

# MINUTES

# B - PUBLIC

## Shetland Islands Council

Auditorium, Shetland Museum and Archives, Hays Dock, Lerwick

Wednesday 8 March 2017 at 2pm

### Present:

M Bell	M Burgess
P Campbell	A Cooper
S Coutts	B Fox
R Henderson	A Manson
D Ratter	F Robertson
G Robinson	D Sandison
C Smith	G Smith
T Smith	A Westlake
A Wishart	V Wishart

### Apologies

G Cleaver	A Duncan
M Stout	J Wills

### In Attendance (Officers):

M Boden, Chief Executive  
S Bokor-Ingram, Director of Community Health and Social Care  
H Budge, Director of Children's Services  
C Ferguson, Director of Corporate Services  
N Grant, Director of Development Services  
J Belford, Executive Manager - Finance  
P Peterson, Executive Manager – Executive Services  
J Riise, Executive Manager – Governance and Law  
R Sinclair, Executive Manager – Capital Programme  
J Smith, Acting Executive Manager – Ports and Harbours  
M Holmes, Coastal Zone Manager  
C Anderson, Communications Officer  
L Gair, Committee Officer

### Also in Attendance:

H Sutherland, Head of Planning and Modernisation, NHS

### Chair:

Mr Bell, Convener of the Council, presided.

### Circular:

The circular calling the meeting was held as read. Members were advised that items 4 and 5 on the agenda had been delayed and would therefore be presented to the next meeting of the Council.

### Declarations of Interest

Mr Cooper, Chair of Delting Community Council and Mr Burgess, Chair of Scalloway Community Council, declared their interest in item 1 "Notice of Motion proposed by Councillor J Wills, seconded by Councillor G Robinson". They advised that they would not participate in discussion but would not leave the meeting.

Mr Henderson declared an interest in item 8 "Fresh/Caught Shellfish Landing Dues 2017/18" but advised that he would not leave the meeting during that discussion.

### **Minutes**

The minutes of the meeting held on 18 January 2017 were approved on the motion of Mr C Smith, seconded by Mr Robertson.

The minutes of the meeting held on 22 February 2017 were approved on the motion of Mr C Smith, seconded by Mr Robertson.

### **Convener's Opening Remarks**

"Members, although we have a special meeting now scheduled for 22 March, this being the final public session of an ordinary full council meeting before the pre-election period commences, I wanted to make some personal remarks.

Firstly, I don't know where the last 5 years have gone! That being said when you consider what we faced when we first sat around these tables and what we now have, I am sure you will agree we leave the Council in a much better and more sustainable state than we found it. I wouldn't quite say we found the patient dead on arrival but it was certainly in intensive care and the prospects were not good. By mid-term the patient was well enough to be moved to the general ward to continue recovery and now, as we complete our term, it is home recuperating and building strength ready to face the fresh challenges, no doubt shortly, to come.

We haven't achieved everything everybody set out to achieve but even in the best of circumstances that would never have been possible. But in any circumstances what we have achieved has been extremely noteworthy. Against the backdrop of the most sustained and savage budget cuts imposed by central government post-war, we are about to deliver, for example, a brand new Anderson High School and Hostel; a new Eric Gray centre is being built, both of which will benefit service users throughout Shetland for decades; we resolved the historic 40-year-old housing debt through dogged and careful negotiation with both Westminster and Holyrood thus protecting our tenants from terrible rent rises; we balanced the books; protected our reserves and live within our means. I could go on but many of the Chairs at their individual committees will have been much more specific.

Most of all, from my point of view, we have adopted and have followed a sound constitution and model of governance. Far from being a national laughing stock we are now held up as an example of how a good Council does business. On that note I would like to personally thank officers, Chairs and Members for their efforts in that respect and for the respect consistently shown to this Chair.

We leave the Council in much better state than we found it and however difficult the next 5 years will be, the new Council will start in a much healthier position than this one had. We can be satisfied we have done our bit.

Finally members, whether you are standing again or are standing down I wish you all the best."

Ms Wishart thanked Mr Bell, who she said had been an excellent Convener, Members unanimously concurred.

11/17      **Notice of Motion proposed by Councillor J Wills, seconded by Councillor G Robinson**

The Council considered a Notice of Motion by Councillor J Wills, attached as Appendix 1.

