



Council Offices, Almada Street
Hamilton, ML3 0AA

Tuesday, 15 September 2020

Dear Councillor

South Lanarkshire Council

The Members listed below are requested to attend a meeting of the Council to be held as follows:-

Date: Wednesday, 23 September 2020
Time: 11:30 (or immediately following the Executive Committee, whichever is the later)
Venue: By Microsoft Teams and Banqueting Hall,

The business to be considered at the meeting is listed overleaf.

Yours sincerely

Cleland Sneddon
Chief Executive

Members

Alex Allison, John Anderson, John Bradley, Walter Brogan, Robert Brown, Archie Buchanan, Jackie Burns, Janine Calikes, Stephanie Callaghan, Graeme Campbell, Andy Carmichael, Maureen Chalmers, Gerry Convery, Margaret Cooper, Poppy Corbett, Margaret Cowie, Peter Craig, Maureen Devlin, Mary Donnelly, Isobel Dorman, Fiona Dryburgh, Joe Fagan, Allan Falconer, Grant Ferguson, Alistair Fulton, Geri Gray, George Greenshields, Lynsey Hamilton, Ian Harrow, Eric Holford, Graeme Horne, Mark Horsham, Martin Grant Hose, Ann Le Blond, Martin Lennon, Richard Lockhart, Eileen Logan, Katy Loudon, Joe Lowe, Hugh Macdonald, Julia Marrs, Monique McAdams, Ian McAllan, Catherine McClymont, Kenny McCreary, Colin McGavigan, Mark McGeever, Jim McGuigan, Davie McLachlan, Gladys Miller, Lynne Nailon, Richard Nelson, Carol Nugent, Mo Razzaq, John Ross, Graham Scott, David Shearer, Collette Stevenson, Bert Thomson, Margaret B Walker, Jim Wardhaugh, Jared Wark, David Watson, Josh Wilson

BUSINESS

1 Sederunt and Declaration of Interests

- | | |
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| 2 Minutes of Previous Meeting | 5 - 14 |
| Minutes of the meeting of South Lanarkshire Council held on 26 February 2020 submitted for approval as a correct record. (Copy attached) | |
| 3 Previous Special Meeting | 15 - 16 |
| Note of Delegated Decisions taken by the Chief Executive, in consultation with Group Leaders, on items of business relating to South Lanarkshire Council on 25 March 2020 submitted for information. (Copy attached) | |
| 4 Minutes of Risk and Audit Scrutiny Committee | 17 - 22 |
| Minutes of the meeting of the Risk and Audit Scrutiny Committee held on 27 November 2019 submitted for noting. (Copy attached) | |
| 5 Minutes of Risk and Audit Scrutiny Committee | 23 - 28 |
| Minutes of the meeting of the Risk and Audit Scrutiny Committee held on 19 February 2020 submitted for noting. (Copy attached) | |

Item(s) for Decision

- | | |
|--|---------|
| 6 Recommendations Referred by Executive Committee - Annual Investment Report 2019/2020 | |
| Report dated 24 August 2020 by the Chief Executive. (Copy to be tabled) | |
| 7 Review of the South Lanarkshire Scheme for Establishment of Community Councils | 29 - 36 |
| Report dated 24 August 2020 by the Executive Director (Finance and Corporate Resources). (Copy attached) | |
| 8 Notice of Motion - Support of Greater Control of the Use of Fireworks | 37 - 38 |
| Motion received in terms of Standing Order No 19 on 13 July 2020, proposed by Councillor Marrs and seconded by Councillor McClymont. (Copy attached) | |
| 9 Notice of Motion - Reverse Saving CER09 from the 2020/2021 Budget | 39 - 40 |
| Motion received in terms of Standing Order No 19 on 2 September 2020, proposed by Councillor Watson and seconded by Councillor McAdams. (Copy attached) | |
| 10 Notice of Motion - The Coronavirus Crisis | 41 - 42 |
| Motion received in terms of Standing Order No 19 on 4 September 2020, proposed by Councillor Brown and seconded by Councillor McGeever. (Copy attached) | |
| 11 Notice of Motion - Achieving Equity for People of Black and Minority Ethnic Origin | 43 - 44 |
| Motion received in terms of Standing Order No 19 on 7 September 2020, proposed by Councillor Razzaq and seconded by Councillor McGeever. (Copy attached) | |

Item(s) for Noting

- 12 European Charter of Local Self Government (Incorporation) (Scotland) Bill** 45 - 56
Report dated 28 August 2020 by the Executive Director (Finance and Corporate Resources). (Copy attached)
- 13 Amendments to Memberships of Committees, Forums etc** 57 - 60
Report dated 26 August 2020 by the Executive Director (Finance and Corporate Resources). (Copy attached)
- 14 South Lanarkshire Integration Joint Board – Reappointment of the Council’s Voting Members and Substitute Members** 61 - 62
Report dated 1 July 2020 by the Executive Director (Finance and Corporate Resources). (Copy attached)
- 15 Standards Commission's Hearing Outcome** 63 - 66
Report dated 24 August 2020 by the Chief Executive. (Copy attached)

Urgent Business

16 Urgent Business

Any other items of business which the Chair decides are urgent.

For further information, please contact:-

Clerk Name: Susan Somerville

Clerk Telephone: 01698 454197

Clerk Email: susan.somerville@southlanarkshire.gov.uk

Minutes of meeting held in the Council Chamber, Council Offices, Almada Street, Hamilton on 26 February 2020

Chair:

Provost Ian McAllan

Councillors Present:

Councillor Alex Allison, Councillor John Anderson, Councillor John Bradley, Councillor Robert Brown, Councillor Archie Buchanan, Councillor Jackie Burns, Councillor Janine Calikes, Councillor Stephanie Callaghan, Councillor Graeme Campbell, Councillor Maureen Chalmers, Councillor Gerry Convery, Councillor Margaret Cooper, Councillor Poppy Corbett, Councillor Margaret Cowie, Councillor Peter Craig, Councillor Maureen Devlin, Councillor Mary Donnelly, Councillor Isobel Dorman, Councillor Fiona Dryburgh, Councillor Joe Fagan, Councillor Allan Falconer, Councillor Grant Ferguson, Councillor Alistair Fulton, Councillor Geri Gray, Councillor George Greenshields, Councillor Lynsey Hamilton, Councillor Ian Harrow, Councillor Eric Holford, Councillor Graeme Horne, Councillor Mark Horsham, Councillor Martin Grant Hose, Councillor Ann Le Blond, Councillor Martin Lennon, Councillor Richard Lockhart, Councillor Eileen Logan, Councillor Katy Loudon, Councillor Joe Lowe, Councillor Hugh Macdonald, Councillor Julia Marrs, Councillor Catherine McClymont, Councillor Kenny McCreary, Councillor Colin McGavigan, Councillor Mark McGeever, Councillor Jim McGuigan, Councillor Davie McLachlan, Councillor Gladys Miller, Councillor Lynne Nailon, Councillor Richard Nelson, Councillor Carol Nugent, Councillor Mo Razzaq, Councillor John Ross, Councillor Graham Scott, Councillor David Shearer, Councillor Collette Stevenson (Depute), Councillor Bert Thomson, Councillor Margaret B Walker, Councillor Jim Wardhaugh, Councillor Jared Wark, Councillor David Watson, Councillor Josh Wilson

Councillors' Apologies:

Councillor Walter Brogan, Councillor Andy Carmichael, Councillor Monique McAdams

Attending:

Chief Executive's Service

C Sneddon, Chief Executive

Community and Enterprise Resources

M McGlynn, Executive Director

Education Resources

T McDaid, Executive Director

Finance and Corporate Resources

P Manning, Executive Director; G Bow, Administration Manager; G McCann, Head of Administration and Legal Services; S Somerville, Administration Manager

Housing and Technical Resources

D Lowe, Executive Director

Social Work Resources/Health and Social Care

V de Souza, Director

Opening Remarks

The Provost advised that this would be the last Council meeting that Gordon Bow would attend prior to his retirement and thanked him for his contribution and commitment over the years.

Councillor Nelson, on behalf of the Council, wished to congratulate Councillor Hose on the birth of his son.

1 Declaration of Interests

Prior to inviting declaration of interests, G McCann, as Monitoring Officer, reminded elected members on restrictions on voting in setting the level of Council Tax in the event that any member present was at least 2 months in arrears with payment of Council Tax or had outstanding bills for Community Charge/Poll Tax.

No interests were declared.

2 Minutes of Previous Meeting

The minutes of the meeting of the South Lanarkshire Council held on 4 December 2019 were submitted for approval as a correct record.

The Council decided: that the minutes be approved as a correct record.

3 Minutes of Special Meeting

The minutes of the special meeting of the South Lanarkshire Council held on 13 February 2020 were submitted for approval as a correct record.

The Council decided: that the minutes be approved as a correct record.

4 Minutes of Risk and Audit Scrutiny Committee

The minutes of the meeting of the Risk and Audit Scrutiny Committee held on 18 September 2019 were submitted for noting.

The Council decided: that the minutes be noted.

5 Grant Settlement and Overall Position of Revenue Budget, Savings Proposals and Level of Local Taxation 2020/2021

A report dated 17 February 2020 by the Executive Director (Finance and Corporate Resources) was submitted on:-

- ◆ capital and revenue grant funding allocated to the Council for 2020/2021
- ◆ proposed savings for 2020/2021
- ◆ proposed increase in Council Tax for 2020/2021
- ◆ proposed Revenue Budget 2020/2021, including the base budget allocations to Resources

The Finance Circular, issued by the Scottish Government on 6 February 2020, advised of a 2020/2021 General Capital Grant for South Lanarkshire of £21.224 million. In addition, £5.921 million of Specific Grant had been allocated for Early Learning, vacant and derelict land, as well as Cycling, Walking and Safer Streets, the breakdown of which was detailed in the report.

It was noted that arrangements would be made for a special meeting of the Council to be held in March 2020 to consider the overall Capital Programme for 2020/2021, both General and Specific.

At its meeting on 4 December 2019, the Executive Committee was advised of the updated Revenue Budget Strategy for 2020/2021 which stated a savings requirement of £13.651 million. Savings proposals of £10.006 million, including the £1.100 million of savings approved by the Integration Joint Board (IJB) on 3 December 2019, were presented to that meeting. The Strategy showed that, after taking account of those savings, there was a budget gap of £3.645 million and it was proposed that this be funded on a one-off basis from the Council's Reserves. This position included an increase in Council Tax of 3% for 2020/2021.

