

# MINUTES

**B - Public**

**Special Shetland Islands Council  
Auditorium, Shetland Museum and Archives,  
Hays Dock, Lerwick  
Wednesday 18 January 2017 at 10.00am**

## **Present:**

M Bell	M Burgess
P Campbell	A Cooper
S Coutts	A Duncan
B Fox	D Ratter
F Robertson	G Robinson
D Sandison	C Smith
G Smith	T Smith
M Stout	A Westlake
J Wills	A Wishart
V Wishart	

## **Apologies**

G Cleaver	R Henderson
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## **In Attendance (Officers):**

M Boden, Chief Executive  
C Ferguson, Director – Corporate Services  
J Belford, Executive Manager – Finance  
D Irvine, Executive Manager – Economic Development  
P Peterson, Executive Manager – Executive Services  
J Riise, Executive Manager – Governance and Law  
C Anderson, Senior Communications Officer  
L Geddes, Committee Officer

## **Chair:**

Mr Bell, Convener of the Council, presided.

## **Circular:**

The circular calling the meeting was held as read.

The Chair ruled that due to special circumstances, namely due to the timescales involved, the following item of business would be considered at this meeting as a matter of urgency in terms of paragraph 3.2.2 of the Council's Standing Orders for Meetings:

Agenda Item 2 – 2017/18 Financial Settlement

## **Declarations of Interest**

None

In order to avoid the disclosure of exempt information, Mr Bell moved that the Council resolve to exclude the public in terms of the relevant legislation during consideration of the items of business on the agenda.

Mr C Smith seconded.

Dr Wills moved, as an amendment, that both items be considered in public, with the meeting being adjourned if necessary in order to make arrangements to allow the media to attend.

The Convener invited the Executive Manager – Governance and Law to explain why the reports had been marked as exempt within the terms of the relevant legislation.

The Executive Manager – Governance and Law advised that he was required to consider whether the classification of any reports as exempt was appropriate within the terms of the relevant legislation. In the case of the first report on the agenda, it had been classified as exempt under paragraphs six and nine of the relevant legislation because it contained information relating to the financial or business affairs of another body and it also referred to contractual arrangements, whereby the Council would be considering its negotiating position with another body – the body in question in both reports being the Scottish Government. The item had also been considered by two other local authorities – Orkney and the Western Isles – who had received the papers on similar terms and held their discussions in private. He therefore recommended that the discussion take place in private.

The second report had also been classified as exempt under paragraphs six and nine of the relevant legislation, as it also contained details about the business affairs of another body and negotiations leading up to a contractual situation. It was unusual in that it related to the grant being awarded to councils across Scotland, but there was an expectation that this would lead to some consideration of the acceptance of, or response to, this offer. Appendix three of the report also set out the position of another local authority, and discussions had not taken place with this authority as to whether the terms of its response could be disclosed. So, at the very least, appendix three of the report should not be considered in the public domain.

It was requested that consideration of the classification of each report should take place separately, and Dr Wills, with the consent of his seconder, therefore amended his amendment accordingly.

Dr Wills went on to say that as the reports concerned matters of public policy, it was entirely reasonable for them to be discussed in public. It was, on occasion and for good reasons, the case that public bodies did not discuss all their business in public, but this was not one of those occasions. The case for “Our Islands Our Future” was already well-known and the grant offer from the Scottish Government was something which should be discussed in public, as should the terms of acceptance or otherwise of the offer, which were indeed unusual.

The Convener advised that he always gave consideration to the matter of whether reports should be classified as exempt or not, and he had had some discussion with the report authors and the Executive Manager – Governance and Law in respect of these two reports. Following this discussion, he had been convinced that there were perfectly reasonable grounds for considering the reports in private.

Following summing up, voting then took place in respect of the first report “Constitutional Reform Project Update”, and the result was as follows:

Amendment (Dr Wills)	7
Motion (Mr Bell)	11

This report would accordingly be discussed in private.

Discussion then took place relating to the second report “2017/18 Financial Settlement”.

Members speaking in support of discussing the report in public commented that discussions of this nature were normally dealt with in public, and that the rationale for considering the report in private was weak. The method of response was a technicality, and whilst it was entirely appropriate that appendix three should not be discussed in the public domain, it was vital that the people of Shetland understood why the Council was able to accept the offer or otherwise.