In the absence of Dr Wills, Mr Robinson introduced the Notice of Motion and advised on the importance of having local control rather than have the Scottish Government decide for Shetland. He said that a report was required to inform the process and to present a workable option and how that would be delivered. Mr Robinson moved that the Council approve the Notice of Motion attached as appendix 1. Mr Robertson seconded.

During lengthy debate, some Members spoke in support of the motion and the need to ensure that communities are more involved in their communities as once was the case.

In response to a question, the Convener confirmed that the only amendment to the motion could be a direct negative.

In response to a question regarding what level of discussion there had been with the Scottish Government on this route of groundbreaking change, the Leader advised from discussions with the Local Government Minister that the Scottish Government want to explore the options and there is an opportunity for the Council to be involved in a pilot.

Comment was made that there would be experiences of Community Councils that are less enthusiastic and as Community Councils are made up of volunteers there may not be the commitment to take these powers. It was however suggested, should this proposal be approved, that empowerment should not be limited to Community Councils but to include other Community organisations, such as the North Mainland Community body, who have started three successful businesses and have made great progress to becoming self sustaining.

Mr Fox said that he agreed with the concept but had difficulty with the timing, he questioned the ability of communities to develop their own companies and believed that a request for a report would be adding to the workload of officers. Mr Fox therefore moved, as an amendment, a direct negative to the motion. Mr C Smith seconded.

Following summing up, voting took place with a show of hands and the results were as follows:

Amendment (Mr Fox)	6
Motion (Mr Robinson)	9

Mr Burgess asked that his abstention be recorded.

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### **Decision:**

The Council approved the following:

“That the Council,

- Seeing considerable potential benefits to the people of Shetland by Community Councils becoming corporate bodies with the ability, among other things, to own

property, enter into contracts, employ staff and raise their own revenue, including (but not restricted to) a portion of Council Tax;

- Recognising that this can only be achieved through the powers of the Scottish Parliament;
- Consider that working without islands council partners in Our Islands Our Future initiative may be a suitable way forward, perhaps with a pilot scheme;
- And wishing fully to engage with Shetland's community council's and to consult widely on the development of this proposal for community empowerment;

therefore asks officers to prepare a report, for an early meeting of the next council, on how such a proposal might be taken forward."

12/17

### **Shetland Islands Health and Social Care Partnership: Joint Strategic Commissioning Plan**

The Council considered a report by the Head of Planning and Modernisation, NHS Shetland, (CC-17-17-F) that presented the Shetland Islands Health and Social Care Partnership: Joint Strategic Commissioning Plan.

The Director of Community Health and Social Care and the Head of Planning and Modernisation introduced the report and advised that the report had been considered by Policy and Resources Committee yesterday and would be presented to the NHS Board in April 2017.

During questions reference was made to paragraph 3.3, and assurance was sought in terms of delivery of the Integrated Plan. The Director of Community Health and Social Care said that there was no reason to believe that the Plan would not work and that there was already a good record of joint working between the organisations and that each organisation whether statutory or not, recognise that if the IJB is to succeed everyone needs to work together. The Director of Community Health and Social Care also advised that paragraph 3.4 relates to aspirations that sets the direction of travel and puts down markers, however there has to be a degree of buy in and challenge to all organisations to operate differently. He advised that work has already begun in localities with Community Council engagement and consultation etc. The Director of Community Health and Social Care advised on the importance of focussing on the individual needs of clients, however there are some professional and organisation structures that get in the way of that which the IJB needs to be mindful of and try to break down barriers in organisation. He said that there had already been some movement and some success that can be seen around how care is being provided in the community and the shift in balance is because of the change in the way services are delivered.

Reference was made to the closure of a ward in the Gilbert Bain Hospital to release staff onto other wards, and it was questioned whether this will be an ongoing trend to release more staff into the community. The Director of Community Health and Social Care said that if there is capacity in one area on a consistent basis the only way to alleviate issues in other areas is to shift resources accordingly.

Mr C Smith commented that on the work involved to develop the Integrated Plan and acknowledged that the future will be challenging. Mr C Smith moved that the Council approve the recommendation contained in the report. Mr Robinson seconded.