Revenue Grant for 2020/2021 now totalled £605.508 million and consisted of the following:-

	£m
Specific Grants	40.141
Non-Domestic Rate Income	337.810
General Revenue Grant	227.557
Total General Revenue Funding	605.508

Details were provided on the movement in grant year on year on a like for like basis, the assumed level of grant cut within the Council's Budget Strategy and how the level of grant affected the Budget Strategy.

A summary was given, within Table 2 of the report, on the impact of the Grant Settlement and the Budget Adjustments. This showed an improved position of £2.814 million compared to the Budget Strategy assumptions. Details were provided on the options available on how this sum of money could be used and it was proposed that the £2.814 million be used to reduce the reliance on temporary solutions.

A proposed savings package, totalling £10.006 million, was attached as Appendix 3 to the report. This included the £1.100 million of savings that were approved by the IJB in December 2019.

The Council had been advised that the cap on Council Tax would remain on the same basis as 2019/2020 which meant that councils would be allowed the flexibility to increase Council Tax by 4.84%. The Strategy included the assumption that Council Tax would increase by 3% in 2020/2021, which would generate income of £3.900 million and set the Council Tax for Band D properties at £1,203. It was, therefore, proposed that a 3% increase in Council Tax be implemented.

The proposed overall budget for financial year 2020/2021, including income and expenditure, was summarised in Table 5 of the report. The proposed base budget allocations to Resources were attached as Appendix 4 to the report.

Should there be an increase to the final Grant Settlement, proposals would be brought to elected members for their consideration at a future date.

Councillor Ross advised that he was proposing the following as an alternative, consensus budget which had been agreed by all the political/independent groups and would be in the best interests of the citizens of South Lanarkshire:-

- "1. In relation to recommendations 1,2,3 and 6 as detailed below – it is proposed these would be as detailed in the published paper.

(1) that the capital grant settlement for 2020/2021 (section 4) be noted;

(2) that the revisions to the approved budget strategy as detailed in section 5.2/5.3 are approved;

(3) that the Revenue Budget grant settlement for 2020/2021 (section 6.2), and that the improved position to the budget strategy of £2.814 million (section 6.14) compared to the assumed level, be noted;

(6) that the proposed increase in Council Tax of 3% (section 8), which would set the Council Tax for Band D properties at £1,203, be approved;

2. In relation to recommendation 5, it is proposed that savings in the published paper are accepted subject to the following savings being **removed**. These removed savings total **£3.039m**

Savings reference	Savings Description	FTE	£m
CER02	Roads Ad-Hoc Works Budget	0.0	0.450
CER10	Rationalisation of Grass Cutting Machinery	2.0	0.140
CER11	Grounds Services	6.0	0.180
CER14	Janitorial Provision	4.0	0.100
CER22	Community Managed Halls	1.4	0.029
CER24	Parking Permit Charge	0.0	0.025
CER25	Park and Ride Charging	0.0	0.075
CER29	Flood Risk Management	0.0	0.195
CER30	Trading Standards Inspections	2.0	0.100
CER31	Grass Bankings	2.5	0.080
CER32	Hedge Maintenance	4.0	0.090
CER33	Leisure Centres - Opening Hours	5.3	0.135
CER34	Duncanrig and Uddingston Dual Use Facilities - Term Time Opening	0.7	0.025
EDR03	Classroom Materials Budget in Schools	0.0	0.180
EDR04	Teachers in Early Learning and Childcare	0.0	0.130
EDR05	Secondary School Staffing	9.0	0.310
EDR06	Learning Community Staffing	2.0	0.070
EDR07	Hamilton School for the Deaf Staffing	1.0	0.070
EDR09	Area Cover Scheme	3.5	0.115
EDR14	Targeted Class Sizes Support - Primary 1	13.0	0.440
EDR15	Additional Behaviour Support in Secondary Schools	3.0	0.100
	TOTAL	59.4	3.039

3. It is recommended that saving CER26 (Activage) is changed to restrict the increase in charge to 3%. The charge will therefore be £59.70.

Given that this represents a reduction in the proposed charge in comparison to that included in the published savings, the savings are therefore reduced by **£0.045m**.

Approval of sections 2 and 3 will result in an overall savings package of **£6.922m** (75.9 fte) which is **£3.084m** less than the current proposed package of savings.

4. It is proposed that, to balance the budget position, recommendation 4 (*that the £2.814m improved position be used to reduce temporary solutions*) is removed.

It is proposed that the £2.814m will now bridge the shortfall in the budget as a result of the savings in sections 2 and 3 being changed.

The remaining shortfall of **£0.270m** will be met from reserves on a one year basis.

Should the final offer of grant approved by the Scottish Parliament exceed the currently notified level, then the £0.270m drawn from reserves will be replaced by grant funding.

5. That Recommendation 7 (*that the revenue budget 20/21 including base budget allocations to Resources as shown in Appendix 4*) be approved subject to the adjustments detailed at 2 to 4 above."

In moving the alternative budget, Councillor Ross commended all councillors for their hard work to achieve the best possible deal which would provide value for money. The proposals, while seeking efficiencies, would put the money available to good use and protect frontline services. He spoke on key aspects of the proposals and concluded by thanking all Group leaders, in particular, Councillor Cooper as Chair of the cross-party group, for the constructive way agreement had been reached. He also wanted to record his thanks to officers for their assistance with the process.

Councillor Fagan, in seconding the proposals for an alternative budget, advised that he would echo the sentiments of Councillor Ross in that it was a priority to protect both frontline services and frontline workers, with no compulsory redundancies. He highlighted that public services were overstretched and difficult decisions had to be taken, however, the alternative budget proposed set out as fair and reasonable a position as was possible. He welcomed the contribution from all political/independent groups and called upon both the UK and Scottish Governments to deliver fair funding for public services.

Councillor Allison highlighted that all political/independent groups had made concessions for the benefit of South Lanarkshire residents. He referred to COSLA's confirmation that there had been a 1% reduction in block grant funding from the UK Government to the Scottish Government, however, local authorities then, in turn, had a 17% reduction in funding which had led to the need to increase Council Tax. He considered that the First Minister and Scottish Government should be lobbied on this matter otherwise there would be a requirement year on year for increases in Council Tax and a reduction in services. While his Group was content to support the alternative budget, he wanted its concerns in relation to the 3% Council Tax increase to be noted.

Councillor Brown, seconded by Councillor Dryburgh, put the following forward as an addendum to the alternative budget:-

"In doing so, Council expresses its concern that decisions over the future of the Day Care service have been made by the IJB before receipt of the current Review into Day Care and requests that the IJB consults further with the Council over the outcome of the review.

Council further –

1. notes with approval the collaborative approach initiated by the Independent Group which led to an agreed budget;

2. notes the potential pressures on social work budgets from the Hamilton and Rutherglen home care services and the Day Service review and the Director of Finance's view that this can be contained within current resources including the projected 2019/2020 underspend of £2.658 million."

Councillor Brown spoke on what he considered were the key issues, including climate change and health and social care, and welcomed the major achievement of cross-party consensus.

Councillor Cooper intimated that her Group was very focused on issues relating to Roads, Leisure and Culture, Land and Social Work services. She thanked the Executive Director (Finance and Corporate Resources) and his wider team for their prompt and detailed responses to questions raised. As chair of the cross-party working group, she wanted, in particular, to thank Councillor Chalmers for her role in supporting the group and she welcomed the fact that the meetings had been solution focused to reach a balanced budget.

The Executive Director (Finance and Corporate Resources) responded to members' questions in relation to the IJB.

It was agreed that the addendum by Councillor Brown be accepted subject to the word 'contained', within the second point, being replaced by 'utilised to manage these pressures'.

The Council decided:

- (1) that the capital grant settlement for 2020/2021 be noted;
- (2) that the revisions to the approved budget strategy, as detailed in paragraphs 5.2 and 5.3 of the report, be approved;
- (3) that the Revenue Budget grant settlement for 2020/2021 and improved position to the budget strategy of £2.814 million compared to the assumed level be noted;
- (4) that the increase to Council Tax of 3%, which would set the Council Tax for Band D properties at £1,203, be approved;
- (5) that the savings detailed in Appendix 3 to the report be accepted subject to the removal of those detailed at point 2 of the alternative budget outlined above totalling £3.039 million;
- (6) that saving CER26 (Activage) be changed to restrict the increase in charge to 3%;
- (7) that the £2.814 million improved position be used to bridge the shortfall in the budget as a result of the changes to the savings as detailed above, with the remaining shortfall of £0.270 million to be met from reserves on a one year basis unless the final offer of grant approved by the Scottish Parliament exceeded the currently notified level, at which the £0.270 million would be replaced by grant funding;
- (8) that the Revenue Budget for 2020/2021, including the base budget allocations to Resources, as detailed in Appendix 4, be approved subject to the adjustments detailed within Recommendations (5) to (7);
- (9) that concerns be noted in respect of decisions in relation to the future of the Day Care Service having been made by the IJB before receipt of its current Review and a request be made that the IJB consults further with the Council over the outcome of the Review;
- (10) that the collaborative approach initiated by the Independent Group, which had led to an agreed budget, be commended; and

- (11) that the potential pressures on Social Work budgets from the Hamilton and Rutherglen Home Care Services and the Day Service Review be noted as well as the view of the Executive Director (Finance and Corporate Resources) that the projected 2019/2020 underspend of £2.658 million could be utilised to manage those pressures within current resources.

[Reference: Minutes of the Executive Committee of 4 December 2019 (Paragraph 7)]

6 Recommendation Referred by Executive Committee – Housing Revenue and Capital Account Budget 2020/2021

A report dated 26 February 2020 by the Chief Executive was tabled on recommendations referred to the Council by the Executive Committee of 26 February 2020. The recommendations were as follows:-

- ◆ **Housing Revenue and Capital Account Budget 2020/2021**
 - ◆ that the Revenue Estimate proposals for the Housing Revenue Account Budget 2019/2020 be approved
 - ◆ that the rent increase of 3.95% for Council houses, travelling persons' sites, lockups and garage sites be approved
 - ◆ that the proposal to progress the next stage of rent harmonisation be approved
 - ◆ that, based on the proposed rent increase of 3.95% and taking account of the recommendation from the special Housing and Technical Resources Committee of 5 February 2020, the updated 2020/2021 Housing Capital Programme, totalling £97.303 million, be approved.

