast Club (07:45 – 09:00)	£5.15 per child
Extended Breakfast Club (07:30 – 09:00)	£6.15 per child
After School Club (14:45 – 18:00)	£12.35 per child
Holiday Club (half day)	£12.00 per child
Holiday Club (full day)	£24.00 per child
Late collection charge	£10.00 per child per 15 mins
Ad hoc charge	£4.00 per child per session

2.6 Additional Support Needs Out of School Clubs

Additional Support Needs Out of School Clubs provide formal childcare to families who have children attending Special Schools across Fife. Currently we are based within three special schools, in Glenrothes, Kirkcaldy and Dunfermline. The needs of children can be complex and profound, with high staff to child ratios or nursing care being provided.

2.6.1 These services also currently provide respite for children and families. Although families are our main customers, Social Work also pay for spaces to support families too. There has always been a high demand for places within the ASN out of school clubs, which does mean not all families are able to access what they need or want. There is an increasing demand for these services, especially in parts of Fife where we currently do not offer a service. There are no other out of school clubs in Fife which provide services specifically for children from our Special Schools.

2.6.2 We considered the removal of these services; however, this is a service with a high demand and often a waiting list which children can be on for many months or years until a place becomes available. One of the challenges around this is the overutilisation of spaces for respite for families. We have proposed to realign the service back to its original purpose, of supporting families to access work or education. Any additional spaces can then be used for respite.

2.6.3 Families who access this enhanced provision are charged the same price as those who access our mainstream Out of School Clubs. Although these services cost us more to deliver, it is not appropriate to charge on the basis that children's needs are greater.

2.6.4 As with our mainstream services, we are often asked to consider opening provision in the other special schools in Fife. We have explored this in the past, however at this time we cannot achieve this, due to the service not having the budget or staffing capabilities available.

2.6.5 There may be an impact that some families would not be able to access spaces, however this would be a gradual change, and we would not be proposing to remove existing places from children or families.

2.7 Breakfast Cafes

There are no proposals to close any of the breakfast cafes, however these need to be delivered within budget. £150k was provided through a budget decision, but services are costing £380k to deliver. (There is no suggestion this funding would be removed; however, this is a decision for members.)

2.7.1 There needs to be a change in delivery model, as the shortfall is being subsidised from the central childcare services budget, which means a reduction in money for our other services.

2.7.2 There would be no impact to children or families if this change takes place.

2.8 Creche Services

Childcare Services took over the running of a mobile creche service, that can operate across Scotland to provide high quality, flexible childcare to organisations or groups for a range of purposes such as weddings, events, parties, seminars etc. This developed into the establishment of seven community creches across Fife. These were initially set up to provide positive play opportunities for children and to enable families to access parenting support groups etc, targeting areas of highest deprivation.

2.8.1 Over recent years, the numbers attending the creches have begun to reduce gradually, however with the introduction of the fully funded 1140 hours of early learning and childcare for three- and four-year-olds, we have found that families have chosen to access this instead of paying for the creche service. One of the major decision-making factors for parents is that nearly all creches are open for two-hour sessions at a time, whereas they can access a full or a half-day session within a council nursery or funded provider setting. Where families require additional hours, out with their funded provision, there are opportunities to purchase wraparound care within many Fife Council Nurseries (in more normal times).

2.8.2 As outlined in the presentation to members, on 21 September, nearly all sessions we provide have seen a reduction in children, with some sessions having no children at all. Creches previously provided 331 sessions of childcare per week and this has reduced to a maximum of 137 sessions per week.

2.8.3 The creche service manager had been working with local health visitors to identify if there were any families who needed this level of support, however two-year-olds can be eligible for funded early learning and childcare, so families in this situation have also accessed this provision within a council nursery or funded provider setting.

2.8.4 The children who remain registered to use the creche have now been unable to do so since March 2020. We will see a further reduction in children from August 2021 when more children will become of age to attend school nursery. There have been only two enquiries from new families to utilise the creche since March 2020.

2.8.5 There is likely to be an impact on families if we decide to reduce or remove the creche services. Some families may choose not to access an alternative provider as these may not be as conveniently located as our existing service and are likely to be more expensive. Unlike the Out of School Clubs, there are alternative providers which can care for children from 6 weeks to 3 years. In Fife, there are currently approximately 400 registered childminders that families could access if they continued to want their child to access a quality play experience. This is in addition to the private and third sector childcare providers.

2.8.6 The income generated from the creches does not cover the basic staffing costs for any of the services. As numbers continue to reduce, and the age of children attending lowers, the cost per session to Fife Council will increase, due to a higher staff to child ratio being required. As part of the review of services, we identified that the budget allocated to creches would need to increase to further subsidise the shortfall which is created.

2.8.7 Creche Attendance

During the Covid 19 pandemic, we contacted all existing creche families. Below is a breakdown of what that would look like. However, this is likely to have reduced further.

Broom Creche, Leven	Between two and three children per session
Benarty Creche	Between 0 and one child per session
Tryst Creche Children	Children only attend when courses are offered.
Valleyfield Creche	Between 0 and four children per session
Oakley Creche	Between 0 and eleven children per session
Parkgate Creche, Rosyth	Between one and three children per session
Kelty Creche	Between three and nine children per session

2.8.8 Current Charging Structure

Broom Creche, Leven	£5.15 per two-hour session
Binary Creche	£6.15 per two-hour session
Tryst Creche, Dunfermline	£5.15 per two-hour session
Valleyfield Creche	£6.15 per two-hour session
Oakley Creche	£6.15 per two-hour session
Parkgate Creche, Rosyth	£6.15 per two-hour session
Kelty Creche	£4.00 per hour

Average childminder costs in Scotland are currently £4.29 per hour.

2.9 Playschemes

Playschemes were established through direct funding following a budget decision, to support children who were experiencing food insecurity during school holidays, while providing a positive play experience. Children are identified from key schools, through referrals from Headteachers.

2.9.1 We plan to modernise this service to allow referrals from all school across Fife, including from Health and Social Work. Children and families were provided with a food bag to take home each Wednesday, with food that was sourced through Fare Share. We have proposed to replace the food bags with prepayment cards, to enable families to make choices about what they feel is most appropriate to feed their child. It also removes the logistical work by the service to centrally store, sort, manage and deliver food to services.

2.9.2 This work would be amalgamated with our Protected Places Scheme which provides funded placements for children, at any time of the year, to access a quality play experience. Children are referred to this scheme for a wide range of reasons by

professions from Education, Health and Social Work. Places are allocated by a panel which considers each situation.

2.10 Voluntary Sector Support

Voluntary Sector Out of School Clubs currently receive financial support totalling £80k. Through discussions with the sector, we have identified a different offer of support. Instead of offering financial support, we would provide access to our training offer, as well as the continued expertise of the team.

2.10.1 The current cost to the Voluntary Services, of accessing the training they require, is greater than the financial support we provide, so access to our training could be substituted in place of financial support. Therefore, although this would be a saving to the service, it would be an enhanced offer to the Voluntary Sector Services.

2.11 Play Practice Development Team

The Fife Play Resource is one element of the Play Practice Development Team's work. The play resource was established as a membership based, toy and equipment lending library, targeting all age groups, from young children in nurseries to elderly residents in care homes.

2.11.1 The uptake of membership as reduced over recent years and the team wishes to use their skills and expertise to provide training, learning and development opportunities.

2.11.2 The appropriateness of staff making non-essential deliveries around multiple sites and continuing to lend toys and play equipment is in serious question. This service has been suspended since March 2020.

The Play Practice Development Team also

- provides and promotes high quality care, play and learning opportunities to children and families across Fife, through joint-working and creative collaboration across public, voluntary, and independent sectors.
- promotes good practice and development opportunities across play/care settings in public, voluntary, and independent sectors.
- Supports the public, voluntary, and independent childcare/play sectors to reach and maintain high quality standards and make use of available opportunities and resources.

2.11.3 Membership Fees

Childminders and Foster Carers	£40 per year
Small Groups	£66 per year
Large Groups	£121per year
Additional Charges	
Disco	£40 per hire
Adventure Days	£20 per child, per session

2.11.4 Membership Information

Fife Play Resource had, at the point of lockdown, 100 members. Due to memberships having expired through the course of lockdown there are 43 current members.

Category	Memberships Mar 20	Fife Council	Non Fife Council	Current Memberships Sep 20	Expired Memberships Sep 20
Schools	32	32		15	17
Early Years	20	9	11	11	9
Out of School Care	15	14	1	7	8
Elderly	11	6	5	4	7
Childminders	9		9	2	7
Family	5	1	4	1	4
Youth	4	2	2	2	2
Other	4		4	1	3
Total	100	64	36	43	57

Service Costs £41,676

Membership Income £7,197

Membership Refunds (100) £3,236

3.0 Next Steps

3.1 The next steps the service is proposing to take are:

3.1.1 Introduce a modernised billing and management system.

This will allow families to manage their bookings, pay their childcare fees and keep on top of their payments. It will remove the need to peruse unpaid invoices and will make the service more commercially viable. It will also provide the service with more dynamic information to enable the team to be more data led in decision making.

3.1.2 Modernise the support provided to Voluntary Sector Out of School Care Services.

Continue to work with voluntary sector services to phase out the reliance on grant funding through supporting services to become financially viable and substituting this financial support with access to quality training, learning and development opportunities. Voluntary sector services have been consulted on this already and are comfortable with this way forward.

3.1.3 Remove Creche Services from the Childcare offer.

Through the review work and following the implementation of 1140 hours Early Learning & Childcare, it is clear that these services are no longer viable. As we emerge from lockdown most families who used this service no longer require it.

3.1.4 Change the delivery model of Breakfast Cafés.

Over time Childcare Services will support schools to deliver this service. The cafés do not provide childcare, but provide breakfast only, and staff within schools can be offered additional hours within their own settings.

3.1.5 Recover the Additional Support Needs Services

This service is a lifeline to families and is always oversubscribed. Work will continue to develop the service in two parts: support for working families and respite for families. Work with Special Schools, to complement their after-school family experiences with the childcare services out of school clubs, will increase the offer available to parents.

3.1.6 Amalgamate Holiday Provisions

Playschemes merge with holiday childcare clubs, offering protected places for children referred for childcare. The Play Practice Development Team will continue to provide Free Range experiences for referred children and to generate income through holiday clubs.

3.1.7 Remove the Fife Play Resource offer

The toy and equipment lending library service is not reopened and the team concentrates on their role of improving the quality of practice relating to indoor and outdoor play.

3.1.8 Modernise the Childcare Services Structure

Develop a more specialist management team, ensuring there are clear opportunities for career progression through the service. This will also enable a focus on the quality of services, the development of staff and, through a geographical management model, support the identification of local childcare needs.

4.0 Conclusions

4.1 Continuing to deliver all services described above, and in the attached paper, will see Childcare Services become unsustainable and will require additional financial resources to deliver.

4.2 Through the implementation of a modernised model, focused firmly on providing childcare for school aged children, the service will become sustainable, while continuing to provide childcare to the 2090 school aged children each week and building upon this to increase demand.

- 4.3 It is recognised that any changes to services offered is always a difficult decision, however the removal of creche services does not mean families would have no alternative option, as they can utilise council nurseries or funded providers, private nurseries, or local childminders if they require childcare. We should also be supporting local private and voluntary sector services allowing them to meet the demand in their local areas.
- 4.4 The Education and Children's Services Directorate recommends moving forward with a modernised and commercialised approach to childcare services, through the proposals detailed in the paper.

List of Appendices

Agenda Item 6(a) - Call-in request

Agenda Item 6(b) - Extract of Minute 2020 ECS.70 Paragraph 186 of Education and Children's Services Sub-Committee of 3rd November, 2020

Agenda Item 6(c) - Report on Childcare Services and Play Practice Development (3 November 2020) considered at Education and Children's Services Sub-Committee of 3rd November, 2020.

Background Papers

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act, 1973:

- Scottish Government Updated Childcare Guidance

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25th February, 2021

Agenda Item No. 11

Standards Commission for Scotland Decision

Report by: Executive Director, Finance & Corporate Services

Wards Affected: All

Purpose

The purpose of the report is to fulfil the Council's obligation to consider the findings of the Standards Commission for Scotland in relation to complaints against Councillor Brian Thomson, Councillor Tony Miklinski and Councillor Andy Heer.

Recommendation(s)

It is recommended that the Council:

consider the findings of the Standards Commission in relation to the three complaints, in terms of the Ethical Standards in Public Life etc. (Scotland) Act, 2000.

Resource Implications

There are no resource implications arising from this report. Any training requirements will be met from within existing resources.

Legal & Risk Implications

The Council is required, in terms of the Ethical Standards in Public Life etc. (Scotland) Act, 2000, to consider the findings of the Standards Commission in such cases within three months of receiving them. The Act makes clear that this requirement cannot be fulfilled solely by a committee or sub-committee but must be considered by full Council.

Impact Assessment

An EqIA is not required as this report does not propose a change or revision to existing policies and practices.

Consultation

None.

1.0 Background

- 1.1 Complaints were received by the Commissioner for Ethical Standards in Public Life in Scotland (the CESPLS) concerning alleged contraventions of the Councillors' Code of Conduct by Councillors Brian Thomson, Tony Miklinski and Andy Heer. In line with the usual procedures, the complaints were investigated by the CESPLS, who then referred these matters to the Standards Commission for Scotland.
- 1.2 The substance of the three complaints is set out in the attached Appendices.