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**Decision:**

The Council APPROVED the Shetland Islands Health and Social Care Partnership's Joint Strategic Commissioning Plan.

13/17

**SIC Response to 'A Consultation on the Long Term Management of the Crown Estate in Scotland'**

The Council considered a report by the Coastal Zone Manager (DV-27-17-F) that presented a draft response to the consultation on the long term future of the Crown Estate.

The Coastal Zone Manager introduced the report.

During discussion, the Coastal Zone Manager agreed to include in his response mention of marine spacial planning that is being taken forward in conjunction with the NAFC Marine Centre. Members spoke in support of the response and welcomed the opportunity to comment on the long term management of the Crown Estate assets in Scotland.

Members discussed the benefits that local control of the seabed would bring and in response to a question the Coastal Zone Manager explained that there was nothing to stop another party from making a case for control of the seabed around Shetland. The Executive Manager – Governance and Law also provided advice on a number of points, including at Q40 of the response, whereby under local control, should there be any revenue from rent or an annual return, the net value would be available for community benefit. The Chief Executive added that the sale of the seabed would be very rare and, only likely to happen if the seabed was reclaimed when it could be sold to the person reclaiming the land. In terms of capital receipts, these currently have to be put back into more capital assets, and not taken out of the system. The Chief Executive added that amending this duty would allow these receipts of income to be used for other purposes by whoever is managing it.

Further comment was made that the main clauses in the Zetland County Council Act 1974 requiring the Council to have a duty of care for looking after a fair share for Shetland needs to be emphasised.

Mr Cooper moved that the Council approve the recommendation contained in the report, Mr Robinson seconded.

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**Decision:**

The Council RESOLVED that the attached response to the consultation on the long term future of the Crown Estate be sent as its official response, subject to any amendments or additions Members made.

14/17

**Asset Investment Plan, Gateway Process – Business Cases**

The Council considered a report by the Executive Manager – Capital Programme (CPS-02-17-F) that presented the Asset Investment Plan, Gateway Process – Business Cases.

The Executive Manager – Capital Programme introduced the report and advised that the recommendations in the report had been presented to and approved by the Policy and Resources Committee.

Mr Robinson moved that the Council approve the recommendations contained in the report, seconded by Mr C Smith.

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**Decision:**

The Council APPROVED the projects as described in Section 4.0 of the report for implementation.

15/17

**SIC Overall Management Accounts 2016/17**  
**Projected Outturn at Quarter 3**

The Council considered a report by the Executive Manager – Finance (F-028-F) that presented the Overall Management Accounts 2016/17 – Projected Outturn at Quarter 3.

The Executive Manager – Finance introduced the main terms of the report.

Mr Robinson advised that this report had been considered by Policy and Resources Committee and moved that the Council approve the recommendation contained therein. Mr C Smith seconded.

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**Decision:**

The Council reviewed the Management Accounts showing the projected outturn position at quarter 3.

16/17

**Fresh/Caught Shellfish Landing Dues 2017/18**

The Council considered a report by the Acting Executive Manager – Ports and Harbours and the Executive Manager – Finance (PH-04-17F) that presented proposals in terms of Fresh/Caught Shellfish Landing Charges.

The Acting Executive Manager – Ports and Harbours introduced the report and advised on the consultation undertaken with industry stakeholders.

In referring to paragraph 1.1.2 of the report, the Acting Executive Manager – Ports and Harbours was asked if there were any implications arising from the removal of the Live Fish/Fish Feed x 40 trip charge. The Acting Executive Manager – Ports and Harbours said that this was the removal of the more expensive of the two charges, and advised that the aquaculture charges will be reviewed and consulted upon during the year.

Mr Robinson advised that this report had been considered at Policy and Resources and the decision note from the Harbour Board was circulated and approved. Mr Robinson moved that the Council approve the recommendations, as amended at the Harbour Board. Ms Manson seconded.

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**Decision:**

The Council APPROVED:

- Proposal 1 - Caught Shellfish - discounted ad valorem rate - Vessels under 15 metres who undertake to provide weekly details of the weight/value of their caught shellfish landings directly to the Council, including place of landing, or who provide the Council with authorisation to access their landing information from the relevant agent/buyer will qualify for a reduced ad valorem rate of 2% or face a charge of £30 per landing for undeclared landings; and
- The removal of the Live Fish/Fish Feed x 40 trip charges to provide clarity for aquaculture vessel charting as set out in 2.4 of the report.