The Council decided: that the recommendations of the Executive Committee of 26 February 2020 in relation to the Housing Revenue and Capital Account Budget 2020/2021 be approved.

[Reference: Minutes of the Executive Committee of 26 February 2020 (Paragraph 8)]

7 Recommendation Referred by Executive Committee – Family Leave Guidance for Elected Members

A report dated 6 January 2020 by the Executive Director (Finance and Corporate Resources) was submitted on a recommendation referred to the Council by the Executive Committee of 4 December 2019. The recommendation was as follows:-

- ◆ **Family Leave Guidance for Elected Members**
 - ◆ that the new Elected Member Family Leave Guidance, produced by COSLA, be approved and implemented

The Head of Administration and Legal Services advised that, since the Executive Committee met on 4 December 2019, an update had been received from COSLA to advise that the proposals included the removal of the cap on the number of Senior Councillors that each council was permitted to have to allow for the interpretation of the new guidance. The new regulations had been lodged with Parliament for the committee process to be undertaken and it was expected they would come into force later in the year.

Councillor Hamilton welcomed the guidance, intimating that it would encourage young people to become elected members.

The Head of Administration and Legal Services responded to members' questions and advised that the new regulations were not limited to leave for family reasons but for any issue that the Council considered it appropriate to grant leave of absence.

The Council decided: that the recommendation of the Executive Committee of 4 December 2019 in relation to the new Elected Member Family Leave Guidance by COSLA be approved and implemented.

[Reference: Minutes of the Executive Committee of 4 December 2019 (Paragraph 10)]

Councillor Le Blond left the meeting following this item of business

8 Climate Change and Sustainability Committee – Draft Terms of Reference

A report dated 6 January 2020 by the Executive Director (Finance and Corporate Resources) was submitted on the draft Terms of Reference for the Climate Change and Sustainability Committee.

At its meeting held on 25 September 2019, the Council agreed that a new committee on climate change and sustainability be established. At the Council meeting held on 4 December 2019, it was agreed that a draft Terms of Reference for the committee would be submitted to the Standards and Procedures Advisory Forum (SPAF) in the first instance prior to being brought to a future meeting of the Council for approval.

It was proposed that the Terms of Reference, attached as an appendix to the report, which had been endorsed by the SPAF, be approved. The membership was the same as for the Executive Committee to reflect the high level status of the committee.

The Council decided: that the Terms of Reference for the Climate Change and Sustainability Committee, attached as Appendix 1 to the report, be approved.

[Reference: Minutes of 4 December 2019 (Paragraph 5)]

9 Notice of Motion – Child Refugees

In terms of Standing Order No 19, a motion proposed by Councillor Walker, seconded by Councillor Devlin, was submitted as follows:-

“This Council resolves to support the STUC/Dumfries TUC/Safe Passage Kindergarten Association “Our Turn” initiative.

The Our Turn Campaign is asking the UK Government to support 10,000 at risk refugees from Europe and other conflict regions over the next 10 years as part of a new Child Refugee Resettlement scheme.

To this end the Council agrees to use its resources to help find places in volunteer households for at least 3 unaccompanied child refugees per year for each of the next 10 years provided that the UK Government underwrites support for these refugees in line with current legislation.”

In moving her motion, Councillor Walker acknowledged that the Council had already put in place arrangements to accept and support child refugees. She, therefore, accepted a proposal by Councillor Chalmers to amend the motion and this was agreed by the Council to read as follows:-

“This Council resolves to support the STUC/Dumfries TUC/Safe Passage Kindergarten Association “Our Turn” initiative.

The Our Turn Campaign is asking the UK Government to support 10,000 at risk refugees from Europe and other conflict regions over the next 10 years as part of a new Child Refugee Resettlement scheme.

This Council has had a strong track record in resettling and providing support to refugees and the recent report to the Executive Committee highlights the success of our work.

We note that the Council has also established successful arrangements for the support of unaccompanied asylum-seeking children (UASC) who have been accommodated in South Lanarkshire.

We recognise that all children accommodated, whether UASC or not, can only be placed following appropriate compliance with Social Work and Social Care Regulations. These children would all also be entitled to Continuing Care and Throughcare Regulations post 18 years so costs will increase year on year.

We as a council recognise the humanitarian crisis faced by many such children who seek sanctuary in Scotland and are pleased to endorse the Motion.

We also endorse the call for the UK Government to extend the financial support arrangements to unaccompanied asylum-seeking children to match the arrangements in place for the Global Refugee Programme.”

The Council decided: that the terms of the motion, as amended, be supported.

10 Urgent Business

There were no items of urgent business.

South Lanarkshire Council (Special) Agenda of 25 March 2020 – Delegated Decisions taken by the Chief Executive, in consultation with the Group Leaders

1 Sederunt and Declaration of Interests

No interests were declared.

2 Update to Local Government Settlement and Capital Programme 2020/2021

Decided:

- (1) that the updated Local Government Settlement, as detailed in Section 4 of the report, be noted;
- (2) that the balance of funding from the updated settlement be used to contribute towards the Capital Programme;
- (3) that the option to reduce the South Lanarkshire Integration Joint Board allocation by 2% (£2.5 million), as detailed at paragraph 4.9, be not taken;
- (4) that, should the Stage 1 additional revenue funding of £5.659 million recur in financial year 2021/2022, it be treated as core revenue funding;
- (5) that the proposed programme of General Services' capital projects totalling £91.192 million for the year 2020/2021, as summarised in Appendix 5, with details of the new projects in Appendix 1 to the report, be approved; and
- (6) that the accompanying funding, as detailed in Appendix 6 to the report, be noted.

3 Prudential Indicators Treasury Management Strategy and Annual Investment Strategy 2020/2021

Decided: that the Prudential Code Indicators for the period 2020/2021 to 2022/2023, the Treasury Management Strategy for 2020/2021 and the Annual Investment Strategy for 2020/2021 be approved.

4 Recommendations Referred by Executive Committee – Delegated Powers to the Chief Executive

Decided:

to note that there was now no requirement for this item as, in terms of Standing Order No 36(c), the Chief Executive's delegated authority had been extended to deal with issues, in consultation with the Group Leaders, that would normally be subject to committee approval during periods of national emergency being declared by the Government or other emergency situations involving the closure of public buildings, with a report on the issues dealt with during such a period being submitted to committee for noting at the earliest opportunity.

5 Urgent Business

There were no items of urgent business.

RISK AND AUDIT SCRUTINY COMMITTEE

Minutes of meeting held in Committee Room 2, Council Offices, Almada Street, Hamilton on 18 September 2019

Chair:

Councillor Graeme Campbell

Councillors Present:

Councillor Poppy Corbett, Councillor Maureen Devlin, Councillor Mary Donnelly, Councillor Mark Horsham, Councillor Julia Marrs, Councillor Carol Nugent, Councillor Margaret B Walker

Councillor Also Present:

Councillor John Ross (for items 3 and 4)

Councillors' Apologies:

Councillor Martin Lennon, Councillor Jim Wardhaugh

Attending:

Finance and Corporate Resources

P Manning, Executive Director and Depute Chief Executive; Y Douglas, Audit and Compliance Manager; P MacRae, Administration Officer; N Reid, Improvement and Community Planning Manager; J Taylor, Head of Finance (Strategy)

Also Attending:

Audit Scotland

A Kerr, F Mitchell-Knight and D Richardson, External Auditors

1 Declaration of Interests

No interests were declared.

2 Minutes of Previous Meeting

The minutes of the meeting of the Risk and Audit Scrutiny Committee held on 19 June 2019 were submitted for approval as a correct record.

The Committee decided: that the minutes be approved as a correct record.

3 External Auditors' Annual Report to South Lanarkshire Council 2018/2019

The following documents were submitted by Audit Scotland, the Council's external auditors:-

- ◆ letter and appendices relating to the 2018/2019 Annual Audit report on South Lanarkshire Council and registered charities administered by South Lanarkshire Council
- ◆ 2018/2019 South Lanarkshire Council proposed Annual Audit report to members of the Council and the Controller of Audit

The Audit Director, Audit Scotland, introduced the report and the Senior Audit Manager, Audit Scotland, spoke on the Annual Audit report and highlighted the following:-

- ◆ the audit of the 2018/2019 Annual Accounts
- ◆ financial management
- ◆ financial sustainability
- ◆ governance and transparency
- ◆ value for money
- ◆ key messages
- ◆ 2018/2019 action plan on recommendations for improvement
- ◆ significant audit risks identified during planning of the audit

The Senior Audit Manager also referred to significant findings from the audit of financial statements in relation to:-

- ◆ pension liability
- ◆ loans fund
- ◆ holiday pay accrual
- ◆ South Lanarkshire Integration Joint Board

The external auditors' opinion on the Council's Annual Accounts 2018/2019 and those of the 3 charities administered by the Council was unqualified.

Officers responded to a member's question on pension liability.

The Committee decided: that the report be noted.

4 Audited Annual Accounts 2018/2019

A report dated 10 September 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the:-

- ◆ Council's Certified Annual Accounts and Charitable Trusts' Accounts for 2018/2019, which had received a clear audit certificate from the Council's external auditors, Audit Scotland
- ◆ requirement to approve the Annual Accounts 2018/2019 for signature in terms of both the Council's accounts and related charitable trusts

The accounts covered the Council as well as 3 Charitable Trusts managed by the Council, namely South Lanarkshire Council Educational Trust, South Lanarkshire Council Charitable Trust and the East Kilbride Information Technology Trust. A clean audit certificate had been received for each and no specific actions were required.

The Annual Accounts would be advertised as being available for public inspection in Finance Services, Floor 4, Council Offices, Almada Street, Hamilton and also on the Council's website.

The Committee decided:

- (1) that the South Lanarkshire Council Annual Accounts 2018/2019 and the Charitable Trusts' Accounts, which had received a clean audit certificate from the Council's external auditors, Audit Scotland, be approved for signature; and
- (2) that it be noted that the external auditors' report would be referred to a future meeting of South Lanarkshire Council for noting.

5 Internal Audit Activity as at 30 August 2019

A report dated 30 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on work completed by Internal Audit during the period 1 June to 30 August 2019.