2.0 Hearing

- 2.1 In respect of Cllr Thomson, a remote hearing took place on 9th November 2020 before a Hearing Panel of three members of the Commission.

Having heard all the evidence, the Panel determined that Councillor Thomson had breached paragraphs 5.3, 5.7 and 5.8 of the Code. The Commission gave its oral decision on 9th November 2020 and issued their written decision to the Chief Executive on 10th November 2020. This is attached as Appendix 1, and Members will note the reasons for the decision given by the Commission.

As a consequence of the committee schedule, it was not possible to report this decision within the three months set out in the legislation. The Standards Commission has confirmed that it will waive this time limit in the circumstances and agreed to the report being made to this meeting of the Council.

Members will also note that the sanction applied by the Commission was to censure Councillor Thomson.

- 2.2 In respect of Cllr Miklinski, a remote hearing took place on 23rd November 2020 before a Hearing Panel of three members of the Commission.

Having heard all the evidence, the Panel determined that Councillor Miklinski had breached paragraphs 3.2 and 3.6 of the Code. The Commission gave its oral decision on 23rd November 2020 and issued their written decision to the Chief Executive on 27th November 2020. This is attached as Appendix 2, and Members will note the reasons for the decision given by the Commission.

Members will also note that the Commission suspended Cllr Miklinski from attending two meetings of the full Fife Council.

- 2.3 In respect of Cllr Heer, a remote hearing took place on 16th December 2020 before a Hearing Panel of three members of the Commission.

Having heard all the evidence, the Panel determined that Councillor Heer had breached paragraph 3.19 of the Code. The Commission gave its oral decision on 16th December 2020 and issued their written decision to the Chief Executive on 22nd December 2020. This is attached as Appendix 3, and Members will note the reasons for the decision given by the Commission.

Members will also note that the Commission suspended Cllr Heer from all meetings of the full Fife Council and of any other body on which he is a representative or nominee of the Council for January and February 2021.

- 2.4 Annual sessions of refresher training on the Code of Conduct are scheduled and the issues arising from the terms of these decisions will be addressed at the next such session.

3.0 Conclusions

- 3.1 The legislation requires the Council to consider the terms of Standards Commission decisions which relate to its Members.

List of Appendices

1. Standards Commission decision dated 10th November 2020
2. Standards Commission decision dated 27th November 2020
3. Standards Commission decision dated 22nd December 2020

Background Papers

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act, 1973:

Ethical Standards in Public Life etc. (Scotland) Act 2000
Councillors' Code of Conduct

Report Author

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Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held online, on 9 November 2020.

Panel Members: Mrs Tricia Stewart, Chair of the Hearing Panel
Ms Ashleigh Dunn
Mr Paul Walker

The Hearing arose in respect of a Report referred by Ms Caroline Anderson, the Commissioner for Ethical Standards in Public Life in Scotland (the ESC), further to complaint reference LA/Fi/3125, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Brian Thomson (the Respondent).

The ESC was represented by Mr Martin Campbell, Director of Investigations and Solicitor to the Commissioner. The Respondent was represented by Ms Layla Zamanpour, Solicitor.

Referral

Following an investigation into a complaint received about the conduct of the Respondent, the ESC referred a report to the Standards Commission for Scotland on 29 June 2020, in accordance with section 14(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act), as amended.

The substance of the referral was that the Respondent had failed to comply with the provisions of the Code and, in particular, that he had contravened paragraphs 5.3, 5.7 and 5.8. The relevant provisions were:

Objective Test

5.3 You may feel able to state truthfully that an interest would not influence your role as a councillor in discussion or decision-making. You must, however, always comply with the objective test ("the objective test") which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor.

Your Non-Financial Interests

5.7 You must declare, if it is known to you, any NON-FINANCIAL INTEREST if:

- (i) that interest has been registered under category eight (Non-Financial Interests) of Section 4 of the Code or*
- (ii) that interest would fall within the terms of the objective test.*

There is no need to declare:

- (i) an interest where a general exclusion applies, but an interest where a specific exclusion applies must be declared; or*
- (ii) an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.*

You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded other than in the following circumstances.

There is no need to withdraw in the case of:

- (i) an interest covered by a general exclusion or a specific exclusion; or*
- (ii) an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.*

5.8 As a councillor you will serve on other bodies as a result of express nomination or appointment by your Council or otherwise by virtue of being a councillor. Your membership of statutory Joint Boards or Joint Committees which are composed exclusively of Councillors does not raise any issue of declaration of interest in regard to Council business. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter, whether to declare a non-financial interest. Only if you believe that,

in the particular circumstances, the nature of the interest is so remote or without significance, should it not be declared. You must always remember the public interest points towards transparency and, in particular, a possible divergence of interest between the Council and another body. Keep particularly in mind the advice in paragraph 3.20 of this Code about your legal responsibilities to any limited liability company of which you are a director.

Evidence Presented at the Hearing

Joint Statement of Facts

The Panel noted the terms of a joint statement of facts agreed between the ESC's and Respondent's representatives. The Hearing Panel noted, in particular, that it was not in dispute that the Respondent was a member of the Council's North East Fife Area Committee and had been appointed by the Council as a member of the St Andrews Links Management Committee. The Respondent's membership was recorded, as a non-financial interest, on his Register of Interests.

The Panel noted that the St Andrews Links Trust is a body created under statute to control and manage St Andrews Links. The Trust operates golf courses, including the Old Course at St Andrews. The Panel noted that the governing legislation made provision for a distinct board of trustees and a management committee, both with different powers and responsibilities. The Management Committee, to which the Respondent has been appointed, did not have any decision-making powers regarding the Trust's use of land or property, including in relation to a potential decision to build a rail link on the property. Instead, its areas of responsibilities include regulating play and providing for the order of standing, and promoting and organising golf competitions.

The Panel heard that it was not in dispute that, on 23 January 2019, the Respondent attended a meeting of the Council's North East Fife Area Committee. It was accepted that one of the items being considered at the meeting was an application submitted by the St Andrews Rail Link Campaign (being an organisation which aims to reconnect St Andrews to the railway network), for funding from the local community planning budget, to pay for VAT on a transport feasibility study. The Panel noted that it was accepted that the feasibility study would include considering a potential rail link. The rail link may have to be routed through the grounds of the Old Course Hotel, the golf practice centre and the St Andrews Links Trust's building. It also may require the diversion of holes on two other golf courses operated by the Trust.

The Panel noted that it was accepted that, at the meeting, the Respondent moved a motion to refuse the funding application, which was carried by eight votes to three. The Committee refused the request for funding towards the cost of the VAT on the transport feasibility study on the grounds that it was not an appropriate use of the Local Community Planning Budget. The Committee agreed that the St Andrews Rail Link Campaign organisation should be encouraged to seek funding from alternative sources.

Submissions made by the ESC's Representative

The ESC's representative advised that the Respondent accepted that he should have declared his interest, as a member of the St Andrews Links Management Committee, in the matter before the North East Fife Area Committee at its meeting 23 January 2019. The ESC's representative advised that there was no reason to doubt that the Respondent had made his decision to refuse the funding application objectively and based entirely on its merits. The ESC's representative contended, nevertheless, that having erred on the side of caution and applied the objective test, as he was required to do under paragraph 5.3 of the Code, the Respondent should have realised that a member of the public, with knowledge of his membership of the St Andrews Links Management Committee, would be reasonably entitled to conclude the interest was sufficiently significant as to be likely to prejudice his discussion or decision-making on the funding application. This was because it was unlikely that the St Andrews Links Trust would wish to support any proposal that could have a detrimental impact on its property and golf courses. While the ESC's representative accepted that the St Andrews Links Management Committee did not have any decision-making powers in respect of

the use of the Trust's land, he noted that any proposal to change how the land was used could affect the Trust as a whole. This could include having an impact on the golf competitions that the Management Committee organised and promoted. The ESC's representative argued that as a member of the St Andrews Links Management Committee, the Respondent was likely to be supportive of the St Andrews Links Trust's activities and interests, including the preservation of its golf courses and recreational areas (being an aim that was consistent with its purpose and statutory mandate). As such, a member of the public would reasonably conclude that he would not be likely to support funding for a study that might help facilitate the creation of a rail link that, in turn, could have a detrimental impact on the Trust's golf courses and recreational areas.

Submissions made by the Respondent's Representative

The Respondent's representative advised that the Respondent now accepted that he should have erred on the side of caution and declared his membership of the St Andrews Links Management Committee at the meeting on 23 January 2019. The Respondent's representative advised that the Respondent sincerely apologised for failing to do so.

The Respondent's representative explained that, at the time of the meeting, it had not been apparent to the Respondent that he was required to declare an interest. This was because the funding was being sought for an overall transport feasibility study (as opposed to one on a rail link only), and the St Andrews Links Management Committee had not been asked to comment on the matter.

The Respondent's representative confirmed that the Respondent's decision-making at the meeting was based solely on his belief that any proposal to re-introduce a rail link was speculative, unfeasible and would not bring any direct and tangible benefit for residents in North East Fife. The Respondent had further considered it was possible that the VAT costs of the transport study could be recovered from the Scottish Government. As such, the Respondent did not consider the application met the criteria for funding from the local community planning budget.

The Respondent's representative advised that when, after the meeting, the Respondent became aware of online comments being posted about his participation, that he had sought advice from a senior Council officer as to whether the objective test had been met and whether he should have declared an interest. The Respondent's representative contended that this demonstrated that the Respondent had taken the matter seriously and understood the importance of adhering to, and being seen to be adhering to, the Code.

In response to questions from the Panel, the Respondent's representative confirmed that the fact that another elected member of the Committee had declared an interest in the matter at the meeting had not prompted the Respondent to do so. The Respondent's representative indicated that this was because the other elected member's interest, as an office bearer of the St Andrews Rail Link Campaign was far more direct and significant.

DECISION

The Hearing Panel considered the submissions made both in writing and orally at the Hearing. It concluded that:

1. The Councillors' Code of Conduct applied to the Respondent, Councillor Thomson.
2. The Respondent had breached paragraphs 5.3, 5.7 and 5.8 of the Code.

Reasons for Decision

The Panel noted that paragraph 5.3 of the Councillors' Code of Conduct requires councillors to consider the objective test, being:

whether a member of the public, with knowledge of the relevant facts, would reasonably regard an interest they have as so significant that it would be likely to prejudice their discussion or decision making, when

determining whether or not they were required to declare an interest and refrain from taking part in any discussion or voting.

The Panel further noted that paragraph 5.7 of the Code states that councillors must declare any non-financial interest and withdraw from the meeting room unless an interest is so remote or insignificant that it could not reasonably be taken to fall within the objective test. Paragraph 5.8 states, in respect of whether they have to declare an interest as a member of a management committee of a society or other organisation, that councillors must consider the particular circumstances and should remember the public interest points towards transparency.

In this case, the Panel considered that, having applied the objective test under paragraph 5.3, the Respondent should have reached the view, in terms of paragraphs 5.7 and 5.8, that his non-financial interest as a member of the St Andrews Links Management Committee would not be perceived as being so remote and insignificant that it could not influence his potential discussion and decision-making on the funding application under consideration. This was because the Panel considered that a member of the public, with knowledge of the membership, would reasonably regard it as an interest that was sufficiently significant to be likely to prejudice his discussion and decision-making on an application for funding in respect of a feasibility study that could help facilitate the creation of a rail link, being something that could have a detrimental impact on the golf courses and recreational areas run by the St Andrews Links Trust.

The Hearing Panel concluded, therefore, that the Respondent's failure to declare his interest at the meeting in question amounted to a contravention of paragraphs of 5.3, 5.7 and 5.8 of the Code.

Evidence in Mitigation

The Respondent's representative confirmed that the Respondent fully accepted the Panel's decision and advised that he deeply and sincerely regretted not erring on the side of caution and declaring his membership of the St Andrews Links Management Committee at the meeting.

The Respondent's representative asked the Panel to note that the failure was an isolated incident and that the Respondent had been acting in good faith. There was no suggestion of any intent to conceal the interest (given it had been recorded in the Respondent's register of interests), or of any personal gain. The Respondent's representative further asked the Panel to note that the Respondent has co-operated fully with both the investigative and adjudicatory processes, and advised that he took full responsibility for his actions and for abiding by the provisions in the Code.

The Respondent's representative argued that given the vote to reject the funding application was made by a majority of eight to three, it was unlikely that the Respondent's failure to declare the interest and withdraw had any impact on the outcome and overall decision, and advised that the St Andrews Rail Link Campaign subsequently secured funding from another source.

The Respondent's representative asked the Panel to note the written statements submitted from several individuals, attesting to the Respondent's good character and conduct. These confirmed that he was a staunch advocate for, and supporter of, his local community.