17/17

### **Corrections to Ferry Operations Income Charges 2017/18**

The Council considered a report by the Executive Manager – Finance (F-037-F) that presented a correction to the Ferry Operations income charges for 2017-18.

The Executive Manager – Finance introduced the report and explained the reason for the correction as presented in the report. He advised that the charges had not been implemented so no overcharging had taken place. In addition, the Executive Manager – Finance advised that the report highlighted a change in 2015 resulting in around 100 journeys being charged at a higher rate. He said that it has not been possible to identify those individuals overcharged but should anyone feel they may have been overcharged they can get in contact with Officers.

Mr C Smith moved that the Council approve the recommendation contained in the report, seconded by Mr T Smith.

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#### **Decision:**

The Council APPROVED the corrections to the Ferry Operations income charges for 2017-18, detailed on Appendix 1 under column headed 'Revised 2017/18 Charge (VAT Exclusive)'.

18/17

### **Annual Investment and Treasury Strategy for 2017/18**

The Council considered a report by the Executive Manager – Finance (F-032-F) that presented the Annual Investment and Treasury Strategy for the Council for the financial year 2017/18.

The Executive Manager – Finance introduced the report.

Mr Robinson advised that this report had been presented to and approved by the Policy and Resources Committee and he moved that the Council approve the recommendations contained in the report. Mr C Smith seconded.

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#### **Decision:**

The Council:

- Approved the Annual Investment Strategy Statement to be followed for the financial year 2017/18, as set out in Appendix 1 section 2.
- Approved the Treasury Management Strategy to be followed for the financial year 2017/18, as set out in Appendix 1 section 3.

- Reviewed the Borrowing Policy to be followed for the financial year 2017/18, as set out in Appendix 1 section 4.
- Approved the Treasury Management Prudential Indicators for 2016/17 to 2019/20, as set out in Appendix 1 section 5.
- Reviewed the four clauses within the CIPFA Code of Practice as set out in Appendix 1 section 6.
- Reviewed the Treasury Management Policy Statement as set out in Appendix 1 section 7, and
- Reviewed the Statement of Treasury Management Practices as set out in Appendix 1 section 8.

19/17

**Shetland Islands Council Medium Term Financial Plan 2016/17 - 2021/22**

The Council considered a report by the Executive Manager – Finance (F-036-17-F) that presented the Council's Medium Term Financial Plan 2016/17 – 2021/22.

The Executive Manager – Finance provided a slide presentation (slides attached as Appendix A).

The Chief Executive addressed the meeting and advised on the importance of the Medium Term Financial Plan and Financial strategy, which he said was prepared by Corporate Management Team. He expressed his thanks to the Executive Manager – Finance for his hard work in preparing this and the other reports presented today, which he acknowledged would have been challenging. The Chief Executive advised that the Medium Term Financial Plan reflected the views of Members expressed over many years and it was now an opportune time for Members to review the Medium Term Financial Plan before the end of their Council term. In addition, he said that this Medium Term Financial Plan came at a time where there is a reduction in Local Government funding making the position locally more challenging than this Council expected. The Chief Executive said that as the 2017/18 budgets had been set it was now time for the Council to prepare for the future and take into account all its knowledge for the next 5 years. He said that there was unlikely to be significant changes to the Medium Term Financial Plan until the next budget setting exercise before Christmas when the Council will be in a position to review the Medium Term Financial Plan this time next year or roll it forward to the following year. He advised on the importance that the Council, as a corporate body, takes advantage of the knowledge of the 22 Councillors and for the next elected Council to start their journey of 5 years with an approved Medium Term Financial Plan.

In recommending the Medium Term Financial Plan to the Council, the Chief Executive referred to the ten bullet points listed, in the slide presentation, and commented on the significance of the first and fourth bullet points, namely “prudent forecasting’ and “focus investment returns on supporting revenue expenditure”.