Details were given on the progress of audit assignments and the performance of Internal Audit which highlighted that:-

- ◆ 73% of assignments had been delivered within budget against a target of 80%
- ◆ 100% of draft reports had been delivered on time against a target of 80%
- ◆ 61% of the 2019/2020 Internal Audit Plan had commenced
- ◆ 100% of audit assignments had been concluded to a signed action plan within 4 weeks of the issue of a draft report against a target of 80%

The findings from assignments completed in the period 1 June to 30 August 2019 were detailed in Appendix 2 to the report. Significant assignments completed in the period were detailed in Appendix 3 to the report.

The Committee decided: that the report be noted.

[Reference: Minutes of 13 June 2019 (Paragraph 6)]

6 Efficiency Savings 2018/2019

A report dated 7 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the Council's Efficiency Savings for 2018/2019.

As part of the Scottish Government's efficiencies agenda, councils had been asked to return information on efficiencies generated in the year.

The level of efficiencies achieved by the Council in 2018/2019 was £32.628 million. This figure took account of the removal of any savings which were not considered to be efficiencies achieved in the year. The efficiency savings did, however, include efficiencies achieved through improved procurement practices, corporate solutions and those identified by the Lanarkshire Valuation Joint Board.

The Council continued to recognise the ongoing requirement to demonstrate efficiency, with continuous improvement remaining a key principle of Best Value.

The Efficiency Statement, which was attached as an appendix to the report, had been forwarded to COSLA by the due date of 23 August 2019.

The Committee decided: that the report be noted.

[Reference: Minutes of 14 November 2018 (Paragraph 7)]

7 2018 National Fraud Initiative Exercise

A report dated 30 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the 2018 National Fraud Initiative (NFI).

The NFI matched similar data in different public sector systems and identified possible inconsistencies. Those inconsistencies, known as matches, required to be investigated by local authorities with a view to detecting fraud. Until 2014, the focus of the initiative had alternated annually between a limited and a full exercise. The full exercise continued to be undertaken every 2 years, however, the limited Single Person Discount (SPD) exercise, where the electoral register and council tax data were compared to detect cases where Single Person Discount was being claimed and there was more than 1 person over 18 in the household, could now be carried out annually. The 2018 NFI had been a full exercise and involved Council wide comparisons including:-

- ◆ benefits
- ◆ payroll
- ◆ creditors
- ◆ licences
- ◆ blue badge holders
- ◆ recipients of direct funding
- ◆ private nursing home residents

Records had also been matched to the Department for Work and Pensions' deceased persons' records.

Details were given on the results of the 2018 exercise which, for the Council, highlighted that:-

- ◆ at 30 August 2019, a total of 22,926 matches had been identified which represented an increase of 627 matches, compared with the previous exercise in 2016
- ◆ the greatest increase was in the number of matches relating to Creditors, both in terms of Creditors' Payments and Standing Data. The target number of investigations into Creditors' Payments had already been exceeded with 782 matches investigated and closed against a total target number of investigations of 774
- ◆ the greatest decrease was in the number of matches relating to blue badges. This decrease primarily reflected an issue during the 2016 exercise where responsibility transferred from Social Work Resources to Finance and Corporate Resources and there had been a short-term backlog in updating this database

A target number of matches to be investigated was determined on a risk basis. The Council would investigate a minimum of 2,099 matches, excluding those relating to Single Person Discount (SPD)

The following information was provided in appendices 1 to 3 of the report respectively:-

- ◆ details of the match areas covered in the 2018 exercise
- ◆ a comparison of matches across the 2016 and 2018 exercises
- ◆ a detailed breakdown of the targets by area

The Committee decided: that the report be noted.

[Reference: Minutes of 14 November 2018 (Paragraph 7)]

8 Fraud Statistics Annual Report 2019

A report dated 30 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on fraud statistics for the year to 31 March 2019 and comparing those figures with the previous year's statistics.

The number, types, outcomes and costs of fraud investigations, together with performance measures for the year to 31 March 2019, were detailed in the report. A comparison to the statistics for the same period in the previous year was also provided. Those statistics highlighted that:-

- ◆ 182 fraud investigations with a total value of £158,000 had been reported in the period, representing an increase in number and decrease in value from the previous year
- ◆ 72% of cases investigated were founded
- ◆ 98% of founded cases related to benefit fraud or fraud committed by a third party

On conclusion of all internal investigations, an assessment was made on whether improvement actions were necessary. 3 improvement plans had resulted from fraud investigations during the year to 31 March 2019.

The Committee decided: that the report be noted.

[Reference: Minutes of 18 September 2018 (Paragraph 7)]

9 Audit Scotland Report: Safeguarding public money: are you getting it right?

A report dated 29 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the Audit Scotland report entitled 'Safeguarding public money: are you getting it right?'

The Audit Scotland report, which had been published in April 2019, recognised that councils faced a number of challenges, including complex and challenging financial pressures.

Details were given on the Audit Scotland report which was divided into the following 3 parts:-

- ◆ Part 1 internal controls help council to manage risks
- ◆ Part 2 weak controls can have serious consequences
- ◆ Part 3 Officers and Councilors both have important roles

A number of key messages were set out in the report relating to:-

- ◆ the requirement for an effective system of internal controls and risk management
- ◆ indications that standards of internal controls might be strained
- ◆ Councillors' accountability for scrutinising councils' use of public money
- ◆ the need for Councillors to seek assurances from officers that a rigorous system of internal controls was in place

The Audit Scotland report contained checklists for Councillors' use in evaluating their level of assurance in relation to specific areas. Those, together with the Council's response, where applicable, were contained in the appendices to the Executive Director's report.

Officers responded to members' questions on various aspects of the report.

The Committee decided: that the key messages in the Audit Scotland report entitled 'Safeguarding public money: are you getting it right?' be noted.

10 Audit Scotland Report: Challenges and Performance 2019

A report dated 4 September 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the Audit Scotland report entitled 'Challenges and Performance 2019'.

Audit Scotland published an overview report each year, on behalf of the Accounts Commission, covering key areas of current and future activity relative to local government and providing an opinion on how those were, or should be, managed.

The Audit Scotland report was divided into the following 3 parts:-

- ◆ Part 1 the context for councils
- ◆ Part 2 how councils are responding
- ◆ Part 3 council performance and the impact on communities

A number of key messages arising from the report were highlighted. Details of Audit Scotland's recommendations for councils were provided, together with an assessment of the position in this Council.

The Committee decided: that the key messages and recommendations detailed in the Audit Scotland report entitled 'Challenges and Performance 2019' be noted.

[Reference: Minutes of 14 November 2018 (Paragraph 6)]

11 Forward Programme for Future Meetings

A report dated 29 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the outline forward programme for the meeting of the Risk and Audit Scrutiny Committee to be held on 27 November 2019.

As part of future arrangements, members were invited to suggest topics for inclusion in the Committee's forward programme.

The Committee decided: that the outline forward programme for the meeting of the Risk and Audit Scrutiny Committee to be held on 27 November 2019 be noted.

12 Urgent Business

There were no items of urgent business.

RISK AND AUDIT SCRUTINY COMMITTEE

Minutes of meeting held in Committee Room 2, Council Offices, Almada Street, Hamilton on 27 November 2019

Chair:

Councillor Graeme Campbell

Councillors Present:

Councillor Walter Brogan, Councillor Grant Ferguson, Councillor Julia Marrs, Councillor Carol Nugent, Councillor Jim Wardhaugh, Councillor Jared Wark

Councillors' Apologies:

Councillor Mary Donnelly, Councillor Martin Lennon, Councillor Davie McLachlan

Attending:

Finance and Corporate Resources

P Manning, Executive Director; Y Douglas, Audit and Compliance Manager; S Dunsmore, Insurance and Risk Manager; P MacRae, Administration Officer

Also Attending:

Audit Scotland

A Kerr, External Auditor

1 Declaration of Interests

No interests were declared.

2 Minutes of Previous Meeting

The minutes of the meeting of the Risk and Audit Scrutiny Committee held on 18 September 2019 were submitted for approval as a correct record.

The Committee decided: that the minutes be approved as a correct record.

3 Internal Audit Activity as at 31 October 2019

A report dated 6 November 2019 by the Executive Director (Finance and Corporate Resources) was submitted on work completed by Internal Audit during the period 31 August to 31 October 2019.

Details were given on the progress of audit assignments and the performance of Internal Audit which highlighted that:-

- ◆ 78% of assignments had been delivered within budget against a target of 80%
- ◆ 100% of draft reports had been delivered on time against a target of 80%
- ◆ 88% of the 2019/2020 Internal Audit Plan had commenced
- ◆ 100% of audit assignments had been concluded to a signed action plan within 4 weeks of the issue of a draft report against a target of 80%

The findings from assignments completed in the period 31 August to 31 October 2019 were detailed in Appendix 2 to the report.

Following a review of the current year's Audit Plan, it was proposed to defer work on the following 4 audit assignments to a future year's Audit Plan for the reasons detailed in the Executive Director's report:-

- ◆ job costing – Housing and Technical Resources
- ◆ nursery admissions
- ◆ financial system – council tax
- ◆ digital maturity assessment

Work had commenced on the preparation of the 2020/2021 Internal Audit Plan and members of the Committee were invited to suggest potential areas for inclusion in the Plan. Those should focus on specific risk areas where there were known control weaknesses.

The Committee decided:

- (1) that the performance of the Internal Audit Service and the progress of assignments in the period 31 August to 31 October 2019 be noted; and
- (2) that the proposed amendments to the Internal Audit Plan 2019/2020 be approved.

[Reference: Minutes of 18 September 2019 (Paragraph 5)]

4 2018/2019 Year End Insured Risks Report

A report dated 6 November 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the Council's insurance claims for the year to 31 March 2019 for the following main classes of insurance:-

- ◆ employer's liability
- ◆ public liability
- ◆ motor insurance
- ◆ property insurance and other miscellaneous risks

Appendix 1 provided annual comparisons of the numbers and values of claims by Resource for the years 2014/2015 to 2018/2019. The comparison showed an overall downward trend in claims numbers. Claims costs had initially reduced from 2014/2015 through to 2016/2017 but had begun to rise again over the last 2 years.

Appendix 2 compared claim numbers and costs for 2018/2019, at 31 March 2019, with the equivalent position for 2017/2018. This showed a reduction of 220 claims (18%) compared with the numbers reported in 2017/2018 and an increase in the cost of claims from £1.963 million in 2017/2018 to £2.113 million in 2018/2019.