Witness Evidence

The Respondent's representative led evidence from the Respondent who confirmed he fully accepted that he should have declared an interest. The Respondent apologised for the failure to do so. The Respondent reiterated that, at no time before or during the meeting, had he considered that he was required to declare an interest in the funding application. This was because funding was only being sought for the VAT on the overall transport study, being a matter that the St Andrews Links Management Committee had not been asked to comment upon. The Respondent advised that as he considered the prospect of a rail link to be so

unfeasible, he had not given any consideration to whether his membership of the Committee could be relevant in any way. The Respondent advised that he was supportive of sustainable transport options and that his decision-making on the application had been based solely on whether it met the funding criteria. The Respondent noted that he had breached the declarations of interest provisions in the Code in 2015 and advised that, since then, he had taken great care to err on the side of caution and declare any potential interests. The Respondent referred the Panel, in this regard, to his record for declaring interests, which he considered supported his position that the new breach was entirely inadvertent in nature.

The Respondent's representative led evidence from three other witnesses, being a fellow councillor and two individuals who knew the Respondent through his work on community projects and issues. All three gave evidence to the effect that the Respondent was known and respected as someone who was approachable, and who actively engaged with his constituents and was committed to representing their interests. The witnesses advised that the Respondent took his responsibilities as a councillor very seriously and was an excellent local representative. All three witnesses attested to the Respondent's integrity and decency, and confirmed that he was committed to, and passionate about, working diligently in the interests of his community and constituents. The witnesses described a number of local improvement initiatives that the Respondent had led or had otherwise been involved in. The witnesses further confirmed that the Respondent was known as being someone who took adherence to the Code very seriously and as someone who was very careful to declare any possible interest.

SANCTION

The decision of the Hearing Panel was to censure the Respondent, Councillor Thomson.

The sanction was made under the terms of section 19(1)(a) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Reasons for Sanction

In reaching its decision on sanction, the Hearing Panel noted, in mitigation, that the Respondent had co-operated fully with the investigative and Hearing processes and had offered a sincere and unreserved apology in respect of the failure to declare the interest. Notwithstanding that the Respondent had previously been found, in 2015, to have breached the declaration provisions in the Code, the Panel heard that the Respondent had been conscientious in declaring interests regularly and, therefore, had demonstrated cognisance of, and respect for, the Code of Conduct. The Panel further noted the positive character references made and submitted on the Respondent's behalf, confirming that he was a committed, diligent and conscientious local representative, who actively sought to assist the communities he served and who worked hard in their interests.

The Panel emphasised, however, that the requirement for councillors to declare certain interests is a fundamental requirement of the Code. A failure to do so removes the opportunity for openness and transparency in a councillor's role and denies members of the public the opportunity to consider whether a councillor's interests may or may not influence their discussion and decision-making. The Panel noted it is a councillor's personal responsibility to be aware of the provisions in the Code and to ensure that he or she complies with them. In this case, the Panel considered that the Respondent should have erred on the side of caution when applying the objective test and should, therefore, have declared an interest in the matter before the Committee and withdrawn from the room while it was being discussed.

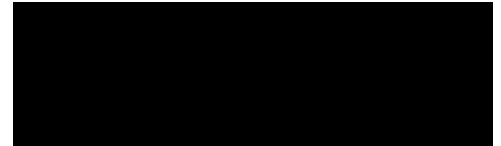
The Panel was nevertheless of the view that the Respondent's conduct did not warrant a more severe sanction. This was because there was no evidence that the Respondent had attempted to conceal his interest or that there was any personal gain. The Panel accepted the Respondent's submission that the failure to comply with the Code was inadvertent and that his decision-making at the committee meeting had been

influenced by a number of factors other than his membership of the St Andrews Links Management Committee.

RIGHT OF APPEAL

The Respondent has a right of appeal in respect of this decision, as outlined in Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

Date: 10 November 2020



**Mrs Tricia Stewart
Chair of the Hearing Panel**

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held online, on 23 November 2020.

Panel Members: Mr Michael McCormick, Chair of the Hearing Panel
Mrs Tricia Stewart
Professor Kevin Dunion

The Hearing arose in respect of a Report referred by Ms Caroline Anderson, the Commissioner for Ethical Standards in Public Life in Scotland (the ESC), further to complaint reference LA/Fi/3039 & 3075, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Tony Miklinski (the Respondent).

The case against the Respondent was presented by Mr Martin Campbell, Director of Investigations and solicitor to the Ethical Standards Commissioner. The Respondent was represented by Mr Gary McIlravey, solicitor.

Referral

Following an investigation into complaints received about the conduct of the Respondent, the ESC referred a report to the Standards Commission for Scotland on 22 July 2020, in accordance with section 14(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act), as amended.

The substance of the referral was that the Respondent had failed to comply with the provisions of the Code and, in particular, that he had contravened paragraphs 3.1, 3.2 and 3.6. The relevant provisions were:

3.1 The rules of good conduct in this section must be observed in all situations where you act as a councillor or are perceived as acting as a councillor, including representing the Council on official business and when using social media.

Relationship with other councillors and members of the public

3.2 You must respect your colleagues and members of the public and treat them with courtesy at all times when acting as a councillor. Insert relevant paragraphs from Code.

Bullying and Harassment

3.6 Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.

Evidence Presented at the Hearing

Joint Statement of Facts

The Panel noted the terms of a joint statement of facts agreed between the ESC's and Respondent's representatives. The Hearing Panel noted, in particular, that it was not in dispute that there were three matters before it, arising from complaints made one of the owners of Carphin House (which is located in the village of Luthrie, in the Howe of Fife and Tay Coast Ward) and his father who was involved in the business activities connected to the property (the complainers).

The Panel noted that that:

- A Mr A and his daughter, Ms A, occupy a farm in the vicinity of Carphin House. The only vehicle access into and out of Carphin House is via a tarmac track, known as the Wynd, which runs adjacent to the farm and is also used by Mr A and Ms A.
- A dispute exists between residents of Luthrie and the complainers, concerning the use of Carphin House as a wedding venue.
- On 18 April 2018, the Council's North East Planning Committee refused planning applications submitted by the complainers for the erection of a wedding venue at Carphin House. A subsequent appeal against the Committee's refusal to grant the planning applications was dismissed by Scottish Ministers in August 2018.

- The Council issued an enforcement notice, in September 2018, requiring the cessation of the use of Carphin House and its curtilage for use as a commercial wedding venue.
- On 2 April 2019, Fife Council's Licensing Board granted four occasional alcohol licenses for weddings booked to take place at Carphin House on 17, 24, 31 August and 14 September 2019, despite several Luthrie residents having raised objections. The licenses related to an area of woodland in the grounds, outwith the area specified in the enforcement notice.
- In May 2019, the Respondent joined the Luthrie Residents Group as an advisor. This was recorded as an interest on his Register of Interests and he subsequently declared it as an interest at any Council meetings where matters concerning Carphin House were being discussed.
- Following several objections by Luthrie residents, the Council sent officers to the wedding on 17 August 2019 to monitor events. A dispute then arose as to whether the complainers had complied with the terms of the enforcement notice. The complainers' contention is that a provision permitting a 28-day annual allowance to host weddings outside the curtilage of Carphin House was in place.

The Panel noted there were three matters before it, the first of which concerned a message the Respondent posted on the Luthrie Residents' Facebook page on 3 July 2019. The Panel noted that it was accepted that, in this, the Respondent stated that "it's a pretty sick individual who would deliberately unlock a gate that secures livestock. And 5 further padlocks smashed means someone wants access when it's not theirs to have. Is this about access to Carphin House, or is there a serial padlock smasher out there? Not difficult to work out and this needs to stop before something worse happens."

The Panel noted the second matter before it concerned an email the Respondent sent, on 19 August 2019, to the mother of the groom of the wedding held on 17 August 2019, responding to one she had sent to various people complaining about the conduct of local residents (in trying to disrupt the wedding and in behaving in an aggressive and intimidating manner towards guests). In his reply, the Respondent stated, "the first 3-4 hours of your wedding on Saturday broke the terms of the current enforcement order because it took place in the house and gardens....Fife Council Planning Officers are considering how to react to Saturday's events as I write". The email, which was sent from the Respondent's Council email account and was copied to the first complainer, Mr B.

The Panel noted that, having received the Respondent's email, Mr B sent the council an email the same day, expressing dissatisfaction and asking whether Respondent had obtained the information outlined in his reply from the Council. A council officer responded, also that day, and confirmed that no decision to take any action in respect of the matter had been made, and that if any action was to be take, Mr B as the landowner, would be the first to know. The Panel heard that it was not in dispute that while the Council subsequently determined that there had been a breach of the enforcement notice, no decision had been made at the time of the Respondent's email.

The Panel noted that the third matter concerned an incident that occurred on 30 August 2019, after the complainers and employees of Carphin House removed signs erected by the Luthrie Residents Group on land adjacent to the Wynd. It was accepted that while the Respondent was aware the group were going to erect signs, he had not been involved in deciding the specific wording to be used on them. The Panel noted it was not in dispute that the Respondent was visiting Mr A and Ms A at the time. Mr A saw the signs being removed via a CCTV system and immediately left the house and cycled to the Wynd. On arrival, Mr A dismounted from his bicycle and stood on the Wynd, pointing a mobile phone at the complainers' vehicle. In standing on the Wynd in the manner he did, Mr A blocked the complainers, and their employees, from continuing their drive up the Wynd towards Carphin House for approximately 10 minutes.

The Panel noted that it was also not in dispute that the Respondent had followed Mr A on foot and, on arrival at the scene approximately 90 seconds later, had stood to the side of the road. When Mr B exited the vehicle to speak to Mr A, the Respondent stood on the Wynd and pointed his mobile phone at Mr B while they were

engaged in a discussion. The Panel noted that it was accepted that Mr B had asked the Respondent and Mr A to move out of the way and to stop blocking the road and had indicated he was happy to have a discussion, but not when they were standing in the middle of the road. Approximately one minute after arriving at the Wynd, the Respondent put his mobile phone into his pocket, moved back onto the verge and waved his hand towards Mr A, motioning him to move off the road. Mr A remained on the Wynd pointing his phone at Mr B. The Respondent had then walked up the Wynd towards another vehicle.

The Panel noted that it was accepted that, approximately two minutes after arriving at the Wynd, the Respondent returned to Mr A, placed his hand on his shoulder and motioned that he should move off the Wynd. In response, Mr B stated, "thank you, councillor. I appreciate that". Other residents had then appeared, stood in the road and pointed their mobile phones at Mr B or the complainers' vehicle. The Panel noted that the incident ended shortly afterwards, when the police arrived (having been called by the complainers), spoke to the parties and cleared the Wynd.

The Panel noted that the parties agreed that the complainers' vehicle was fitted with a dashcam that recorded the incident and all exchanges in range and that the footage from this, as provided to the Panel, was what it purported to be.

Witness Evidence

The ESC's representative led evidence from the two complainers, being one of the owners of Carphin House (Mr B), and his father (Mr C).

Mr C advised that he had first become aware of the Respondent when he was quoted in articles and letters published in the local press making what Mr C considered to be untrue comments about what had happened at the wedding on 17 August 2019. Mr C stated that he was aware the Respondent was assisting the Luthrie Residents Group in respect of its opposition to Carphin House being used as a wedding venue, having previously spoken and voted against the planning applications at meetings of the Council's North East Planning Committee.

Mr C advised that the access track to Carphin House had frequently been blocked deliberately with wood, tractor tyres and other obstacles. In addition, signs had been placed along it, protesting about the use of property as a wedding venue. Mr C advised that he found the signs to be 'obnoxious'. Mr C referred to a photograph, contained in the productions, of a sign erected in the village, that depicted a caricature of his son holding a knife, with the word 'greed' written on it, aimed in the direction of a wedding cake.

Mr C advised that he and his son had become aware, on 30 August 2019, that signs had been put up along the sides of the Wynd when they approached it while driving to Carphin House. Mr C noted that as he was aware of the Respondent's involvement with the Luthrie Residents Group, he had assumed he was involved in their appearance. Mr C advised that the signs had made him 'feel sick' as he felt they were completely unfair to his son, who was simply trying to run a business. Mr C stated that, after confirmation had been sought and obtained from both the Council and police that it was legal to do so provided they did not damage them, his son and employees of Carphin House had proceeded to remove the signs.

Mr C advised that he believed by joining the residents in blocking the Wynd and in pointing his mobile phone at Mr C's son when doing so during the incident on 30 August 2019, the Respondent was not only continuing with a course of conduct aimed at preventing weddings being held at Carphin House but was also actively engaging in a 'vendetta' against Mr C's son. Mr C accepted, however, that the video footage of the incident demonstrated that the Respondent had made at least two attempts to urge Mr A to move from his position in the middle of the Wynd, that he himself had mainly stood on the verge (and, as such, had not been blocking access) and that Mr C's son had thanked him for trying to persuade Mr A to move. Mr C accepted that the verges, where the signs were placed, did not form part of the property owned by his son.

Mr B advised that he had faced a great deal of opposition and challenges to his attempts to operate Carphin house as a wedding venue. Mr B stated that the Luthrie Residents Group had targeted both his business and him as an individual. Mr B advised that he had first become aware of the Respondent's Facebook post when a journalist contacted him. Mr B stated that he considered that the Respondent was alluding, in the Facebook post, to him and his wife, as owners of Carphin House, being responsible for the acts of vandalism and death of the cow. This was not only because the property was mentioned by name but also because it was well known that there had been a number of disputes in respect of access to it. Mr B stated that the post had made him feel sick, angry and upset, and confirmed, for the avoidance of doubt, that neither he, his wife nor any of their employees had been responsible for any of the acts of vandalism described. Mr B advised that, in posting the message, he considered the Respondent and was trying to incite a response and, as such, had escalated the situation, when he could have been expected, as a councillor, to have tried to defuse it. Mr B further advised that he found the reference in the post to a "sick individual" to be offensive as it was clearly directly at him. Mr B indicated he considered that the message had been posted in retaliation for a complaint he had made about the Respondent's earlier participation at the committee meeting when the planning applications were considered.