*(Mr Ratter left the meeting)*

During the discussion, the Executive Manager – Finance said that he did not have the means to answer a question on what wider impact the Scottish Government's 4.5% year on year reductions, would have over the next 5 years. Comment was



made that the Council is a major contributor to the Shetland economy and that the funding reductions would certainly impact and Members were duty bound to have an understanding of those impacts.

During debate, Mr Robinson advised that there had been a lot of discussion on this item at Policy and Resources Committee, and he commented that the Medium Term Financial Plan had led to the positive position that the Council is now in. In that regard, he referred to the Convener's opening remarks that the Council was now in a better position than at the start of this Council term. Mr Robinson moved that the Council approve the recommendations contained in the report, Mr Fox seconded.

Members spoke in support of the Medium Term Financial Plan and the comment was made that the Council will have to be mindful of the impacts of ongoing 4.5% reductions. Members agreed, and it was noted, that the Council will have to engage with the Community Planning Partners to support the services that are most important to the community.

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**Decision:**

The Council ADOPTED the Medium Term Financial Plan by:

- approving the principles of the Plan set out in section 2.2 of the Medium Term Financial Plan;
- approving the assumptions on income and expenditure which underpin the Plan set out in sections 4, 5, 6 and 7 of the Plan;
- approving the Financial Strategy set out in Section 13 of the Plan; and
- approving the Financial Targets as detailed in Appendix B.

20/17

**Long-Term Revenue & Capital Planning – Update**

The Council considered a report by the Executive Manager – Finance and the Executive Manager – Capital Programme (F-039-F) that presented an update on the Long Term Revenue and Capital Planning.

The Executive Manager – Finance and the Executive Manager – Capital Programme introduced the report.

Mr Robinson advised that this report had been presented to and approved by the Policy and Resources Committee. Mr Robinson moved that Council approve the recommendations contained in the report. Mr Robertson seconded.

Mr Robertson advised that in previous years attempts had been made to prepare a 10 year capital plan but that had not included revenue costs. He said that attention has to be paid to the ongoing revenue costs of capital projects embarked upon as revenue is a particular component of any capital programme.

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**Decision:**

The Council to ADOPTED the recommendations:

- To base long term asset investment planning on £6.5m per annum as affordable to the Council, placing no additional burden on the revenue budget from borrowing (based on Scenario 1). To reinforce the decision to consider capital investment in line with the approved Gateway Process for the Management of Capital Projects.
- To instruct Executive Managers to develop, in conjunction with the Executive Manager - Capital Programme, long term asset investment plans for their individual Services that are regularly reviewed to maintain their integrity and relevance.
- To review its Employer discretions in relation to the Pension Fund to determine how future costs can be reduced through making changes to the discretionary awards that can apply when an employee leaves the Council through, for example early retirement.
- That the Council's Investments continue to be used, as per the MTFP, to support the delivery of revenue Services, and that this is done in line with the Investment Withdrawal Policy defined in the MTFP.
- That resource allocation and financial planning should take into account the demographic changes that are projected to occur over the life of the LTFP and to consider the evidence of population changes in making strategic decisions about Service outcomes and setting priorities.

21/17

#### **Corporate Risk Register**

The Council noted a report by the Director of Corporate Services (CRP-05-17-F) that presented the current Corporate Risk Register as part of the organisations Performance Monitoring arrangements.

Mr Robinson advised that this report had been presented to and noted by the Policy and Resources Committee and he moved that the Council note the content of the report. Mr C Smith seconded.

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#### **Decision:**

The Council NOTED:

- the changes to the Corporate Risk Register;
- key risks facing the Council at this time and the action taken to mitigate those risks.

*(Mr Cooper left the meeting)*

**In order to avoid the disclosure of exempt information, Mr Bell moved, Mr C Smith seconded, and the Council RESOLVED to exclude the public in terms of the relevant legislation during consideration of the following items of business.**

The Convener sought declarations of interests for the items to be held in private and invited the Executive Manager – Governance and Law to give advice in relation to the restricted report “Council Office Premises” before declaration were made. After hearing the advice from the Executive Manager – Governance and Law, the following declarations were made:

Mr Bell and Ms Manson declared their interest in item 18 “Council Office Premises”, as Members of the Shetland Charitable Trust. They advised that they would take no part in discussion and leave the meeting.