Details were given on:-

- ◆ measures in place and mitigating actions proposed to manage insurance hotspots
- ◆ claim highlights for the year
- ◆ positive risk management activity aimed at reducing the number and cost of claims

A central fund was held to assist Resources in funding specific risk management initiatives. All bids for the limited funds were considered on their individual merits against set criteria.

Officers responded to members' questions on various aspects of the report.

The Committee decided: that the report be noted.

[Reference: Minutes of 14 November 2018 (Paragraph 5)]

5 Review of Council's Top Risks/ Year End Risk Management Report

A report dated 28 October 2019 by the Executive Director (Finance and Corporate Resources) was submitted providing an update on:-

- ◆ the review of the Council's top risk register
- ◆ progress with risk management activity undertaken in 2018/2019

Details were given on the process for, and results of, the 2019 annual review of the Council's top risks. The Council's revised top 20 risks, with both the inherent and residual risk score, together with an assessment of the adequacy of controls, were detailed in Appendix 1 to the report. In addition, the following areas were largely covered by existing risk descriptions but required to be monitored:-

- ◆ failure to prepare for the analogue to digital switchover telephone network
- ◆ national agenda on empowerment education

Risk Sponsors were required, on an annual basis, to assess and provide evidence of their Resource's compliance with the Risk Management Strategy. The end of year compliance statement, attached as Appendix 2 to the report, showed that Resources continued to demonstrate full compliance with the Strategy.

Performance in completing actions on the Council's top risk control plan was reported through IMPROVe, the Council's performance management system, on a quarterly basis. At 31 March 2019, 100% of actions relating to the Council's top risk register had been completed against a target of 90%.

The Committee decided: that the report be noted.

[Reference: Minutes of 14 November 2018 (Paragraph 7)]

6 Actuarial Review of the Council's Self Insurance Fund

A report dated 28 October 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the financial health of the Council's self insurance fund following an interim actuarial review.

The Local Authority (Scotland) Accounts Advisory Committee (LASAAC) advised that regular actuarial reviews should be undertaken on insurance funds. The last full actuarial review of the Council's insurance fund took place in 2017 and an interim review had been undertaken in the current year.

The review of the self insurance fund had been undertaken to estimate:-

- ◆ future insurance claim settlement costs of known, and yet to be intimated, claims from past insurance policy years against the fund balance at 31 March 2019

- ◆ annual contribution rates required for the overall fund to ensure that the balance of the fund did not fall into deficit

The conclusions of the review focused on pre and post 1996 liabilities. The pre 1996 liabilities arose from predecessor authorities and did not originate from South Lanarkshire Council.

With regard to post 1996 liabilities, the actuary had concluded that:-

- ◆ the level of estimated future claim payments since 2005 had remained broadly stable at each review, with the amount being in the region of £3 million to £4 million
- ◆ the estimated value of future claim payments from the fund was £3.2 million
- ◆ the fund was currently in a neutral position for post 1996 claim costs which meant that the balance of the fund was currently sufficient to meet all estimated post 1996 claim liabilities
- ◆ the current level of annual Resource contributions was in line with the recommended level

In respect of pre 1996 liabilities, it was anticipated that the Council would receive a number of further claims for historic childhood abuse as a result of publicity surrounding the Scottish Child Abuse Inquiry and the introduction, on 4 October 2017, of the Limitation (Childhood Abuse) (Scotland) Act 2017 which removed the 3 year limitation period for intimate abuse claims.

It was envisaged that the fund balance would reduce on average by approximately £1.7 million a year over the next 3 years and that the fund would be in deficit by 2021/2022. This would be considered in preparation of future revenue budgets.

To facilitate a review of the cost of operating the self insurance fund, terms of reference would be prepared to assess its operation. The position regarding pre 1996 liabilities and the overall balance of the fund would be closely monitored and any additional funding required would be managed, as necessary.

The Committee decided:

- (1) that the conclusions of the actuarial report be noted;
- (2) that it be noted that further funding requirements would be considered as part of future revenue budgets; and
- (3) that it be noted that the position for pre 1996 liabilities would be monitored and managed, as required.

[Reference: Minutes of 13 June 2018 (Paragraph 7)]

7 Forward Programme for Future Meetings

A report dated 6 November 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the outline forward programme for the meetings of the Risk and Audit Scrutiny Committee to 6 May 2020.

As part of future arrangements, members were invited to suggest topics for inclusion in the Committee's forward programme.

The Committee decided: that the outline forward programme for the meetings of the Risk and Audit Scrutiny Committee to 6 May 2020 be noted.

8 Urgent Business

There were no items of urgent business.

Report

7

Report to:	South Lanarkshire Council
Date of Meeting:	23 September 2020
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Review of the South Lanarkshire Scheme for Establishment of Community Councils
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1. Purpose of Report

1.1. The purpose of the report is to: -

- ♦ Propose that the Council carry out a Review of the South Lanarkshire Scheme for the Establishment of Community Councils.

2. Recommendation(s)

2.1. The Council is asked to approve the following recommendation(s): -

- (1) that the terms of Clause 11 of the existing South Lanarkshire Scheme for the Establishment of Community Councils attached at Appendix 1 of the Report, which currently does not permit Community Councils to hold formal meetings other than in public, be noted.
- (2) that a review of the current Scheme for the Establishment of Community Councils be undertaken, outlining the proposed key amendments to Clause 11 detailed in Appendix 2.
- (3) that a formal consultation exercise be carried out with all stakeholders; and
- (4) that the process and timeline for a Review of the Scheme as detailed at Section 7 and Appendix 3, be noted.

3. Background

- 3.1. The last full Review of the South Lanarkshire Scheme for the Establishment of Community Councils within South Lanarkshire concluded in 2014 and the Scheme was updated and published. The Scheme was updated to take account of legislative changes in 2018.
- 3.2. The current Scheme reflects the terms of the Model Scheme recommended by the Scottish Government however that too has also been in place for some years. The Coronavirus pandemic has highlighted that there are issues with the Scheme which resulted in Community Councils not being able to continue to hold meetings and actively function using modern technology since Coronavirus restrictions were put into place in March 2020.
- 3.3. Community Councils sought advice from the Council on how to hold meetings which followed the legislation, government guidance and the South Lanarkshire Scheme for the Establishment of Community Councils and Officers provided a work around which is explained in more detail in section 5 below.

4. The Issues

- 4.1. The powers of Community Councils to hold meetings are set down in the South Lanarkshire Council's Scheme of Establishment of Community Councils. They cannot do anything which they are not specifically enabled to do in terms of the Scheme.
- 4.2. The Scheme and in particular Clause 11 (as set out in Appendix 1) requires that all meetings of a Community Council must be held in public and that its members and members of the public must be physically present. Community Councils, unlike Local Authorities who are allowed by statute to hold online meetings attended by members or hybrid meetings attended either in person or online, have not been provided with the powers in terms of the Scheme, to meet in any other way such as by using online facilities to hold meetings.
- 4.3. The Coronavirus (Health Protection) (Scotland) Regulations currently impose restrictions on gatherings. There is currently no exception within that legislation which would permit Community Councils to hold public meetings requiring the physical attendance of their members and members of the public.
- 4.4. The creation of powers for Community Councils to hold meetings online will require an amendment to the Scheme. This could only take place after a review of the Scheme, which must follow the statutory process set down in section 53 of the Local Government (Scotland) Act 1973 as amended and outlined in section 7 below. A decision to initiate a review of the Scheme and subsequently to adopt any amendments requires to be taken at a meeting of the full Council and requires two thirds of the members present and voting to agree.

5. The Advice provided to Community Councils to date

- 5.1. The model constitution adopted under the Scheme allows for urgent decisions to be made by office bearers where the decision cannot wait until the next validly constituted meeting of the Community Council. Therefore, if the Community Council has adopted the model constitution, the advice of the Council will be that these powers should be used to make decisions.
- 5.2. Office bearers can consult with members of the Community Council, including elected representatives appointed through the Scheme before making any decisions. There is nothing to prevent them from doing so in terms of the Scheme.
- 5.3. Community Councils were advised that they should use the powers delegated to their office bearers together with a consultation process. Internal consultation of other members of the Community Council can be done individually or as a group using telephone, telephone conferencing or online apps, However, it has been stressed that:
 -
 - it is the decision of the office bearers concerned whether and how to undertake such consultation
 - it is the office bearers that are making the decision, not the Community Council
 - if there is a consultation, the Office bearers are to consult with all members (though not necessarily at the same time) and
 - despite the consultation process, all decisions made through that process must be reported to the first validly constituted meeting of the Community Council.

5.4. In order to maintain a consistent approach for all Community Councils, a list of Frequently Asked Questions and Answers was issued to all Community Councils through the normal communication channels asking that all Community Councils bring it to the attention of their members.

5.5. Community Councils have on the whole been following the advice provided but would prefer to also have the ability to hold a formal meeting online to allow all community council members, local elected members, press and public to participate.

6. Proposed revisals to the Scheme

6.1. There are two issues that must be dealt with to resolve the effect of the current Scheme in situations such as the current pandemic and allow Community Councils to continue to make decisions involving all members where they and members of the public cannot physically attend physical at meetings. These are: -

- allowing all or some of the members of the Community Council, press and public to attend a meeting using remote access and
- suspending the requirement for the public to be able to physically attend any meetings

6.2. The proposed amendments to the wording of Clause 11 of the current Scheme set out in Appendix 2 would resolve these issues.

7. Review of Scheme Process

7.1. As explained in paragraph 4.4 above, Section 53 of the Local Government (Scotland) Act provides the process to be followed for a formal review of the Scheme. If the Council agrees by a majority of two thirds of members attending the meeting to carry out a formal review of the Scheme, it is required by the legislation to publicise the proposals and undertake public consultations on the proposed amendments for a period of 8 weeks.

7.2. At the end of this period a further report on the outcome of the consultation will be presented to another specially convened meeting of the Council. The earliest that this could be convened would be December 2020. At this meeting each proposed amendment must be considered, and a decision taken to accept or reject it. If there are no amendments to the proposed revised Scheme, then provided that two thirds of the Councillors present vote in favour, the proposed Scheme would be adopted.

7.3. However, if there are amendments to the Scheme then a further period of consultation on those amendments is required. Once again, it is proposed that the consultation period be 8 weeks. The outcome of this consultation will again be reported to Council to allow Council to consider any representations and proposed amendments to the Scheme and to agree a final draft amended scheme which again must be subject to a 4-week public consultation period and the same approval/rejection process undertaken in respect of any changes to the proposed revised Scheme. At the end of any period for consultation period, there are no further changes proposed to the proposed revised scheme, and the amendments are still wanted, Council will be asked to approve the final amendments to the Scheme.