Mr B advised that his initial reaction, on receiving the Respondent's email of 19 August 2019 had been shock and disbelief. Mr B advised that he had been trying to keep the dispute over the use of Carphin House from any wedding guests so that it did not spoil their experience. Mr B advised he had been particularly distressed by the Respondent's contention that the enforcement order had been breached, and that Council officers were to act, as he had not been so advised. Mr B stated that, as such, he had immediately emailed council officers, who had confirmed, in response, that was not the case. Mr B advised he had then felt obliged to write to the wedding guest to explain the situation. Mr B stated that he felt that, in providing a wedding guest with inaccurate information, the Respondent was again behaving in a vindictive manner towards him.

Turning to the incident on 30 August 2019, Mr B advised that he had been "gutted" when he had seen the signs put up along the Wynd as he was expecting the arrival of guests that day, in advance of a wedding taking place the following day and did not want anything to detract from their experience. Mr B indicated he was particularly upset by the fact that the signs were targeted at the wedding guests. As such, he had asked Carphin House staff to remove the signs. Mr B confirmed that Mr A had then appeared and blocked the road. Mr B advised he had been "really disappointed" when the Respondent had then appeared. Mr B advised that as the Respondent pointed his mobile phones at him, he had felt that he was joining Mr A and presenting a united front with him, as opposed to trying to resolve the situation. Mr B accepted, however, that there were times during the incident where the Respondent had tried to usher Mr A and other residents off the access road and that he had thanked the Respondent for his attempts to do so.

Mr B advised that he no longer lived at Carphin House as a result of the incidents and the conduct of the Luthrie Residents Group.

In response to cross-examination, Mr B accepted that the sign depicting a caricature of him had not been placed at the side of the Wynd on the same day at the other signs had been erected and agreed that it may have been put up at the entrance to Luthrie on another date, before a different wedding.

In response to a question from the Panel, Mr B confirmed he had referred to the Respondent as 'Councillor Miklinski' during the incident on 30 August 2019 and indicated this was because it was how the Respondent was known to him.

Submissions made by the ESC's Representative

The ESC's representative argued that the mention of access to Carphin House in the Respondent's Facebook post gave rise to a clear innuendo, and was intended to infer, that the owners of the property were responsible for the acts of vandalism as described. The ESC's representative accepted that the Respondent had not named Mr B or his wife in the post but argued this did not matter given that Luthrie was a small

community, where the residents knew the identity of the owners. The ESC's representative contended that as the post contained unfounded accusations about, and was derogatory in its tone towards, Mr B the Respondent had failed to act with courtesy and respect towards him, as required by the Code.

In respect of the email of 19 August 2019, the ESC's representative noted that the Respondent had advised the wedding guest 'in absolute terms' that the enforcement order had been breached, despite this not being a decision he was empowered to make and despite it not being the concluded position of the Council at that time. The ESC's representative noted that council officers had subsequently advised Mr B that he would be the first to know if any action was to be taken by the Council in respect of the enforcement order. The ESC's representative argued, therefore, that the Respondent had condemned and impugned Mr B to a wedding guest before any due process had been followed. The ESC's representative argued that, in providing unverified information and making an unfounded and serious allegation as to the complainers' conduct, that that had the potential to damage their business, the Respondent had again failed to treat them with courtesy and respect.

The ESC's representative accepted that, during the incident on 30 August 2019, the Respondent could be seen in the video footage motioning for Mr A to leave the middle of the road. The ESC's representative noted, however, that the Respondent had, at times, formed part of the larger group of residents who were blocking access to the Wynd and that he had also joined the residents in pointing their mobile phones at Mr B. The ESC's representative argued that the Respondent's conduct in doing so was discourteous, disrespectful and intimidating.

The ESC's representative contended that all three incidents, both individually and taken together as a course of conduct, also amounted to bullying and harassment. The ESC's representative noted that bullying and harassment is defined in the Standards Commission's Advice Note on the subject as inappropriate and unwelcome behaviour or conduct that has no legitimate workplace purpose and which makes someone feel offended, humiliated, intimidated or uncomfortable. The ESC's representative argued that in making disparaging comments and insinuations about Mr B and his business interests, and in joining a larger group of residents who were engaged in intimidating behaviour towards him, the Respondent's conduct fell within this definition. The ESC's representative noted that the Standards Commission's Advice Note made it clear that even if behaviour is unintentional, it can still be classed as a form of harassment. The ESC's representative argued that, in respect of the incident on 30 August 2019, the Respondent's conduct in hovering between the verge of the Wynd and the road itself could reasonably be perceived by Mr B as joining in with, or at least condoning, the conduct of the residents in blocking his access. The ESC's representative noted that the protection to freedom of expression afforded by Article 10 of the European Convention on Human Rights did not extend to acts of bullying and harassment. As such, the ESC's representative contended that the Respondent had breached paragraphs 3.2 and 3.6 of the Code.

The Respondent's Evidence

The Respondent's representative led evidence from the Respondent.

The Respondent advised the Luthrie residents had sent numerous emails to all Fife councillors throughout 2018 voicing concerns about Carphin House being used as a wedding venue. The Respondent confirmed that Luthrie was not in his ward and advised that, as such, he had asked two of the three ward councillors to assist the residents. When they had not done so, he decided to become involved and joined the Luthrie Residents Group as an advisor. The Respondent indicated that this had involved providing the residents with advice about planning and licensing matters and how they could engage with Council officers.

The Respondent confirmed that he had published the Facebook comments in response to another post on the page relating to the death of one of Ms A's cows, following the severing of five padlocks on Ms A's land. The Respondent advised that the Luthrie residents, and Mr A and Ms A, in particular, were extremely upset

by the incident. The Respondent confirmed that he had deliberately chosen to post his message from his personal Facebook page, as opposed to the one he used for political matters.

The Respondent's position was that there had been a great deal of tension in the local community at the time and that, in publishing the post, his intention was to provide a level of public support and solidarity, and to deter any further such action. The Respondent advised that the post was not intended as an attack on Mr B or his wife. The Respondent contended, in any event, that as he had posted from his personal Facebook page (rather than the one he used as a councillor), he had not been acting and could not be perceived as acting, as an elected member at the time.

Turning to the email of 19 August 2019, the Respondent advised that it was apparent from the wedding guest's email that while she had been upset, she did not know of the background to the dispute. The Respondent advised, therefore, that his aim had been to ensure she was aware of the factual position. The Respondent advised that he had observed the wedding held on 17 August 2019 and that it had been clear to him, from doing so, that the first few hours of it had breached the enforcement order. The Respondent noted that this had been subsequently confirmed by the Council and that, as a result, it had now submitted a report to the Procurator Fiscal. The Respondent noted, nevertheless, that he should have made it clear in the email that he was only expressing his personal opinion at the time.

The Respondent confirmed that while he was aware of the Luthrie Residents Group's intention to erect signs along the side of the Wynd, on Mr A's land, protesting about the use of Carphin House for weddings, he had no knowledge of, or input into, their specific wording and content. The Respondent stated that he had advised the group to keep the contents of the signs factual, to avoid being inflammatory.

The Respondent advised that he had been visiting Mr A and Ms A on 30 August 2019 to discuss a related matter, when Mr A had realised, from watching CCTV footage, that the signs were being removed. The Respondent advised that after telling Ms A to call the police, he had followed Mr A to the scene. The Respondent stated that he had decided to do so in order to act as an independent witness and to try to deter any possible violence, or trouble, in the meantime. The Respondent confirmed that he had repeatedly tried to get Mr A to move from the road to allow access. The Respondent noted that he himself had only stood in the middle of the road for some 30 seconds or so, and that he had deliberately distanced himself from the group when the other residents had arrived at the scene. The Respondent confirmed that he had held his mobile phone and had pointed it in the direction of Mr B for a short period, but advised that his intention in doing so had been to ensure there was a recording of what had been said (albeit he did not actually make a recording) and that his actions in doing so were not, in any way, an attempt to escalate the situation. The Respondent confirmed that Mr B had thanked him for his assistance in trying to usher Mr A to the side of the road.

In response to cross-examination, the Respondent stated that he could understand why he *may* have been perceived as acting as a councillor in respect of all three matters, given he had confirmed, in his evidence, that he was providing the residents group with advice he had gained through his experience as a councillor. The Respondent rejected the contention that this perception could have arisen as a result of the fact that he had stepped in to assist the Luthrie Residents Group when others elected members refused to do so, on the basis that Luthrie was outwith his own ward. The Respondent also rejected the suggestion that his Facebook post could be perceived as harassment or an attempt to incite residents and contended that he had simply been seeking to address the perpetrator, in a bid to ensure there was no further vandalism. The Respondent accepted that the decision on whether the specific wedding had been held in breach of the enforcement order was not one for him to make, but disputed the contention that his email of 19 August 2020 would have caused Mr B any significant distress, given that a Council officer had replied, within an hour, to Mr B's request for clarification and had outlined the correct position.

In response to questions from the Panel, the Respondent confirmed that he could see, with hindsight, how his Facebook post could be perceived as an attempt to blame someone for the acts of vandalism, as opposed to just being his opinion that such acts were intolerable. The Respondent advised that while he had made no physical effort to usher the other residents from the road, during the incident on 30 August 2018, he had nevertheless suggested to them that they should let the complainers pass.

Submissions made by the Respondent's Representative

The Respondent's representative argued that the respondent's evidence should be preferred to that of the complainers, as it was evident that the complainers were trying to blame the Respondent for all events and were avoiding taking any responsibility for contravening the enforcement notice. The Respondent's representative contended that the complainers were conflating any distress and upset they felt as a result of the planning and licensing decisions with their feelings about the Respondent's conduct. The Respondent's representative argued that any contention that the complainers felt harassed bore no relation to the Respondent's behaviour and, instead, was the result of the ramifications and the outcome of their own conduct in breaching the enforcement order.

The Respondent's representative argued that it was evident that the video footage of the incident on 30 August 2019 was not consistent with the complaints made about it, in that it was clear that, instead of joining the residents in blocking the road, the Respondent made efforts to distance himself from them and to persuade Mr A to move away. The Respondent's representative asserted that the fact that Mr B had thanked the Respondent during the incident supported this position. The Respondent's representative noted, in any event, that the Respondent was under no ethical duty to move anyone on, nor was he required to do so in terms of the Code.

The Respondent's representative contended that the Respondent had not intended his Facebook post to cause offence and argued, in any event, that as it was posted from his personal page (rather than his political one), he could not reasonably be perceived as acting as a councillor at the time. The Respondent's representative noted that the test to determine whether a respondent could reasonably be perceived as acting as a councillor should not be simply whether they are known to be an elected member, with no regard been given to the context in which the conduct occurred.

The Respondent's representative argued that even if it was determined that the Respondent had 'misspoke' or 'jumped the gun' in his email to the wedding guest of 19 August 2019, the fact remained that the information he had provided to the effect that the enforcement notice had been breached ultimately proved to be true and accurate. The Respondent's representative noted that any harm caused was of very limited duration and nominal in nature, given that the council officer had clarified the position within an hour.

Turning to the question of whether the Respondent was entitled to any protection in terms of Article 10 of the European Convention on Human Rights, the Respondent's representative drew the Panel's attention to the case of *Lombardo v Malta (2009) 48 EHRR 23*, where the European Court of Human Rights found that comments made in a political context, which amount to value judgements, are tolerated even if untrue, as long as they have some or any factual basis. The Court found that even a statement of fact will be tolerated if what was expressed was said in good faith and there is some reasonable (even if incorrect) factual basis for saying it. The Respondent's representative argued that, with the exception of the email of 19 August 2019, the Respondent had not been acting in the capacity of a councillor in respect of the any of the matters before the Panel. The Respondent's representative contended that the Respondent's statement, in the email, to the effect the enforcement notice had been breached, was made in good faith, amounted to a value judgement and, further, was based on the Respondent's belief that it was factually correct (which subsequently proved to be the case). As such, the Respondent's representative argued that the Respondent should be entitled the enhanced protection afforded to politicians under Article 10.

DECISION

The Hearing Panel considered the submissions made both in writing and orally at the Hearing. It concluded that:

1. The Councillors' Code of Conduct applied to the Respondent, Councillor Miklinski.
2. The Respondent had breached paragraphs 3.2 and 3.6 of the Code

Reasons for Decision

The Panel noted that paragraph 3.1 of the Councillors' Code of Conduct provides that the rules of good conduct in section 3 must be observed in all situations where a councillor is acting as an elected member, or where they are perceived as acting as such. In respect of the first matter before it, the Hearing Panel accepted that the Respondent had not identified himself as such on the Facebook page. The Panel nevertheless was of the view that it would have been reasonable for a member of the public to have perceived that the Respondent been acting as a councillor, in all matters concerning the Luthrie Residents Group and Carphin House, given that:

- his connection to the Luthrie Residents Group was recorded on his Register of Interests;
- the email responding to the wedding guest was sent from his council email account and he had signed himself off as 'Councillor Miklinski';
- he had drawn on his knowledge of planning and licensing matters gained from his experiences as a councillor when responding to the email and providing advice to the group; and
- the dispute between the residents and the complainers concerned planning and licensing decisions made by the Council.