Members speaking in support of discussing the report in private highlighted the similarity between the two reports on the agenda, in that both discussed responses that were going to be made to the Scottish Government. It was pointed out that asking local authorities to respond to the grant offer was a recent phenomenon, and that the report should be considered in private in order that the tactics of responding could be discussed. It was pointed out that discussions were at the technical stage, and that there would be full information available regarding the decision made following the meeting.

With the consent of his seconder, Dr Wills agreed to amend his amendment so that appendix three – which contained information relating to the business affairs of another body - should remain classified as exempt, but that the rest of the report should be discussed in public.

Voting took place by show of hands, and the result was as follows:

Amendment (Dr Wills)	10
Motion (Mr Bell)	8

Accordingly the report would be discussed in public, with the exception of appendix three which would remain classified as exempt.

#### 01/17 **Constitutional Reform Project Update**

The Council considered a report by the Executive Manager – Executive Services.

*(Mr Duncan attended the meeting during the following discussion)*

The Executive Manager – Executive Services summarised and explained each of the eleven proposals in the first strand, with the main elements of the second strand being explained by the Executive Manager – Economic Development.

*(Mr Coutts left the meeting during the following discussion)*

The Executive Manager – Executive Services and the Chief Executive then responded to questions from Members.

During the discussion that followed, Members commended the officers involved for the report and on the progress that had been made as part of the OIOF project, and emphasised the need to move forward quickly.

Mr Robinson moved that the Council approve the recommendations contained in the report, and Dr Wills seconded.

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#### **Decision:**

The Council approved the recommendations in the report.

*(Members of the media attended the meeting)*

#### 02/17 **2017/18 Financial Settlement**

The Council considered a report by the Executive Manager – Finance (F-001-F) which provided information relating to the financial package for Shetland Islands Council contained in the Scottish Government's draft budget for 2017/18, the detail of which was set out in the Local Government Finance Circular 9/2016.

The Executive Manager – Finance summarised the main terms of the report, advising that local authorities were being asked to consider the position in advance of the opportunity to discuss budgets as a whole. The offer consisted of two component parts – revenue and capital. The offer in respect of revenue funding was £79.15million, which was £3.8million less than 2016/17. The funding included a number of specific grants, and he outlined each of these. The capital funding being offered was in a slightly better position - being £1.1million more than in 2016/17 - but some funding had been withheld for future use. Overall, the funding package for the Council was considerably lower than 2016/17 and, since 2015/16, revenue grant funding of almost £9million had been lost. Whilst not unexpected, this continued to present an extremely challenging position for the Council. Other funding outside the local government settlement was currently being pursued, and funding to IJBs was being increased. COSLA had held a number of meetings with the government aiming to clarify what local government expected and sought in the financial settlement, and had embarked on a lobbying campaign. He went on to say that it was his recommendation that the Council agree the financial package. The alternatives to not agreeing were not set out, but there was a clear inference that any revision to what was being offered would be on a downward basis.

The Executive Director – Finance and the Chief Executive then responded to questions, and Members noted the following:

- The offer being made was worse than anticipated in terms of what the Council was planning for. However the figure had been revised upwards since 15 December, so it was an improvement on the position the Council had been in before that point.
- The position relating to pupil/teacher ratios changed slightly from year to year in terms of how compliance with the national position was measured and how local authorities who did not comply were dealt with.
- Last year it had been possible to make a correlation between the money that was being taken out of the local government settlement to go into health care. However this year there was a lack of clarity between the two.

It was noted that internal ferry funding discussions were ongoing, but that anything that resulted would not be included in the grant funding. There was no certainty that anything would be received, but it would come through this year if it was.

A lengthy discussion took place regarding the terms of the circular that had been received making the offer, which was regarded as 'unusual' in that it differed greatly from the way the offer had been made in the past.

The Leader pointed out that previously the grant had just been made to local authorities, rather than asking them to intimate if they were not intending to agree. A letter had been sent to him personally on the matter, when the Cabinet Secretary should be aware that council leaders did not have executive authority to agree to its terms. Some discussion took place as to whether this letter had been for the Council to consider rather than the Leader. The Leader confirmed this had been the terms of the

second letter that had been sent by the Scottish Government which extended the deadline.

The Chief Executive advised that Members should focus on the offer that had been made in the Circular sent out on 15 December, and that he could respond on behalf of the Council, should the Council wish to respond.