7.4. The process is outlined in Appendix 3.

8. Community Council Engagement

- 8.1. Engagement has been taking place with Community Councils through the Community Engagement Team about the Review of the Scheme.

9. Employee Implications

- 9.1. There are no employee implications in terms of the content of this report.

10. Financial Implications

- 10.1. None.

11. Climate Change, Sustainability and Environmental Implications

- 11.1. There are no implications for climate change, sustainability or the environment in terms of the information contained in this report.

12. Other Implications

- 12.1. There are no risk implications

13. Equality Impact Assessment and Consultation Arrangements

- 13.1. This report does not introduce a new policy, function or strategy, or recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.

- 13.2. Full public consultation will be required as part of the Review process of the Scheme.

Paul Manning

Executive Director (Finance and Corporate Resources)

24 August 2020

Link(s) to Council Values/Ambitions/Objectives

- Accountable, effective, efficient and transparent
- Fair, open and sustainable

Previous References

South Lanarkshire Council of September 2013, December 2013 and June 2014

List of Background Papers

South Lanarkshire Scheme for the Establishment of Community Councils

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact: -

Geraldine McCann, Head of Administration and Legal Services

Ext: 4658 (Tel: 01698 454658)

E-mail: geraldine.mccann @southlanarkshire.gov.uk

Appendix 1

Extract from Scheme for the Constitution of Community Councils

11. Meetings

- a) The first meeting of a Community Council following a Community Council election, will be called by an Independent Interim Chairperson approved by the outgoing Community Council and will take place within 21 days of the date of the election, or as soon as practicable thereafter.

The business of that meeting will include adoption of a Constitution and Standing Orders and Code of Conduct, appointment of office bearers, Chairperson's and Treasurer's reports and any outstanding business matters from the outgoing Community Council.

- b) The frequency of meetings will be determined by each Community Council, subject to a minimum of one Annual General Meeting and 4 ordinary meetings being held each year. The Annual General Meeting shall be held in a month of each year to be determined by the Council.
- c) The quorum for Community Council meetings to be 1/4 of the current voting membership of a Community Council, or 4 voting members, whichever is the greater.
- d) An outline for the content of business that Community Councils should adhere to when holding ordinary, special and annual general meetings is contained within the Model Standing Orders.
- e) All Community Council meetings, including Sub Committee meetings, to be held in public and open to the public and press **without exception**. There is no provision for any of the Community Councils or its Sub Committees' meetings to be held in private.
- f) No Community Council, or any of its members, may take steps to or shall do anything that would deter, discourage or obstruct a Community Councillor or a member of the public (including the press) from attending a meeting or, if entitled to participate in the meeting, from doing so.

No Community Council will be able to or require a Community Councillor or a member of the public (including the press) to leave a meeting of the Community Council, unless the Chairperson of the meeting has good cause to be satisfied that that Community Councillor or member of the public is behaving in a way that is disorderly or disruptive to the conducting of business of the meeting. Provisions regarding the exercise of this power to eject a Community Councillor or member of the public to leave a meeting shall be contained in the Core Standing Orders.

- g) Officers of the Council shall have the right to attend any meetings of Community Councils.

Appendix 2

In the existing Clause 11

Amendment 1

Replace the existing sub clause e) with the following

- “e) Unless permitted in terms of this sub-clause, all Community Council meetings, including Sub-Committee meetings, are to be held in public and open to the physical attendance of public and press. However, if it is in the public interest not related to the business of the Community Council to meetings.”

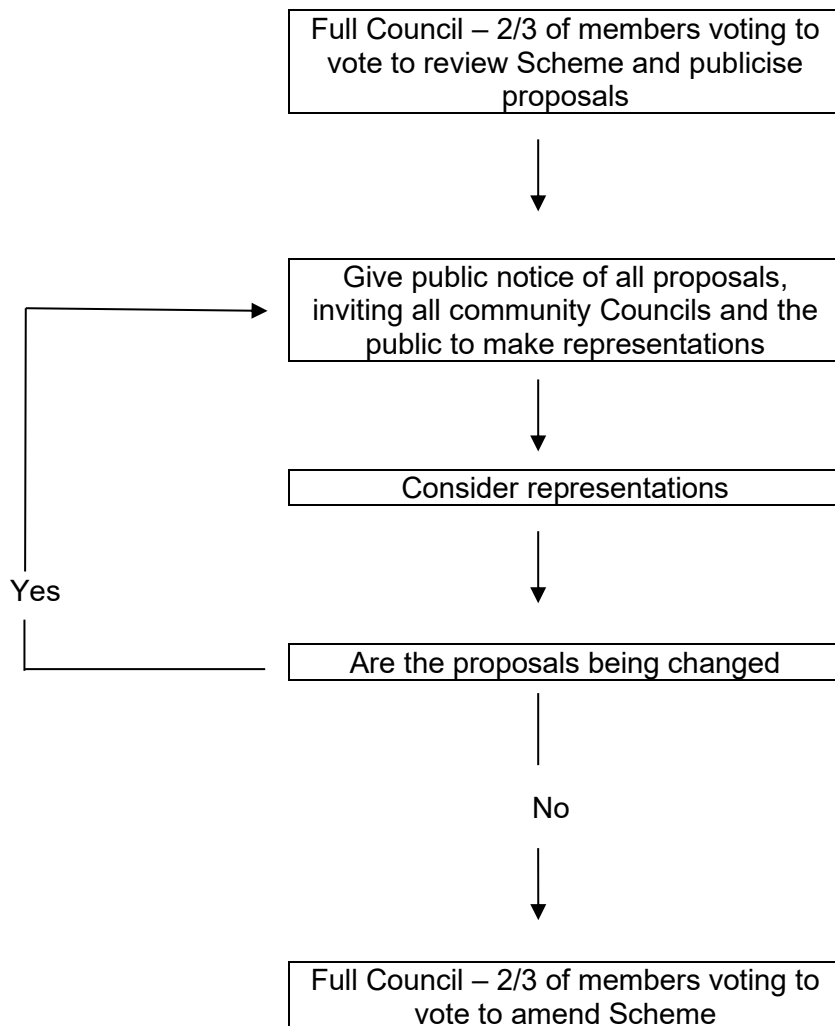
Amendment 2

Insert

- “h) Whilst it is expected that meetings of a Community Council and its committees are conducted with all members being present together in a pre-determined place as set out above, it will be competent for a Community Council to conduct its meetings in any other way in which each member is enabled to participate although not present with others in such a place subject to the following:-
- (1) such a meeting shall be conducted, however, only on the direction of the Chairperson, whom failing, the Depute Chairperson, of that Community Council, and
 - (2) the references in sub paragraphs a) to g) above or elsewhere within this Scheme to the presence of members were references to their participation in that meeting.”

Appendix 3

PROCESS FOR AMENDMENT TO SCHEME OF COMMUNITY COUNCILS



Support of Greater Control of the Use of Fireworks

Notice of Motion

Motion received in terms of Standing Order No 19 on 13 July 2020, proposed by Councillor Julia Marrs, seconded by Councillor Catherine McClymont, as follows:-

“South Lanarkshire Council acknowledges that whilst attending a well organised fireworks display can be a positive community experience, the noise associated with displays and the anti social behaviour perpetrated by a minority can be distressing for vulnerable groups of people, livestock and pets.

South Lanarkshire Council notes the Consultation on Fireworks in Scotland carried out by The Scottish Government and the resulting Action Plan.

With cognisance that much of the legislation regarding fireworks is reserved to the UK Parliament, but laws on when and where fireworks can be used being devolved to The Scottish Parliament, this Council supports The Scottish Government’s intention to offer additional safety advice to those purchasing fireworks and local groups holding displays by November 2020.

In accordance with suggestions being considered by the Scottish Government Fireworks Action Plan South Lanarkshire Council would support the introduction of greater restrictions on private use of fireworks, times of day fireworks can be used, firework free zones (eg around retirement homes, hospitals or animal shelters), and a public notification system for private displays and mandatory conditions, e.g. safety training being applied at the point of sale.

To allow appropriate controls over all aspects of firework use, this Council requests the UK Government to tighten powers regarding firework sales and asks the Chief Executive to write to the UK Government to this effect.”

Reverse Saving CER09 from 2020/2021 Budget

Notice of Motion

Motion received in terms of Standing Order No 19 on 2 September 2020, proposed by Councillor David Watson, seconded by Councillor Monique McAdams, as follows:-

“Council agrees to reverse saving CER09 from the 2020/2021 budget with the cost implications being met by Council reserves.

Council also calls for a detailed review of all 101 sites identified in CER09 and a full detailed report regarding land ownership and adoption of land to be submitted to Councillors for further decision.

Following Council analysis of the report if areas are deemed to be in others ownership or have not been adopted, meaningful and appropriate notice and consultation should take place with the appropriate 3rd party before withdrawing ground maintenance work.”

The Coronavirus Crisis

Notice of Motion

Motion received in terms of Standing Order No 19 on 4 September 2020, proposed by Councillor Robert Brown, seconded by Councillor Mark McGeever, as follows:-

“South Lanarkshire Council thanks the staff and officers of the Council, frontline NHS and care workers, the Third Sector, numerous volunteers, both organised and individual, and many others in all walks of life, many of whom have gone well beyond the call of duty, for their response to the Coronavirus crisis and the huge challenges it involved.

Council

1. Requests the Chief Executive to convey the gratitude of the Council and its Elected Members on behalf of the citizens of South Lanarkshire to all staff
2. Expresses our condolences to the families of all those who have lost their lives during or as a result of the pandemic
3. Notes that tackling Covid 19 required speedy and flexible action by the Council and its partners and, often, brought new ways of working in many areas
4. Recognises that the crisis brought both challenges and opportunities for the Council and its Resources and instructs the Corporate Management Team to bring forward as soon as practicable a Report on the lessons learned, areas of difficulty and opportunities to inform future strategy
5. Believes that economic recovery based on the potential of green jobs and other sectoral opportunities should be the top priority for the Council, declares its aim that South Lanarkshire should be the top “Economic Recovery” Council in Scotland, and asks Officers to develop suitable strategies to achieve this, making full use of the Council’s current and potential powers
6. Urges the Scottish and United Kingdom Governments to ensure that the cost of meeting the Covid crisis and of supporting local economic recovery resulting from the crisis are fully met by central government”.