The Panel further noted, in support of this, that Mr B could be heard referring to the Respondent as 'councillor' in the recordings of the incident on 30 August 2019. It was apparent, therefore that at least one individual present perceived him as such. The Panel considered that this was a reasonable conclusion to reach, in the context outlined above and was satisfied therefore, in terms of paragraph 3.1, that the Code applied to the Respondent in respect of all three incidents under consideration.

The Panel accepted that the Respondent had not mentioned Mr B or his wife by name in the post on the Luthrie Residents Facebook page. The Panel was of the view, however, that it was evident to anyone reading the post, who had any knowledge of the Luthrie Residents' position, would have inferred that the Respondent was blaming the owners of Carphin House or their staff of the acts of vandalism he had described. The Panel was further of the view that the Respondent's position of authority would have added a certain amount of gravitas to the post. The Panel noted that the complainers had given evidence, under oath, that they were not responsible and, further, that there was no suggestion that the Respondent had any evidence to support this accusation. The Panel considered, therefore, that the accusation was unfounded. The Panel considered that, in making unfounded and serious allegations as to Mr B's conduct, on a public forum, the Respondent had failed to treat him with courtesy and respect. The Panel was particularly concerned that the post had been published at a time of considerable tension between the Luthrie Residents Group and the complainers and considered that it could have only served to enflame the situation.

Turning to the second matter, being the Respondent's email to the wedding guest of 19 August 2019, the Panel was satisfied that while Fife Council subsequently considered there had been a breach of the enforcement order and reported the matter to the Procurator Fiscal, this had not happened at the time the email was sent. The Panel noted that the question of whether the enforcement order had been contravened was not one for the Respondent to make. The Panel noted that the wedding guest would have been entitled to accept what was being said as being accurate, given the Respondent's position of authority. The Panel considered that, in supplying incorrect and unverified information about whether the specific wedding had been held in contravention of the enforcement order, which had the potential to damage the complainers' business relationships, and in presenting it as a factual situation, the Respondent had again failed to treat them with respect.

In respect of the third matter, having watched the video footage carefully, the Panel was satisfied that it was clearly evident from it that the Respondent had made some attempts to diffuse the situation on 30 August 2019 and to usher Mr A off the road. While the Panel noted that the Respondent had stood in the middle of the track at a certain point during the incident and had briefly joined other individuals in pointing his mobile phone at Mr B, it was not of the view that his actions, during the incident, could reasonably and objectively be perceived as him having been blocking the Wynd and the complainers' access. The Panel noted that the complainer had been using a dashboard camera and wearing a body camera during the incident (albeit the latter device had not functioned), as advised by the police, and accepted that the Luthrie residents may well have received similar advice in respect of capturing digital evidence. The Panel was not satisfied, therefore, that the Respondent failed to treat the complainers with courtesy and respect or that he had harassed them in respect of the third incident.

The Panel was satisfied that, on the face of it, the Respondent had contravened paragraph 3.2 of the Code in respect of incidents one and two. The Panel further determined, in respect of the first incident and in making unfounded and serious allegations as to the complainers' conduct the Respondent's behaviour towards them amounted to harassment and was also a breach of paragraph 3.6 of the Code. Before coming to a finding on the matter, however, the Panel considered the provisions of Article 10 of the European Convention on Human Rights, which concerns the right to freedom of expression.

The Panel noted that the Courts have interpreted Article 10 widely and have found that the enhanced protection enjoyed by politicians can extend to comments which some may consider to be inappropriate, offensive and emotive. In addition, comments made in the political context, which amount to value judgments, are tolerated even if untrue, as long as they have some, or any, factual basis. The Panel accepted, therefore, that the Respondent had a right to make value judgements. It agreed, however, that it was not possible to conclude that the Respondent's inference in the post that Mr B, his wife or any of their employees were responsible for the severing of the padlocks and the death of the cow had any basis in fact. In relation to the email regarding planning enforcement action, the Panel recognised that the Respondent was of the view that a breach of the planning arrangements had taken place. The Panel determined, however, that the protection afforded by Article 10 did not extend to him representing his opinion as that of Fife Council, even if this was inadvertent, especially in the circumstances where it was likely that his statement could cause distress to the recipient and complainers. The Panel was further satisfied that the right to freedom of expression did not extend to harassment, particularly where such conduct could have had a serious impact on the complainers and their business. As such, the Panel found that the Respondent was not entitled to the enhanced protection for afforded to politicians under Article 10. The Panel was satisfied that as the Respondent's conduct, in respect of the Facebook posting and email was unacceptable, a finding of breach and subsequent application of a sanction, was justified in the circumstances and would not amount to a contravention of Article 10.

The Panel concluded, therefore, that the Respondent had contravened paragraphs 3.2 and 3.6 of the Councillors' Code of Conduct.

Evidence in Mitigation

The Respondent's representative advised that the Respondent had served as a Royal Navy Commodore for some 31 years and was a veteran of the Falklands conflict. The Respondent's representative advised that the Respondent had an unblemished record since being elected as a councillor in 2017 and that he had been made the Deputy Leader of the Conservative Group. The Respondent's representative noted that, at the time the Respondent first became involved with the residents' group, he was still a relatively inexperienced councillor and had felt compelled to step in to assist them when other elected members declined to do so. The Respondent's representative accepted that, with the benefit of hindsight, it was arguable that the Respondent had become too personally invested in the matter, but noted that it was a complex situation.

The Respondent's representative asked the Panel to consider that the breaches of the Code, as found, were at the lower end of the scale in terms of seriousness, were limited in duration and had caused minimal, if any, actual harm.

SANCTION

The decision of the Hearing Panel was to suspend the Respondent, Councillor Miklinski's entitlement to attend the next two full meetings of Fife Council.

The decision was made in terms section 19(1)(b) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Reasons for Sanction

In reaching its decision on sanction, the Panel noted, in mitigation, that the Respondent had co-operated fully with the investigative and adjudicatory processes. The Panel further noted the Respondent's service and contribution to public life. The Panel accepted that the Respondent was relatively inexperienced as a councillor at the time and that he now accepted that he may have become too personally vested in the dispute between the complainers and residents' group.

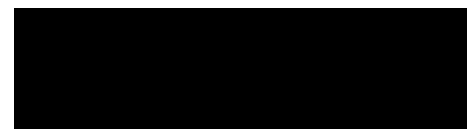
The Panel considered, however, that the requirement for councillors to refrain from conduct that is discourteous, disrespectful and that could amount to harassment, is an important feature of the Code, as a failure to do so can undermine relationships and public confidence in the role of a councillor and the Council itself. The Panel noted that councillors should be able to make points and engage with members of the public in a constructive, respectful, courteous and appropriate manner, without providing misleading information or resorting to personal attacks and being offensive. In this case, the Respondent had failed to conduct himself in a courteous and respectful manner and, instead, had behaved in a manner that amounted to harassment. The Panel was concerned that the Respondent had not considered the potential impact of his actions on the complainers and others.

The Panel was nevertheless of the view that the Respondent's conduct did not warrant a more severe sanction. This was because the contraventions found were restricted to one social media post and an email, and there had been no personal gain.

RIGHT OF APPEAL

The Respondent has a right of appeal in respect of this decision, as outlined in Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

Date: 27 November 2020



**Mr Michael McCormick
Chair of the Hearing Panel**

Decision of the Hearing Panel of the Standards Commission for Scotland following the Hearing held online, on 16 December 2020.

Panel Members: Professor Kevin Dunion, Chair of the Hearing Panel
Ms Ashleigh Dunn
Mr Mike McCormick

The Hearing arose in respect of a Report referred by Ms Caroline Anderson, the Commissioner for Ethical Standards in Public Life in Scotland (the ESC), further to complaint reference LA/Fi/3278, concerning an alleged contravention of the Councillors' Code of Conduct (the Code) by Councillor Andy Heer (the Respondent).

The Ethical Standards Commissioner was represented by Dr Kirsty Hood, QC. The Respondent represented himself.

Referral

Following an investigation into a complaint received about the conduct of the Respondent, the ESC referred a report to the Standards Commission for Scotland on 28 September 2020, in accordance with section 14(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (the 2000 Act), as amended. The substance of the referral was that the Respondent had failed to comply with the provisions of the Code and, in particular, that he had contravened paragraph 3.19, which states:

Appointments to Partner Organisations

3.19 You may be appointed or nominated by the Council as a member of another body or organisation. If so, you will be bound by the rules of conduct of these organisations and your responsibility for any actions taken by you as a member of such an organisation will be to the organisation in question. You must also continue to observe the rules of this Code in carrying out the duties of that body.

Evidence Presented at the Hearing

Joint Statement of Facts

The Panel noted that a joint statement had been agreed between the parties and that the following facts were not in dispute:

- In June 2017, the Respondent was appointed as a Director of Sustainability Fife Ltd and by Fife Council to the Board of Fife Resource Solutions (FRS). Both the Council and Sustainability Fife Ltd are members of FRS, which is a limited liability partnership and arms-length external organisation that was established to provide recycling and waste disposal services on behalf of the Council.
- The complainer, Councillor Jan Wincott, is also a council appointee to the FRS Board and was elected as its Chair after the local government elections in May 2017. The third council appointee to the FRS Board, and its Vice-Chair, is Councillor David Barratt.
- Fife Council, Sustainability Fife Ltd and FRS are parties to a Members' Agreement dated 10 February 2014. The Agreement regulates the conduct of the affairs of FRS, its members and the relationship between its members.
- The Respondent and other FRS Board Members received training, in September 2017, on being members of an ALEO. Amongst other things, the training covered the principle of confidentiality as part of board life and the need to uphold the common law implied duty of confidentiality.

The Panel noted that it was agreed that:

- In March 2020 FRS closed 11 recycling centres in line with Government guidelines relating to the coronavirus pandemic.
- On 18 May 2020, the Respondent submitted a press statement he had prepared for the approval of Fife Council's Conservative Group Leader. At the time he submitted the statement, the Respondent had

received papers for a special meeting of the FRS Board that was to be held online on 20 May 2020. The statement was published on the Fife Conservative and Unionist Association's website on 20 May 2020, between approximately 8:10 and 9:20, and a link to it also appeared on the Fife Conservative Facebook page at the same time.

- The statement quoted the Respondent, in his capacity as the party's Environment Spokesperson, as stating that: there appeared to be a general consensus from everyone, apart from the Scottish Government, that recycling centres across Scotland could re-open on 1 June 2020; he had been told there would be an online booking system to prevent queues of vehicles, with police on duty to control traffic; and he had further been advised that, due to space constraints the centres would only be able to accept certain types of waste and staff would not be allowed to assist the public.
- The Respondent attended the online FRS Board meeting on 20 May 2020, chaired by the complainer, which had been convened so that matters concerning the reopening of recycling centres as outlined in a report prepared by FRS's Chief Operating Officer could be discussed. The meeting commenced at about 10:00 and concluded at approximately 11:00.
- Matters concerning the reopening of recycling centres and how to communicate about this with FRS staff, council staff and elected members, and the public were discussed at the meeting.

The Panel noted that it was further agreed that:

- At 12:30 on 20 May 2020, the Respondent posted a message on Facebook to a group called 'Kettle A Village Life', stating that he had just heard that the recycling centres at Lower Melville Wood (Ladybank) and Cupar were to be amongst the last to reopen, due to police concerns about queuing traffic. The Respondent stated that he had spoken to the Chief Operating Officer of FRS who had confirmed that it was aware of the gap in provisions in North East Fife and was looking for a suitable location for a pop-up site for people to take their waste. The Respondent further stated that FRS was looking at reinstating the bulky uplift service in this area and that there would be more information in the press early the following week about opening dates and times and how to book a slot.
- The Respondent's Facebook biography referred to him being a councillor.

Witness Evidence

The ESC's representative led evidence from three witnesses, being: the complainer, Councillor Wincott; the Vice Chair of FRS, Councillor Barratt; and FRS's Chief Operating Officer, Mr Robin Baird.

Councillor Wincott confirmed that she had been elected as Chair of FRS Board and had chaired the meeting on 20 May 2020. Councillor Wincott advised that all board members had been sent papers in advance of the meeting, in accordance with FRS's usual procedures. Councillor Wincott advised that papers for meetings were not marked as private or confidential. Councillor Wincott stated that there was no need to do so as the papers were used for board discussions only and all board meetings were held in private. Councillor Wincott stated that all FRS Board Members had received training when appointed, which had covered the requirement to act in the interests of FRS and board confidentiality.

Councillor Wincott advised that she had become aware of the Conservative Group's press statement shortly after the meeting on 20 May 2020 had ended. Councillor Wincott stated that the quotes attributed to the Respondent in the statement had accurately summed up the information outlined in the papers that had been discussed at the meeting, in respect of the proposed re-opening of the recycling centres. Councillor Wincott advised that there had been lengthy discussions at the meeting on 20 May 2020 about the importance of managing communications about any information concerning the proposed re-opening of the recycling centres. Councillor Wincott stated that it had been agreed that it was of paramount importance that the information should be disseminated to the Council's other elected members and to staff in the first instance, before it was made public. This was because the proposals needed to be approved by the Council and FRS Board Members had agreed that they needed to ensure staff who worked at the recycling sites were advised of which were to open and when. Councillor Wincott noted that the Scottish Government was also

still to confirm that travel to recycling centres was to be allowed. Councillor Wincott further noted that it was important for the Council's Communications Team to have time to put a strategy in place to ensure that there was full and accurate messaging about which centres were to re-open, what materials could be disposed of and how to access the sites.