The implications of not responding to the Circular, or otherwise, were discussed. It was suggested that simply noting the Circular should be an acceptable position. However it was pointed out that not replying would be deemed as an acceptance, so the Council would require to consider whether or not this was its position. It was noted that some local authorities had intimated that they would neither agree nor reject the package until further certainty had been provided around the Scottish Government budget, and that the Council should therefore consider if it wished to take this position.

The Chief Executive said that there was no definitive answer as to how the Circular should be interpreted. However what the Scottish Government had said was that if the offer was not accepted it would make a different offer, and this was likely to be less favourable. Not responding would be considered as acceptance, but there may be adverse consequences if the Council intimated that it was not accepting the offer. Adopting an ambiguous response was risky, as it was not possible to tell how this would be interpreted by the Scottish Government. If Members were minded not to accept the offer, it would be useful to give some thought as to which areas were not acceptable, such as the condition relating to pupil/teacher ratios.

The Executive Manager – Governance and Law added that it was important for Members to have certainty when the Council set its budget on 15 February. The Scottish Government had set out its commitment in the Circular, so that position was certain. If the Council responded in any other terms other than acceptance, this would run the risk of being open to interpretation and leave the position of the Council uncertain.

It was questioned if the Scottish Government would really risk to be seen to be 'punishing' local authorities for not accepting the offer, given that local government elections were imminent and the budget had yet to be resolved by the Scottish Parliament. It was noted that the Council would be considering its budget on 15 February, with the Scottish Government considering its budget on 20 February.

Some Members commented that they suspected there was little leeway in terms of receiving a better offer, so there was little to be gained in terms of debating a response to the Circular. It was pointed out that the terms of the Circular stated that a response was only required if there was an issue with accepting the offer. Acceptance of the offer need not mean that lobbying in relation to securing additional funding for internal ferries and educational issues need stop. Therefore unless there were specific issues about how the funding had been broken down, there was little point in pursuing anything other than acceptance.

It was pointed out that whilst the flexibility to increase Council Tax would make a sizeable difference to larger local authorities, it made little difference locally. The Leader advised that a representation had been made to the Cabinet Secretary in this respect as the revenue available as a result of the increase in upper Council Tax bandings which should be available locally was effectively being removed as a result of the decrease in the settlement.

Mr Robertson highlighted the risks to the Council should it not accept the offer on the table, and accordingly moved that the Council agree that it intends to accept the offer on the table from the Scottish Government and, in doing so, makes no further representation to the Scottish Government at this stage.

Mr T Smith seconded.

In response to a query, Mr Robertson clarified that his motion intended that there should be no response from the Council to the Scottish Government.

Mr G Smith said that whilst he was of the view that the only option that the Council had was to accept the offer, the Scottish Government should be made aware that the Council's acceptance of the offer was with reluctance. The Scottish Government should be made aware of the Council's concerns relating to the timing of the offer, which was prior to the finalising of the Scottish Government's budget which may result in revisions. There were also particular concerns regarding some of the mechanisms for distribution, particularly around education, which did not take cognisance of local factors and meant that the local authority was being penalised as a result.

He accordingly moved, as an amendment, that the Chief Executive or Political Leader write to the Cabinet Secretary that the Council reluctantly intends to accept the offer, but notes its concern that it has been required to indicate acceptance of the offer in advance of the Scottish Government budget being agreed. Should the funding for local government be increased in the process of agreeing the Scottish Government budget, the Council's allocation should be revised accordingly. The Council reiterates its concerns that the mechanism used to allocate funding to schools to close the attainment gap does not recognise the particular circumstances of island authorities, and that the Council seeks urgent discussions with the relevant Cabinet Secretary on this matter.

Mr Campbell seconded

Mr Robinson gave notice of further amendment, advising that he had concerns that the Council should not be responding to the offer, given that the method of offering the grant had fundamentally changed from previous years and accepting the offer would mean accepting it before the Scottish Government set its own budget. It was important that it was not accepted as there were likely to be changes when the Scottish Government set its budget, and his amendment would be that the information in the report should be noted.

After summing up, voting took place by show of hands, and the result was as follows:

Amendment (Mr G Smith)	8
Motion (Mr Robertson)	10

Mr Robinson withdrew his notice of further amendment.

The meeting concluded at 1.10pm.