Achieving Equity for People of Black and Minority Ethnic Origin

Notice of Motion

Motion received in terms of Standing Order No 19 on 7 September 2020, proposed by Councillor Mo Razzaq, seconded by Councillor Mark McGeever, as follows:-

“South Lanarkshire Council holds that every person interacting with it deserves fair and equitable treatment at all times.

Council acknowledges that recruitment statistics continue to show clear disparities between the success rates of applicants of white ethnicity and applicants of black and minority ethnicities (BAME). This council is concerned by evidence BAME applicants are statistically less likely to be selected for interview and, if interviewed, less likely to be offered a post. Council notes the vital importance of fully understanding and resolving this and any other identified sources of inequity.

This Council appreciates work has been undertaken by officers to investigate disparities in the recruitment statistics and welcomes the commitment for a report on this to be brought before the next meeting of the Finance and Corporate Resources Committee. Following this, it is essential that elected members of all groups now work together to provide political leadership and establish clear direction.

Notwithstanding the remit and work of the existing Equalities Forum, this Council believes successfully addressing inequity between white and BAME members of our communities requires the attention of a working group specifically established for that purpose.

South Lanarkshire Council therefore resolves:-

1. To create an all-party Equity Working Group tasked to:
 - (i) consider officers' report on recruitment disparities between white and BAME applicants;
 - (ii) investigate and identify sources of inequity;
 - (iii) develop consensus on effective ways to address them; and
 - (iv) recommend to full council measures to ensure equitable treatment.
2. That this working group consist of six elected members; one to be appointed by the leader of each of the five political groups, and a chair.
3. The leader of each political group shall be able to designate a substitute member of the working group, who may participate in its proceedings in the absence of the political group's appointed member.

4. That the chair of the working group be Councillor Razzaq.
5. That the chair of the working group, in consultation with the leaders of each political group and the chief executive, establish terms of reference for the working group, to be approved at the next meeting of the Council”.

Report

12

Report to:	South Lanarkshire Council
Date of Meeting:	23 September 2020
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	European Charter of Local Self-Government (Incorporation) (Scotland) Bill
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1. Purpose of Report

1.1. The purpose of the report is to: -

- ◆ To advise the Council of the Local Government and Communities Committee call for views on the provisions of the European Charter of Local Self-Government (Incorporation) (Scotland) Bill as part of its stage 1 scrutiny of the Bill, and the Council's submitted response.

2. Recommendation(s)

2.1. The Council is asked to approve the following recommendation(s): -

- (1) that the content of the report and the Council's response to the call for views on the provisions of the European Charter of Local Self -Government (Incorporation) (Scotland) Bill by 17 September 2020 be noted; and
- (2) that it be noted that any further comments arising from elected members discussions may be submitted following the Council meeting.

3. Background

- 3.1. The United Kingdom is a signatory to the European Charter of Local Self-Government drawn up by the Council of Europe in 1985 and ratified by the UK in 1997. The Council of Europe is an international body unrelated to the European Union and so the treaty will be unaffected as a result of Brexit.
- 3.2. The purpose of the Treaty is to safeguard the right of local and regional authorities, such as the right to self-government, the right to elect their local bodies, to exercise their own powers, to have administrative structures and financial resources, and the right to take court action in the event of interference by other tiers of government.
- 3.3. At present, the Congress of Local and Regional Authorities has responsibility for assessing the situation of local and regional democracy in the 47 member states of the Council of Europe. Through its monitoring activities, the Congress ensures that the Charter is correctly applied and helps to maintain healthy local and regional self-government in Europe. Following its monitoring visits, the Congress draws up reports which are adopted by the Monitoring Committee. This committee also approves recommendations which, once adopted by the Congress, are forwarded to member states to be addressed.

- 3.4. In relation to the UK, there is no method of enforcement other than through that process. The Private Members Bill before the Scottish Parliament, promoted by Andy Wightman MSP, seeks, in so far as possible within the existing devolution settlement, to ensure that there are direct methods of enforcement in Scotland through the courts.
- 3.5. Mr Wightman considers that local government powers in Scotland have been eroded over a number of years by the Westminster Parliament and the Scottish Parliament through the passing of legislation and the provision of decision-making powers to the Scottish Ministers. This Bill is considered by him as a way of restoring the balance of powers

4. The Bill's Effect

4.1. The Bill:-

- places a duty on the Scottish Ministers to act compatibly with Articles 2 to 11 of the European Charter of Local Self-Government ("Charter Articles") which are listed in the Schedule to the Bill.
- places a duty on the Scottish Ministers to promote local self-government.
- requires the courts to read and give effect to legislation, where possible, in a way that is compatible with the Charter Articles.
- enables the courts to declare legislative provisions to be incompatible with the Charter Articles and to quash subordinate legislation made by the Scottish Ministers in certain circumstances, and enables the Scottish Ministers to take remedial action, by regulations, in response to such court declarations.
- allows the courts to suspend the effect of a decision by the Scottish Ministers which the courts consider having breached a duty imposed by the Bill, or to remove or limit the retrospective effect of such a decision.
- requires each person introducing a Public Bill in the Parliament to make a statement about the extent to which, in their view, the Bill is compatible with the Charter Articles.

- 4.2. Full details of the Articles in question are set out in Appendix 2 to this report.

5. How the Bill enforces the duties set out previously

- 5.1. The Bill seeks to incorporate the Charter into the law of Scotland and be enforceable against the levels of government that may interfere with the purposes or aspirations of the Charter Articles. The means for enforcing the Charter would be by raising an action for judicial review in the Outer House of the Court of Session. There is no restriction on who can take such action provided that they can show "standing" i.e. sufficient interest in the proceedings and can show that there is a real prospect of success.
- 5.2. It has been identified that, within Scotland, the levels of government that may interfere with the purposes or aspirations of the Charter Articles would be: -
- (a) the Scottish Parliament in relation to the making of legislation, and,
 - (b) the Scottish Ministers in respect of secondary legislation and their administrative functions.

However, it is not within the competence of the Scottish Parliament to restrict the powers provided to it as part of the devolution settlement as contained within the Scotland Act 1998. As a result, the Bill is restricted to the actions of the Scottish Ministers.

- 5.3. The Bill sets out that the method of determining whether the Scottish Ministers have acted compatibly with the Charter Articles is via an action of judicial review. When determining complaints, the court is required to read and give effect to legislation in a way which is compatible with the Charter Articles. This applies to all legislation regardless of when made.
- 5.4. The powers of the court are restricted to making a Declaration of Incompatibility in relation to primary and subordinate legislation where the primary legislation from which it was made prevents removal of the incompatibility. However, this declaration does not affect the validity of the provision. The Scottish Ministers are given the power to make such provisions as they consider necessary or expedient following such a declaration.
- 5.5. If subordinate legislation is found to be incompatible with the Charter Articles and the primary legislation does not prevent the removal of the incompatibility, the court could declare that the secondary legislation was in breach of the Scottish Ministers' duty to act compatibly with the Charter Articles. In that case, the court could remove or limit the effect of the incompatibility or suspend the effect of the incompatibility for any period and on any conditions to allow the breach to be addressed by the Scottish Ministers.
- 5.6. The Court also has the power to remove etc. any incompatible secondary legislation made prior to the Act (once the Bill becomes law) where it is not possible for the court to make a declaration of incompatibility. It is unclear when this may arise as there does not appear to be any restriction on that power.
- 5.7. Finally, whilst not affecting any Public Bill from being considered by the Parliament, there must be a statement of compatibility with the Charter Articles.
- 5.8. Where the Scottish Ministers are exercising administrative functions (that do not relate to reserved matters) the court would have the same powers as outlined in paragraph 5.5 in relation to anything done by them and to decisions made by them.

6. The call for views/evidence

- 6.1. The call for views asked for comments on the following:-
 1. Does the Council agree with the main aim of the Bill which is to make the European Charter of Local Self Government directly enforceable in Scots Law and to require the Scottish Government to act in a way that agrees with the Charter?
 2. Does the Council support a general duty being placed on the Scottish Government to support local government, and that the Scottish Government should report to the Scottish Parliament at least once every 5 years about what it has done to support local government?
 3. Does the Council agree with sections 4,5 and 6 of the Bill which provide that all legislation must be interpreted in line with the Charter whenever possible; that the Court be given a power to declare that a provision in legislation is not compatible with the Charter and following on from this that Scottish Government will have the power to take action to bring the legislative provision into line with the Charter?
 4. Does the Council agree with Section 7 of the Bill which allows a Court to limit any ruling that the Scottish Government has not complied with a duty set out in the Bill, for example by allowing the Government time to take corrective action or by not making the impact of the ruling retrospective ?

5. Does the Council have any comments on when the Bill, if passed, should come into force; on the financial impact, if any of the Bill, if passed; and on whether it will have any positive or negative impact on equality or human rights?
- 6.2. Officers from Finance and Corporate Resources submitted a response to the call by the deadline of 17 September 2020. Given that the deadline fell before Council could consider the terms of the response attached at Appendix 1 of the Report, officers contacted the Local Government and Communities Committee and received permission to submit any further comments on the Call for Views arising from the Council meeting.
- 6.3. The main points raised in the consultation response are as follows:-
- The proposed incorporation of the Charter Articles into Scots law is welcomed as it will strengthen local democracy by ensuring greater recognition and respect for local government. It was flagged that some of the wording lacks clarity which may lead to some difficulties in interpretation but that this could be resolved as the Bill makes it progress through Parliament.
 - The Council supports a duty being placed on the Scottish Government to support local government and to report regularly to Parliament on compliance with the duty. It is suggested that any reports should take account of feedback from local government.
 - It is appropriate to interpret legislation in line with the Charter however a court declaration of incompatibility may not have the effect intended by the Bill unless the Court in making the declaration also issued a direction to Scottish Government to take action to amend the legislation. The Bill should be framed in such a way to make the removal of the incompatibility the default outcome.
 - The Council hopes that recourse to the courts to resolve any perceived incompatibility will be limited and that any incompatibilities can be resolved without court action. Nonetheless there should be clarity provided in the Bill on the powers of the Court to make declarations, issue directions or suspend or quash legislative provisions which it finds to be incompatible. It may not be possible in every case to set a definitive time period in which amending legislation should be enacted to resolve incompatibilities, as it would depend upon the complexity of the legislation. Timescales should take account of the circumstances and the significance of the incompatibility on local government and others.
 - It would be appropriate to bring the Bill, if passed into force in phases. To implement it immediately for all current Bills or Acts which have not yet been fully implemented, and a later implementation date for all legislation already in force. A transition period will allow any significant incompatibilities in historic or existing legislation to be identified and potentially resolved through amending legislation without tying up court and parliamentary time and financial resources to deal with challenges.
 - There may be financial costs in introducing the Charter into Scots law, once the historical elements are addressed, future scrutiny processes would not require additional resourcing.
 - The Council does not anticipate that the Bill, if enacted, would have any negative impact on equalities and human rights.