Councillor Wincott advised that Councillor Barratt had specifically told other members, at the meeting, not to post information about the proposals on social media. Councillor Wincott advised that no one present had raised any concerns about this or had given any indication they did not understand the need to keep the information confidential. Councillor Wincott noted that the minutes of the meeting reflected the discussion about the importance of managing communications. Councillor Wincott accepted, however, that the Respondent had not attended a subsequent meeting, when the minutes were approved and, in response to a question from the Panel, advised that the Respondent had not been sent a copy of the minutes.

Councillor Wincott advised that she had been sent a screenshot of the Respondent's Facebook posting shortly after it had been published at approximately 12:30 on 20 May 2020. Councillor Wincott stated that the post contained information that had been discussed at the meeting earlier that day, which was to be the subject of the communications strategy. Councillor Wincott advised that she had been "flabbergasted", "disappointed" and "very shocked" to see the contents of the post, as she had been of the belief that all the FRS Board Members present at the meeting had agreed, and were behind, the decision about how communications about the proposed re-opening of the recycling centres were to be managed. Councillor Wincott advised that she had been concerned particularly about the impact on staff who worked at the centres, as she did not consider it was appropriate for them to learn via social media that they may or may not be required to return to work.

Councillor Wincott advised that she had expressed her disappointment to the Respondent and had suggested he resign from the Board of FRS. Councillor Wincott explained that the Respondent had asked to be able to present his position to the other members and, indeed, had done so at a meeting in June 2020. Councillor Wincott advised, however, that the other members had unanimously agreed with her view and, as a result, the Respondent had resigned.

Councillor Wincott noted that there had been a great deal of controversy surrounding the landfill site at Lower Melville Wood. Councillor Wincott advised that while the Respondent had raised the possibility of re-opening the recycling centre at the same site at the meeting on 20 May 2020, he had accepted the explanation provided by Mr Baird to the effect that the police had advised against this (due to concerns about safety as any queues of traffic to the centre could overspill on to an adjacent main road). Councillor Wincott stated, in any event, that she considered that any issues concerning the landfill site at Lower Melville Wood were separate and distinct from the proposals relating to the re-opening of the recycling centres across the whole local authority area.

In response to cross-examination by the Respondent, Councillor Wincott confirmed that while she had not attended a public meeting held in December 2019 about the landfill facility at Lower Melville Wood, she was aware that concerns had been raised and that officers of FRS had committed to improving its communication with the public about the site. Councillor Wincott further confirmed that the Respondent had been excluded from the FRS Board meeting immediately following the one held on 20 May 2020 and had not been sent the papers for it, including the minutes of the meeting on 20 May 2020, as she had been concerned that he would not keep these confidential.

Councillor Barratt confirmed he was also a council appointee to FRS and its Vice Chair. Councillor Barratt confirmed that training provided to all FRS Board Members had covered the requirement for them to treat items being discussed at meetings as confidential. Councillor Barratt further confirmed that FRS Board Members had been given training on their responsibilities as directors and board members. Councillor Barratt advised that there had been no need to mark the papers for the meeting on 20 May 2020 as confidential or

private as the FRS Board Members understood, both from the training and their experience of working as a Board, that they were to be treated as such.

Councillor Barratt stated that he had become aware of the press statement issued by the Conservative Group shortly after the meeting on 20 May 2020. Councillor Barratt advised that he considered the information contained in the quotes by the Respondent was not in the public domain and, instead, had come from the meeting papers.

Councillor Barratt confirmed that the re-opening of the recycling centres and a strategy for communicating about this had been discussed at the meeting on 20 May 2020. Councillor Barratt explained that as FRS still needed to discuss the proposals with both the Council and trade unions, and as it was apparent that any decision to keep some of the centres closed for the time-being was likely to be unpopular, he had made the point to other Board Members that all communications would require to be co-ordinated by the Council. This was to ensure that information was not disclosed in a piecemeal fashion and to allow a full explanation of the reasoning behind the decision to be provided. Councillor Barratt advised that not only had he specifically highlighted the need to keep the information confidential until a communications strategy was in place, but that he had also explained his reason for doing so was because he was aware of concerns that elected members were disclosing information about the Council's response to the Coronavirus pandemic to the press. Councillor Barratt stated that no objections to this had been raised at the meeting and, instead, everyone present had agreed there should be a co-ordinated communications strategy about the re-opening of the recycling centres. Councillor Barratt advised that there was no indication that this had not been understood by the Respondent or anyone else.

Councillor Barratt confirmed that as there had been no time to seek approval from the Council or implement the communications strategy, between the conclusion of the meeting and the publishing of the Facebook post by the Respondent, he had been shocked and dismayed to learn of its content. Councillor Barratt confirmed that the information supplied in the post had been discussed in the papers for, and at, the meeting earlier that day. Councillor Barratt advised that he considered that it was unfair for staff who worked at the recycling sites and, as such, would be directly affected by them, to have learned about the proposals from a social media post. Councillor Barratt further advised that he had found it frustrating that information had been disclosed to the public in one area at a time when he and other elected members were having to advise their constituents that they were unable to provide them with information as to when and how the centres might re-open.

Councillor Barratt advised that after being asked by Councillor Wincott, as Chair, to resign from the Board, the Respondent had made his case as to why he should not do so at a meeting in June 2020. Councillor Barratt confirmed, however, that the Respondent agreed to resign when the other FRS Board Members had expressed their frustration and disappointment at his actions and supported Councillor Wincott.

Mr Baird confirmed that he was FRS's Chief Operating Officer. Mr Baird confirmed that the training provided to all FRS Board Members had covered their duties to FRS as an entity, their responsibilities as both board members and directors, and confidentiality. Mr Baird advised that all Board Members understood that the meeting papers were of a confidential nature and were only to be discussed in the context of FRS Board meetings, which were held in private. Mr Baird advised that, in the three years he had been employed by FRS, there had been no other instance where papers or their contents had been disclosed.

Mr Baird advised that he was made aware of the contents of the press statement shortly after the meeting on 20 May 2020 had concluded. Mr Baird confirmed that he considered the information it contained, as disclosed by the Respondent, came from the meeting papers and was not, at the time, in the public domain. Mr Baird stated that a great deal of time had been devoted, at the meeting, to the need for there to be an effective communications strategy about the re-opening of the recycling centres. Mr Baird advised this was because it was agreed that information should not be disclosed to the public before Council approval had

been granted and before any staff potentially affected by the re-opening of the centres were informed. Mr Baird advised that, in addition, the Scottish Government was still to confirm that travel to recycling sites was permitted and he was also required, as part of its licensing conditions, to inform the Scottish Environment Protection Agency. Mr Baird explained that as there were also concerns about travel disruption, it had been agreed that no information would be disclosed to the public until such a time as a communications strategy was in place, that both the FRS and Council's websites had been updated and an online booking system had been established. Mr Baird advised that it had been agreed that it was essential to have a communications strategy in place to ensure there was accurate and consistent messaging about which centres were to re-open, what services were being provided and the rationale for these decisions.

Mr Baird noted that the Respondent's Facebook post had referred to a conversation the Respondent had supposedly had with him. Mr Baird advised that he had not spoken to the Respondent outside of the FRS Board meeting on 20 May 2020 regarding the information in the Facebook post. Mr Baird confirmed that the information disclosed in the post had been discussed at the meeting and was the subject of the communications strategy that was still to be implemented. Mr Baird advised that he had been surprised to learn of the post, as the importance of a co-ordinated communications strategy had been discussed and agreed at the meeting. Mr Baird stated that he had been contacted by the trade unions afterwards, as they had been concerned that their members had learned about the re-opening of the centres from a social media post, which had not provided any detail about whether their safety had been considered. Mr Baird noted that the publishing of the post before the FRS and Council's websites had been updated risked causing confusion. It also risked creating a perception that both organisations were failing to take action.

Mr Baird argued that any concerns about the landfill site at Lower Melville Wood were entirely distinct from the matters concerning the re-opening of the recycling centres that were discussed at the meeting on 20 May 2020. This was because while there was a recycling centre at the same location, it was a separate and distinct operation from the landfill site. Mr Baird noted, in any event, that the FRS Board discussion and the matters that were disclosed by the Respondent concerned all the recycling centres across Fife.

In response to cross-examination, Mr Baird confirmed that the Respondent had raised the question of whether the recycling centre at Lower Melville Wood would be re-opened at the meeting on 20 May 2020, but had accepted the proffered explanation as to why it would not be. Mr Baird further confirmed that FRS had considered potential 'pop-up' recycling centres to breach the gap in service provision while some of the centres remained closed, but that it had reached the conclusion that this was not a viable option, due to traffic management issues.

Submissions made by the ESC's Representative

The ESC's representative advised that she considered the Panel had sufficient evidence before it to conclude that the Respondent had been provided with training on the distinct role and responsibilities of being a member of FRS, as an arms length external organisation. The ESC's representative noted that as a board member and director of FRS, the Respondent had a duty to act in good faith to promote its success as an entity, irrespective of any other roles he held. The ESC's representative noted that the papers for the meeting on 20 May 2020 had been distributed to FRS Board Members for use at the meeting and argued it was evident from this that their contents were to be kept confidential. The ESC's representative noted that it was also evident, from the fact that they had called on the Respondent to resign from the Board, that the other board members understood that the contents of the meeting papers were not to be disclosed and, therefore, that there had been no need for them to have been marked as private or confidential.

The ESC's representative accepted that the minutes of the meeting on 20 May 2020 had not been sent to the Respondent but argued this was of no practical importance as they had only been introduced and included as evidence in the Hearing productions because they provided a contemporaneous account of what had been discussed at the meeting. The ESC's representative noted that the other FRS Board Members could have

asked for the minutes to be amended, before they had been ratified, if they had concerns they did not accurately reflect what had been discussed and agreed. They had not done so.

The ESC's representative contended that it was evident from the minutes and the accounts from the three witnesses, that matters concerning both the re-opening of the recycling centres and a strategy for communicating about this had been discussed at the meeting on 20 May 2020 (albeit it had been noted that implementation of some of the agreed proposals were contingent on approval from the Council and Scottish Government).

The ESC's representative drew the Panel's attention to a risk assessment prepared by FRS, dated 28 June 2020, in respect of the re-opening of the recycling centres. As this assessment included concerns relating to service users not understanding or being aware of the new restrictions that were to be put in place, the document stressed the importance of having structured communications in place to minimise or mitigate this risk of this happening. The ESC's representative contended that the risk assessment, minutes and witness accounts were all consistent with, and supported, the contention that it had been agreed at the meeting that having and implementing a coordinated communications strategy about the re-opening of some of the recycling centres was of particular importance.

The ESC's representative noted that the Respondent's position was that some, if not all, of the information he had disclosed in the press statement and Facebook post were already in the public domain. The ESC's representative noted that this was disputed by the witnesses, who had all confirmed that it had come from the meeting papers. The ESC's representative argued that the fact the Respondent had referred, in the quotes attributed to him in the press statement as having been 'told' or 'advised' about the information, supported the contention it had come from the meeting papers (as opposed to having already been in the public domain). Similarly, the ESC's representative contended that the Respondent's references, in the Facebook post, to him 'having just heard' and 'having just spoken to the Chief Operating Officer' demonstrated that he had come into possession of the information he was disclosing through his attendance at the meeting that day. The ESC's representative argued, therefore, that the information had not been in the public domain and, instead, had been acquired from the meeting papers and discussion. The ESC's representative further argued that the proposals should not have been disclosed, as they were confidential and contingent on approval from the Council and from the Scottish Government (in respect of the public being allowed to travel to recycling sites) being granted.

The ESC's representative contended that the Respondent's actions, in disclosing the information before the necessary approvals had been granted and before a communications strategy had been implemented not only had the potential to cause difficulties but had actually done so. The ESC's representative noted, in particular, that the question of which centres were and were not to open had a direct impact on the staff who worked at the recycling centres and argued it would have been concerning for both the staff and the trade unions to discover this from an unofficial source, with no associated information about any measures being taken to ensure their safety being provided. The ESC's representative noted that there was also an impact on other councillor members of the FRS Board, who had been obliged to keep the information confidential and to refuse to answer questions from their own constituents as to when any local centres might re-open.

The ESC's representative advised that the FRS Members' Agreement document outlines the "rules of conduct" of the organisation. The ESC's representative advised that clause 12.2 of this provides that "each member shall at all times show the utmost good faith to [FRS]", while clause 14.1 requires individual board members to act in a way which promotes the success of the organisation, irrespective of any other duties. The ESC's representative noted that as the Respondent was a Council appointed representative, he had a responsibility to procure the compliance of the Council, as a Member, with clause 12.2. This was in addition to his own personal responsibility as an individual, under clause 14.1.