Mr Henderson declared an interest in item 18 “Council Office Premises”, as a Member of the Shetland Charitable Trust. He advised that he would take no part in discussion and leave the meeting, however he said that he was aggrieved that Members were being dictated to and that they should be left to make up their own mind.

Ms Westlake declared an interest in item 18 “Council Office Premises”, as a Member of the Shetland Charitable Trust. Ms Westlake asked who had taken the decision not to provide Members with sight of the report that would allow them to undertake their own due diligence. The Executive Manager – Governance and Law advised that today he was providing sufficient information and clear advice to Members in terms of their conflict of interest in this item. In that regard he said that this is a legally privileged report and subsequent disclosure of its terms would not simply be a matter relating to the individual choice of a Member, as would normally be the case under the code of conduct. Any breach would seriously affect the legal standing of the Council. The steps taken in this instance were necessary to better protect those who would have a conflict of interest as well as to protect the Council. The Convener said that he was satisfied that Members who are also Trustees on the Shetland Charitable Trust have no choice but to leave the room in this instance.

Mr Wishart declared an interest in item 15 “Inter-Island Air Services Tender Report” as a family member works for Direct Flight, and in item 18 “Council Office Premises” he suggested that any Councillor not standing for re-election do the same.

Mr Fox declared an interest in item 18 “Council Office Premises”, and he would take no part in the meeting.

Mr Robertson declared an interest in item 18 “Council Office Premises”, and he would take no part in the meeting.

22/17 **Confidential Risks**

The Council noted a report by the Director of Corporate Services that presented information with regard to the risks where the information is confidential, commercially sensitive or otherwise exempt from publication.

The Director of Corporate Services introduced the report and the Council noted the report.

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**Decision:**

The Council NOTED the issues of confidentiality and the substance of the risks presented at Appendix 1 and the action taken to mitigate those risks.

*(Mr Wishart left the meeting)*

23/17 **Inter-Island Air Services Tender Report**

The Council considered a report by the Executive Manager – Transport Planning that presented proposals in regard to the tendering of the Inter-Island Air Services contract.

The Director of Development Services introduced the report and responded to questions.

Mr C Smith moved that the Council approve the recommendations contained in the report, Mr T Smith seconded.

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**Decision:**

The Council approve the recommendations contained in the report.

24/17     **Disposal of tugs Tirrick and Shalder**

The Council considered a report by the Acting Executive Manager – Ports and Harbours that presented information relating to the disposal of the tugs Tirrick and Shalder.

The Acting Executive Manager – Ports and Harbours introduced the report.

Ms Manson advised that this report had been considered and approved by the Harbour Board and moved that the Council approve the recommendation contained in the report. Mr Robinson seconded.

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**Decision:**

The Council approved the recommendations in the report.

*(Ms Westlake left the meeting)*

25/17     **Commissioning and Procurement Framework – request to extend contracts**

The Council considered a report by the Director of Corporate Services that presented the Commissioning and Procurement Framework and sought the suspension of Contract Standing Orders to allow the extension of four contracts.

The Director of Corporate Services introduced the report and on the motion of Mr C Smith, seconded by Mr G Robinson, the Council approved the recommendations contained therein.

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**Decision:**

The Council approved the recommendations contained in the report.

(The Council adjourned at 4.15pm)  
(The Council reconvened at 4.20pm)

**Present:**

M Burgess	P Campbell
G Robinson	D Sandison
C Smith	G Smith
T Smith	V Wishart

**In Attendance (Officers):**

M Boden, Chief Executive  
C Ferguson, Director of Corporate Services  
J Belford, Executive Manager - Finance  
J Riise, Executive Manager – Governance and Law

R Sinclair, Executive Manager – Capital Programme  
S Brunton, Team Leader - Legal  
L Gair, Committee Officer

**Also in Attendance:**

M Conroy, Harper MacLeod, Legal Adviser to the Council

**Chair:**

Mr C Smith, Vice-Convenor of the Council, presided.

26/17      **Council Office Premises**

The Council considered a report by the Director of Corporate Services

Mr C Smith moved that the Council approve recommendations in the report. Mr Robinson seconded.

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**Decision:**

The Council approved the recommendations contained in the report.

The meeting concluded at 5.20pm.

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Convenor