In considering what amounted to ‘utmost good faith’, the ESC’s representative drew the Panel’s attention to the case of *Berkeley Community Villages Ltd & Anor v Pullen & Ors* [2007] EWHC 1330, which indicated the question was whether the individual in question had observed reasonable commercial standards of fair dealing and the required faithfulness to the agreed common purpose and consistency of the company. The ESC’s representative noted that while this was an English case, the approach had been adopted by Lord Glennie, when he referred to it in the Scottish case of *EDI Central Ltd v National Car Parks Ltd* [2010] CSOH 141.

The ESC’s representative contended that, when handling the papers and information he had received by virtue of his role as a Board Member of FRS, both before, during and after the meeting on 20 May 2020, the Respondent was exercising his functions as a Board Member. As such, he had a responsibility to be faithful to the agreed common purpose of FRS and to promote its success as an organisation. The ESC’s representative noted that it was not enough for the Respondent to say that he considered he was acting in good faith in the best interests of FRS when disclosing the information, if the evidence demonstrated that no other Board Member or director would have reasonably regarded his actions as being compatible with that aim. The ESC’s representative argued that the evidence did not support an assertion the Respondent had been acting in good faith in the best interests of FRS, given that he had disclosed the information in direct contradiction to the decision made at the meeting that it was only to be disseminated as part of an agreed and structured communications strategy. The ESC’s representative contended that the fact that the other board members were sufficiently concerned that they had called for the Respondent to resign, supported the argument that his conduct had not been compatible with what had been agreed as being the appropriate course of action, in the best interests of FRS. The ESC’s representative argued that any suggestion that disclosure of the information in a piecemeal manner was in the best interests of FRS, or was likely to promote its success, was simply not plausible given the various reasons outlined by the witnesses in respect of why communications about the re-opening of the recycling centres should be controlled.

The ESC’s representative contended the fact that the Respondent had disclosed the information in a press statement issued by the Conservative Group calling on the Scottish Government to take action or provide information, further demonstrated that he had not been acting in good faith in the best interests of FRS, but rather in the interests of his political party. The ESC’s representative argued the fact that, in the statement, the Respondent was referred to as the party’s Environment Spokesperson (as opposed to a Board Member of FRS), and the fact that he had not referred, in the Facebook post, to the FRS meeting or its decision-making supported the contention that he had disclosed the information in support of the interests of his party and / or his interests as a councillor. The ESC’s representative noted that, in his response to the complaint, the Respondent had sought to link his disclosure of the information about the recycling sites that were to re-open to the issue of public concern about a lack of transparency on the part of FRS in respect of the landfill site at Lower Melville Wood. The ESC’s representative argued this further demonstrated that the Respondent had placed constituency issues before the interests of FRS.

The Respondent’s Evidence and Submissions

The Respondent advised that he represented Howe of Fife and Tay Coast, being the largest ward in the Fife Council area. The Respondent advised that after being a member of Auchtermuchty and Strathmiglo Community Council for over 20 years, he had been elected as a local authority councillor in May 2012. The Respondent advised that he had only stood for election at the urging of his local community and had not done so for any political purposes. The Respondent stated that he was a full-time councillor and worked seven days a week to serve his constituents and local community.

The Respondent advised he had not been provided with a copy of the minutes of the FRS Board meeting on 20 May 2020 at any time while he was still a member and director of the organisation. The Respondent confirmed that Councillor Wincott had asked him to resign and had lodged a complaint with the ESC before he had been afforded the opportunity to speak to the other FRS Board Members about the events in question. The Respondent advised that it was not until a FRS Board meeting on 19 June 2020 that he had

been allowed to give his version of events. The Respondent confirmed that he had immediately resigned from FRS at that meeting when it had become apparent the others FRS Board Members wished him to do so. The Respondent stated that there was deep anger and resentment from local residents about how the landfill site at Lower Melville Wood was being managed and advised that he had joined the FRS Board to try to resolve these issues. The Respondent indicated that he was relieved to no longer be a Board Member of FRS as his resignation meant that he could now assist the local community without having to be an apologist for FRS or being fettered by his obligations to its board.

The Respondent contended that the information he had provided in the press statement and Facebook post was not confidential, as there had been a great deal of reporting in the press about the possibility of the recycling centres being re-opened and booking systems being used. This had resulted in widespread public speculation about how and when this would happen in Fife. The Respondent noted that reporting on issues about difficulties that had arisen when recycling centres in England had re-opened had further fuelled the public's interest in the matter.

The Respondent advised, in any event, that he believed he was acting in the best interests of FRS when disclosing the information in both the press statement and Facebook post. The Respondent explained this was because it had been agreed, at a public community meeting in December 2019, that FRS would be more transparent with local residents about the actions it was taking to resolve their concerns about the landfill site at Lower Melville Wood. The Respondent indicated that, in disclosing the information, he had simply been trying to forewarn local residents that the recycling centre located at the same site would not be re-opening on 1 June 2020, as they had expected and hoped.

In response to cross-examination, the Respondent confirmed that he had not shared information from FRS Board meeting papers routinely, as he understood the need to respect confidentiality. The Respondent explained that he had contributed to the press statement calling for more information about the re-opening of the recycling centres to be made public because he was aware that his constituents were angry about the lack of information and knew that he could not tell them what was going on. The Respondent accepted, however, that the press release outlined his political party's stance.

The Respondent further accepted that the references in the press statement to him having been 'told' about or 'advised' of certain information, and in the Facebook post to him 'having just heard' and 'having just spoken to the Chief Operating Officer', seemed to contradict his position that the information had been the subject of press reporting and was already in the public domain. The Respondent advised, however, that this was simply "careless phrasing" on his part - other local authorities were considering, for example, booking systems and traffic management issues and so he considered the information was already widely known.

The Respondent accepted that there had been a discussion at the FRS Board meeting on 20 May 2020 about the need to notify the Council of the proposals in respect of the re-opening of the recycling centres but advised his recollection was that this had centred on the process to be followed. The Respondent contended that he could not recall any emphasis on confidentiality, nor any discussion about a need to provide the Council's Communications Team with the information before it was disclosed more widely. The Respondent accepted, however, that he had not been asked to make the information public, via social media. The Respondent further accepted that he had not provided any information, in either the press statement or Facebook post, about any measures that were to be taken to ensure the centres could be re-opened safely.

In response to a question from the Panel, the Respondent confirmed that he had not expressed his view, at the meeting, that it was in FRS's best interests for the information that had been discussed to be released to the public immediately. The Respondent advised that he had simply not thought to do so. The Respondent confirmed that he had not alerted FRS to the fact that he intended to publish the Facebook post. The Respondent confirmed that his view had been that the public would be outraged at having to wait for an official press statement to be released and reiterated that, as such, he was simply trying to manage

expectations and let his community know that the local recycling site would not re-open on 1 June 2020 as expected. The Respondent reiterated his contention that, in doing so, he had acted in the best interests of FRS.

The Respondent raised a concern about the fact that while the complaint made to the ESC had concerned an alleged breach of the confidentiality requirements in the Code, the allegation as referred to the Standards Commission was that he had breached paragraph 3.19 (being an entirely separate and distinct provision). The Respondent also raised a concern that he had not been advised of the capacity in which Councillor Wincott had made the complaint.

DECISION

The Hearing Panel considered the submissions made both in writing and orally at the Hearing. It concluded that:

1. The Councillors' Code of Conduct applied to the Respondent, Councillor Heer.
2. The Respondent had breached paragraph 3.19 of the Code.

Reasons for Decision

The Hearing Panel noted that the Respondent was quoted in the press statement as contributing to it in his capacity as his party's Environment Spokesperson. The Panel further noted that the Respondent's Facebook username was "Andy Heer" and that there was reference in the biography section of his page to his role as a Fife councillor. The Panel was satisfied, therefore, that the Respondent could reasonably be perceived as acting as councillor at the time he contributed to the press statement and published the Facebook post and, as such, the Code applied.

Having considered the evidence and submissions, the Panel was satisfied, on the balance of probabilities, that the information the Respondent disclosed in both the press statement and Facebook post had been included in the papers for, and thereafter discussed at, the FRS Board meeting on 20 May 2020. The Panel noted that while there may have been speculation in the press about the re-opening of recycling centres and how this could be managed, it did not accept that information about:

- the specific recycling centres in Fife that were to re-open;
- the fact that there would be an online booking system to access the centres;
- the centres only being able to accept certain types of waste; and
- that staff would not be allowed to assist the public

was already in the public domain at the time of the Respondent's disclosures.

The Panel was satisfied that training on their role and responsibilities, including the requirement to maintain confidentiality, had been provided to all FRS Board Members. The Panel noted that the Respondent accepted that he was aware that FRS meeting papers and Board discussions were private and were to be kept confidential and, further, that he was aware of the obligation on him to act in good faith in the best interests of FRS when acting in the capacity as a Member of its Board.

The Panel accepted the evidence from the three witnesses led by the ESC that it had been emphasised at the meeting on 20 May 2020 that the information about the re-opening of the recycling centres should be disclosed in a controlled manner, in agreement with the Council and other stakeholders, and not prior to a connected decision being made by the Scottish Government. The Panel agreed with the ESC's representative that the minutes of the meeting and the fact that other FRS Board Members had called on the Respondent to resign from the Board in light of the disclosures he had made supported this. The Panel was satisfied that the Respondent was aware, or should have been aware of, the decision that a coordinated communications strategy was to be created and implemented.

The Panel noted that sometimes confidentiality is a matter of timing, in that information may eventually be released into the public domain. In this case, while the Panel accepted that the question of which re-cycling centres were to open was a matter of public interest, it did not consider the Respondent was entitled to disclose this information when he did. The Panel was satisfied, from the witness evidence and submissions made, that it had been made clear to FRS Members, at the meeting on 20 May 2020, that the information was not to be made public until such a time as the Council had agreed to the proposals and officers had been fully briefed, so that they could manage communications accordingly.

The Panel agreed that, in this case, it was legitimate for FRS to have decided that the information about the re-opening of the recycling centres was to be kept confidential until such a time as it had been able to obtain Council approval and ensure that information was provided to staff and the public in a controlled, uniform and comprehensive manner. The Panel noted that a failure to do so meant that it would have been more difficult for officers to manage internal and external communications effectively. The Panel agreed that a piecemeal disclosing of the information without a communications strategy being in place, a consultation with trade unions about safety being undertaken, adequate training being given to staff, and websites being updated could lead to public confidence in FRS and the Council being undermined.

The Panel noted that paragraph 3.19 of the Code provides that councillors appointed to partner organisations, such as FRS, are “bound by the rules of conduct” of such organisations. The Panel noted that the FRS Members’ Agreement document outlines the “rules of conduct” of the organisation. Clause 12.2 which provides that “each member shall at all times show the utmost good faith to [FRS].” Clause 14.1 of the FRS Agreement relates to conflicts of interest and requires individual board members to act in a way which promotes the success of the organisation, irrespective of any other duties.

The Panel was satisfied that when handling the papers and information he had received by virtue of his role as a Board Member of FRS, both before, during and after the meeting on 20 May 2020, the Respondent was exercising his functions as a Board Member and, as such, was obliged to act in accordance with its Members’ Agreement.

The Panel found that the Respondent, in disclosing the information, had failed to act in the best interests of Fife Resource Solutions and clauses 12.2 and 14.1 of its Members’ Agreement, as required by the Code. Given the Respondent had acted contrary to what had been agreed at the meeting and without having shared any intention to do so, the Panel was not satisfied that the Respondent had any reasonable ground for arguing he was acting in good faith in the best interests of FRS. Instead, the Panel considered that it was clear from the Respondent’s own evidence and submissions that he was trying to ensure that information about the re-opening of the recycling centres was made public. The Panel was of the view that as the press statement was released on behalf of the Conservative Group, it was evident that the Respondent’s contribution was intended to support his political party, rather than to promote the success of FRS. Similarly, the Panel considered that in disclosing information in the Facebook post, the Respondent’s aim had been to act in what he considered were the best interests of his constituents. The Panel did not consider that these perceived interests could be conflated with the best interests of FRS, given its aim of ensuring the information was disseminated in a controlled manner, after all necessary approvals had been obtained. The Panel concluded, therefore that the Respondent had breached paragraph 3.19 of the Code.

As an aside, the Panel noted that anyone can make a complaint to the ESC that a councillor has contravened the Code and there is no requirement for a complainer to outline the capacity in which they are doing so. The Panel noted, in any event, that there was no indication in the complaint form that the complainer, in this case, had made the complaint in any capacity other than that of an individual. The Panel noted that it was apparent, from the ESC’s report, that the complaint had been investigated and referred to the Standards Commission on that basis. The Panel noted that the Respondent had also complained about the fact that while the complaint made to the ESC had concerned an alleged breach of the confidentiality requirements in the Code (paragraphs 3.16 and 3.17), the allegation referred to the Standards Commission was that he had

breached paragraph 3.19. The Panel was satisfied that it was for the Standards Commission to consider the alleged contravention as referred by the ESC. The Panel was of the view, nevertheless, that it was entirely appropriate and competent, in terms of the 2000 Act, for the ESC to identify the provisions in the Code that she considered had been contravened, following investigation, regardless of whether these differed from any identified by the complainer.

Evidence in Mitigation

In mitigation, the Respondent reiterated that he retained the honest belief that he had been acting in good faith in the best interests of FRS when disclosing the information. The Respondent drew the Panel's attention to character references and testimonials submitted on his behalf.

SANCTION

The decision of the Hearing Panel was to suspend the Respondent, Councillor Heer's entitlement to attend all meetings of Fife Council, and all meetings of any other body on which he is a representative or nominee of the council, for January and February 2021.

The decision was made in terms sections 19(1)(b)(i) and 19(1)(b)(iii) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

Reasons for Sanction

In reaching its decision on sanction, the Hearing Panel noted, in mitigation, that the Respondent had co-operated fully with the investigative and Hearing processes. The Panel heard that the Respondent had been a councillor for over eight years, having previously been a community councillor for over 20 years, and that he had an unblemished record. The Panel reviewed various character references submitted on behalf of the Respondent and noted that these indicated he took his position as a councillor very seriously and that he worked hard to assist his constituents and improve communities within his ward. The Panel noted that, as a result of him having disclosed the information, the Respondent was no longer a Director of Sustainability Fife Ltd or a member of the Board of FRS.

The Panel emphasised, however, that the requirement for councillors to abide by the rules of conduct of any partner organisations they are appointed to is an important requirement of the Code. This includes acting in good faith and refraining from disclosing confidential information. The Panel noted that a failure to do so can damage the reputation and integrity of a Council and, further, can impede discussions and decision-making at meetings of the partner organisation. The Panel was concerned that the Respondent did not seem to recognise that divulging confidential information was not in the best interest of FRS and was, therefore, a breach of his duty to act in good faith. Instead, the Respondent appeared to have chosen to act in the interests of his party and his role as a constituency representative.

The Panel was nevertheless of the view that the Respondent's conduct did not warrant a more severe sanction. While the Panel noted that the question of when the information was to be disclosed was simply one of timing and did not, therefore, accept the Respondent's argument that his overriding aim was to be transparent, it nevertheless noted that the contravention had been limited to the one incident.

RIGHT OF APPEAL

The Respondent has a right of appeal in respect of this decision, as outlined in Section 22 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

Date: 22 December 2020



**Professor Kevin Dunion
Chair of the Hearing Panel**

25th February, 2021

Agenda Item No. 12

Appointment to St. Andrews Links Trust

Report by: Morag Ferguson, Head of Legal and Democratic Services

Wards Affected: All Wards

Purpose

Following the expiry of the term of office of a Council non-elected member representative on the St. Andrews Links Trust, the Council is asked to appoint a member nominated by the local golf clubs.

Recommendation(s)

The Council is asked to approve the appointment of Mrs. Sandra Tuddenham, a nominee from the local golf clubs, to the St. Andrews Links Trust for the period 1st April, 2021 to 31st December, 2023.

Resource Implications

None.

Legal & Risk Implications

External organisations have their own governance structures, and members should seek advice from Finance & Corporate Services on any concerns they have on membership of the organisations. In particular, members may be subject to other legislation such as the Companies Acts (directors' responsibilities) and charity law.

Impact Assessment

An EqIA is not required because the report does not propose a change or revision to existing policies and practices.

Consultation

St. Andrews Links Trust and the Inter-Club Liaison Committee, St. Andrews.

1.0 Background

- 1.1 The St. Andrews Links Trust consists of eight members who are Trustees of the Links Trust, three of whom are appointed by Fife Council. Appointments to the Links Trust are for a 3 year period.
- 1.2 In accordance with the Protocol Agreement which exists between the Council and the St. Andrews Links Trust, the local golf clubs are invited to take up one of the Council places on the Trust, and nominations are sought from the Inter-Clubs Liaison Committee (ICLC).
- 1.3 Mrs Irene Morrison, a representative from the local golf clubs, was first appointed to the Trust by Fife Council on 1st January, 2015, and was subsequently re-appointed for a second term on 1st January, 2018. Her current term of appointment was due to expire on 31st December, 2020, however an extension was granted until 31st March, 2021 due to Covid-19.
- 1.4 Members nominated by the ICLC to the Links Trust are restricted to two consecutive terms of appointment.
- 1.5 The Council's other representatives on the Trust are the Provost, and Councillor Ann Verner.
- 1.6 The ICLC were invited to submit the names of three candidates for consideration from whom an appointment could be made and, following interview, it is recommended that Mrs Sandra Tuddenham be appointed to replace Mrs Irene Morrison.

2.0 Rights and Responsibilities of Elected Members

- 2.1 Advice has been given in the past to elected members and officials who have been nominated to take up directorships of companies or trusts. Further advice can be provided to include information on the rights and responsibilities of elected members taking up positions on other forms of outside organisations such as Management Committees and unincorporated associations if required.

Report Contact

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25th February, 2021

Agenda Item No. 13

NOTICE OF MOTIONS

Report by: Morag Ferguson, Head of Legal and Democratic Services

Wards Affected: All

Purpose

In terms of Standing Order 8.1, the attached notice of motions have been submitted.

Recommendation(s)

Council is asked to consider the motions.

Resource Implications

Not applicable.

Legal & Risk Implications

Not applicable.

Impact Assessment

Not applicable.

Consultation

Not applicable.

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Fife Council – 12th November, 2020 – Motions Update

Motion	Update
Motion 1 (agreed unanimously)	Letter sent to John Swinney, Cabinet Secretary for Education and Skills on 5 th January, 2021. Response received 5 th February, 2021.
Motion 2 (agreed unanimously)	No specific action required. SRA allowances transferred as required.
Motion 3 (agreed unanimously)	No specific action required.
Motion 4 (conjoined motion agreed)	No specific action required.
Motion 5 (conjoined motion agreed)	Letter sent to Humza Yousaf, Cabinet Secretary for Justice on 5 th January, 2021. Response received 20 th January, 2021.
Urgent Motion (motion agreed)	Letter sent to Roseanna Cunningham, Cabinet Secretary for the Environment, Climate, Change and Land Reform on 5 th January, 2021. Response received 1 st February, 2021.

Motion 1

“Council commends the young people in Fife who selflessly provide care for others.

Council notes that:

- Recent research shows that one in five secondary school children may be a young carer. For many, their caring journey begins at a much younger age.
- Caring for someone can be very isolating, worrying and stressful. For young carers, this can negatively impact on their experiences and outcomes in education, having a lasting effect on their life chances.
- Each year, The Carers Trust has organised a Young Carers’ Action Awareness Day. In 2021 this will be renamed Young Carers’ Action Day and marked [on March 16](#).
- The purpose of the day is to raise public awareness of the challenges faced by young people and young adults because of their caring role, and to campaign for greater support for young carers to meet their needs.

Council resolves to:

- Promote Young Carers Action Day as widely as possible on an annual basis, particularly to young carers and their families.
- Ask the Education and Children’s Services Directorate and Fife Health and Social Care Partnership to work with the Carers Trust Scotland, Fife Young Carers and Young Scot to establish an annual event in Fife to mark this date to which young carers and their families can be invited in person or online, and at which appropriate information and services can be accessed.”

Proposed by Councillor James Calder
Seconded by Councillor Tim Brett

Motion 2

“Council recognises there is currently work being done by the Scottish Parliament and charities such as the SSPCA in dealing with illegal puppy farming, However, Council also notes the increase in the sale of puppies from a domestic setting and calls for a report to be presented to the Environment & Protective services sub committee outlining the following:

1. What more Fife Council can do to tackle the rise in domestic puppy selling from homes in Fife.
2. What more could be done to increase applications for a breeding licence across Fife.
3. How a version of the Trusted Trader scheme could be adapted to allow the citizens of Fife a simple online check of breeders who hold a current Fife Council breeding licence allowing our citizens to have confidence in where they are buying their puppies from.”

Proposed by Councillor Gavin Ellis
Seconded by Councillor Kathleen Leslie

Motion 3

NOT EVERY DISABILITY IS VISIBLE.

“Fife Council notes that the charity Crohn's and Colitis UK is encouraging venues, providing accessible toilets to install new signage. This is to help stop stigma and discrimination towards people with Crohn's disease and ulcerative colitis and other invisible conditions. The signs have two standing figures and a wheelchair user with the words" accessible toilet" and the logo "NOT EVERY DISABILITY IS VISIBLE".

Furthermore, Fife Council resolves to ensure that accessible toilets on Council premises bear these signs, also to ask town centre retailers and leisure outlets to do likewise with their accessible toilets.

And seek advice from the charity on the information and training we should provide to Council staff members, ensuring that any changing places toilets in our buildings are properly signposted for visitors.”

Proposed by Councillor Graham Ritchie
Seconded by Councillor David J Ross

Motion 4

“Council recognises and praises our staff's tireless efforts with gritting and snow clearing Fife's roads and pavements throughout the winter period and recent cold snap.

Council further recognises and praises the heroic efforts of local residents who assisted and supported their neighbours, communities, and fellow Fifers throughout winter.

Council recognises despite everyone's best efforts, far too many people experienced preventable distress and difficulties, were entirely cut off from their communities, and endured unnecessary risks and costs because of the lack of snow clearing and gritting in the areas in which they live and work.

Council calls for an urgent review into Fife Council's current Winter Gritting and Snow Clearing Services Policy to assess and determine:

- If it is fit for purpose.
- What lessons can be learnt.
- What additional resources are required to ensure disruption is kept to an absolute minimum.
- The need for more localised budgets and decision making.

Proposed by Councillor Darren Watt

Seconded by Councillor Gavin Ellis

Motion 5

Independent Review of Adult Social Care

"Council agrees to endorse the motion in response to the publication of the Independent Review of Adult Social Care that was agreed unanimously by COSLA Leaders on Wednesday 10th February as follows, and agrees to write to the Scottish Government and to COSLA on this basis:

Leaders note the publication of the Feeley Report on the Independent Review of Adult Social Care in Scotland.

Leaders express their grave concern at the recommendations on governance and accountability which would see the removal of local democratic accountability and a degree of centralisation that would be detrimental to the local delivery of social care and its integration with other key community services.

Leaders endorse the principles set out in the report of:

- Empowering people
- Valuing the workforce
- A human rights approach
-

Leaders strongly agree that the lived experience of those who rely on social care should be embedded within the system and that social care should move to a more person centred approach, recognising the value of not for profit provision. Social care should be:

- Accessible;
- Personalised;
- Integrated;
- Preventative;
- Respectful; and
- Safe.

However, Leaders express particular concern at the recommendation 15 that states: "Accountability for social care support should move from local government to Scottish Ministers, and a Minister should be appointed with specific responsibility for Social Care."

This concern mirrors the findings of the report itself when it says:

“We asked what would worry people about a National Care Service, and the most frequently mentioned concern was that it would bring loss of local knowledge and expertise.”

Leaders also endorse the comments from SOLACE and from Directors of Finance in paragraphs 17 and 18 of the report.

Leaders therefore restate COSLA’s position as expressed in the agreed Blueprint for Local Government that:

“Discussion on the future of social care has centred on the potential creation of a National Care Service. This can mean many different things to different people. Moving towards a National Care Service should not be merely accepted as the necessary means of reform without proper consideration of its scope, resourcing and, vitally, its implications for local decision making. Any National Care Service must be locally empowered, reflect the needs of our communities and recognise the vital role of the third sector. It must be outcome focussed with the principle of addressing health inequalities at its core, ensure that social care is on an even playing field and address the financial challenges facing the sector. This can only be achieved by Local Government that is rooted in the community and employs local people.”

Leaders mandate COSLA officers and spokespeople to undertake appropriate lobbying in relation to this report, based on this position.

Proposed by Councillor David Ross
Seconded by Councillor David Alexander

Note

Paragraphs 17 and 18 noted above:

17. SOLACE have expressed a similar position to that set out within this paper – that there are a number of recommendations that already reflect policy positions taken by COSLA. They also recognise that the report identifies challenges that Local Authorities have been wrestling with for years. However SOLACE have expressed concern that there is no recognition within the report that these challenges have arisen as a result of the wider health and social care system, where most of the drivers of demand sit, the current legislative landscape and from the financial envelope afforded to Local Authorities to support adult social care. SOLACE are clear that provided with the investment indicated in the report, Local Government could effectively deliver the system change without the cost and upheaval of the proposed changes in governance and accountability.

Motion 6

“Fife Council:

- * reiterates its belief that the council tax is inherently unfair;
- * recalls that the party currently in Government promised to 'abolish the unfair council tax' in 2007 and again in 2011, and
- * agree that the Co-Leaders should write to the Scottish Government to urge that it commits to doing so and replacing this tax with a system more based upon ability to pay.

This is to ensure that:

- * power can be decentralised, and

* councils can be held to account by their electors, and are more able to provide the services pertinent and necessary to their residents.”

Proposed by Councillor Jane Ann Liston
Seconded by Councillor Jonny Tepp

Motion 7

“Council recognises that from August 2023 a fully funded year of Early Learning and Childcare (ELC) for all children who are not yet five years old at the beginning of the school term will become a universal right.

Council recognises that all children born in January or February can be deferred automatically at parental request and require no assessment for additional funding for ELC.

Council recognises that currently those children born after the start of the school term until December 31st are also entitled to be deferred at parental request but are not automatically granted additional funding for ELC.

Council recognises that there is a lack of equity in this provision and requests a report to the Education & Children’s Services Sub-Committee to advise on the possibility that all children who are under the age of five at the start of the school term will automatically be funded for an additional year of nursery – to begin from this academic year.”

Proposed by Councillor Kathleen Leslie
Seconded by Councillor Dave Dempsey