7. Employee Implications

7.1. None

8. Financial Implications

8.1. None

9. Climate Change, Sustainability and Environmental Implications

9.1. There are no implications in terms of climate change, sustainability or the environment in terms of the information contained in this report.

10. Equality Impact Assessment and Consultation Arrangements

10.1. No equality impact assessment is required in terms of the recommendations contained within this report

10.2. Consultation has been undertaken with the Political Group Leaders in terms of the contents of this report.

Paul Manning

Executive Director (Finance and Corporate Resources)

28 August 2020

Link (s) to Council Values /Ambitions/Objectives

♦ Accountable, Effective, Efficient and Transparent

Previous References

None

List of Background Papers

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact: -

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Response

Dear Sir/Madam

European Charter of Local Self-Government (Incorporation)(Scotland)Bill Call for Evidence/views

I refer to the recent call for evidence/views by the Local Government and Communities Committee in respect of the above Bill and provide a response on behalf of South Lanarkshire Council to the matters raised and questions contained within the call.

Question 1 “The main aim of the Bill is to make the European Charter of Local Self-Government directly enforceable in Scots law and to require the Scottish Government to act in a way that agrees with the Charter [section 1 and 2]. Do you agree with this? “

The Council strongly welcomes the proposed incorporation of the Charter Articles into Scottish law. It is central to local democracy. The Council considers that all levels of government in Scotland, as in other countries should be seen as autonomous partners with each level of government having the ability to fulfil their own areas of responsibility without undue control by another. Scotland lacks a formal written constitution which protects the rights of local government. Formalising this will strengthen local democracy by ensuring a parity of esteem between the various levels of government and engender greater public participation at a local level by ensuring a greater recognition and respect of local government.

As a consequence, the legislation would lead to a welcome clarification of powers and responsibilities between levels of government and so reduce any public confusion.

As an aside, for the sake of enforceability, the Council has concerns that the Charter Articles as set out in Schedule 1 were not intended to have legal status but to be more declaratory principles in purpose. As a result, there are a number of subjective terms within the Articles for instance “appropriate” in Article 7 (relating to elected representatives’ expenses etc.) and “sufficiently diversified and buoyant nature” in Article 9(4). It is suggested that these are subjective matters which may be difficult for the courts to interpret without potentially being viewed as making law and becoming involved in “political” matters. Unlike the incorporation of the ECHR into UK law, there are no historical legal decisions made prior to incorporation that could be followed or considered in order to aid the courts in interpretation. It is suggested that, as stated by COSLA, in their response to the initial consultation that aspects of the language of the Charter Articles be reworded in such a way as to remove any ambiguities. This may be something that the Committee or Parliament may wish to consider as the Bill progresses.

Question 2 “Section 3 of the Bill puts a general duty on the Scottish Government to support local government. The Scottish Government must also report to the Scottish Parliament about what it has done to support local government at least once every 5 years. Do you support section 3? “

The Council supports a duty on the Scottish Ministers of a duty to proactively consider steps that they could take that would or might safeguard and reinforce local self-government and increase the autonomy of local authorities and that compliance with the duty is to be demonstrated by regular reports to the Scottish Parliament and thereafter published. Such reports should also reflect feedback received from Local Government via COSLA. This would make the Scottish Ministers more open, transparent and accountable to Local Government and others.

Question 3 “Section 4 of the Bill says all legislation must be interpreted in line with the Charter whenever possible. Section 5 allows a court to make a “declaration of incompatibility”. This is a statement that a provision in a piece of legislation is not in line with the Charter. Where this declaration has been made, section 6 gives the Scottish Government power to take action to fix this provision so that it is line with the Charter (section 6). Do you agree with these sections? “

Given the restraints upon the Parliament in terms of the Scotland Act 1998, it is difficult to see any other way to enforce the Charter Articles. However, it must be considered whether what is effectively a statement from the court would have the effect envisaged by the promoter of the Bill. This strikes at the heart of the proposed legislation by limiting its effect and so puts into question whether the balance of public interest remain in favour of the Bill.

However, the Council believes that further clarity should be provided on what is meant by “primary legislation prevents the removal of the incompatibility”. Is it intended that this prohibition must be specific within the primary legislation or interpreted as being implied through any legislative provision regarding the terms of reference for the making of such subordinate legislation? The Council believes that this should be framed in a way that makes the removal of the incompatibility a powerful tool in supporting the Charter Articles and, almost, the default outcome.

Question 4 “Section 7 allows a court to limit the consequences of a ruling that the Scottish Government has not complied with a duty set out elsewhere in the Bill. For instance, the court could provide that the effects of the ruling don’t reach back in time. It can also give the Scottish Government some time to take corrective action to address the ruling. Do you agree with section 7? “

The Council hopes that recourse to courts will be a rarity rather than commonplace with all levels of government respecting the other. It envisages that the approach taken would be more consensual between the levels of government and so resolved without such extreme action. However, the Council, in order to deal with such rare occasions, suggests that there should be clarity in this provision on when a court would be unable to make a declaration of incompatibility in relation to subordinate legislation made prior to the Act which follows this Bill coming into force. It appears from the current wording that in such a situation, the alternative available to the court would be to quash that legislation. However, it is unclear as to whether that is the intention. It would also be appropriate to allow time to take corrective action, for example, by amending the legislation. However, whilst it may not be possible to state a definitive period to enact amending legislation, it is suggested that the Scottish Ministers should be required to take such action as quickly as possible taking account of the circumstances of each case and the significance of the incompatibility on local government and others

Question 5 “Do you have thoughts on anything else about the Bill, for example:-

- **how quickly it should become law after it’s passed (section 10 says this should happen almost immediately)**
- **what financial impact it will have if it becomes law**
- **if it will have any positive or negative impact on equality or human rights.”**

The Bill if enacted does not, in itself, generate any immediate actions. However, its effect is likely to lead to challenges in relation to historical legislation and decisions, particularly in relation to local government financing and the governance arrangements on the exercise of their functions made prior to its passing where that legislation is perceived as being incompatible with the Charter Articles. This could potentially have an impact upon the Scottish Ministers and the courts as a result of parliamentary and court time required to deal with those challenges. It may be appropriate to consider a period of transition whereby existing legislation and decisions could be reviewed in partnership between local Authorities and the Scottish Ministers prior to the ability to challenge them being implemented. Once any historical elements are addressed, it is anticipated that the future scrutiny process would not require any additional resourcing.

The Council does not envisage any negative impact on equalities and human rights as a result of the proposed legislation. In fact, with the clarity of responsibilities between the levels of government, individuals will be able to clearly identify and enforce their rights against the appropriate level of government without the complication of having more than one level involved.

Appendix 2

THE CHARTER ARTICLES

Article 2 – Constitutional and legal foundation for local self-government

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

Article 3 – Concept of local self-government

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

Article 4 – Scope of local self-government

1. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
2. Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
3. Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
4. Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
5. Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
6. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

Article 5 – Protection of local authority boundaries

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

Article 6 – Appropriate administrative structures and resources for the tasks of local authorities

1. Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
2. The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

Article 7 – Conditions under which responsibilities at local level are exercised

1. The conditions of office of local elected representatives shall provide for free exercise of their functions.
2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

Article 8 – Administrative supervision of local authorities' activities

1. Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
2. Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
3. Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

Article 9 – Financial resources of local authorities

1. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
2. Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
3. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.

4. The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
5. The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

Article 10 – Local authorities' right to associate

1. Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
2. The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.
3. Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

Article 11 – Legal protection of local self-government

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

Report

13

Report to:	South Lanarkshire Council
Date of Meeting:	23 September 2020
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Amendments to Membership of Committees, Forums etc
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ advise on action taken, in terms of Standing Order No 36(c) because of the timescales involved by the Executive Director (Finance and Corporate Resources) in consultation with the Chair and an ex officio member, for amendments to the membership of Committees, Forums etc
- ◆ advise that Councillor Walker had filled a temporary vacancy of ordinary member on the Lanarkshire Valuation Joint Board following the commencement of Councillor Hamilton's family leave

2. Recommendation(s)

2.1. The Committee is to approve the following recommendation(s):-

- (1) that the following action taken in terms of Standing Order 36(c) by the Executive Director (Finance and Corporate Resources), in consultation with the Provost and an ex officio member, for amendments to the membership of a number of Committees, Forums etc be noted:-
- ◆ that Councillor Wardhaugh to replace Councillor Burns as a member of the Executive Committee and, consequently, to vacate his place on the Financial Resources Scrutiny Forum and the Risk and Audit Scrutiny Committee
 - ◆ that Councillor Wardhaugh to replace Councillor Burns as a member of the Conference Allocation Committee
 - ◆ that Councillor Watson to replace Councillor Burns as a member of the Social Work Resources Committee, with Councillor Cooper filling the resultant substitute member place
 - ◆ that Councillor Cooper to replace Councillor Burns as a member of the Housing and Technical Resources Committee
 - ◆ that Councillor Lowe to replace Councillor Burns as a member of the Planning Committee
 - ◆ that Councillor Lowe to replace Councillor Burns as a substitute member of the Planning Local Review Body
 - ◆ that Councillor Wardhaugh to replace Councillor Burns as a substitute member of the Education Resources Committee
 - ◆ that Councillor Wardhaugh to replace Councillor Burns as a member of the Standards and Procedures Advisory Forum

- ◆ that Councillor Lowe to replace Councillor Burns as a member of the Tackling Poverty Working Group
- ◆ that Councillor Wardhaugh to replace Councillor Burns as a substitute member of the Recovery Board

(2) that it be noted that Councillor Walker had filled a temporary vacancy of ordinary member on the Lanarkshire Valuation Joint Board following the commencement of Councillor Hamilton's family leave.

3. Background

- 3.1. On 26 August 2020, a proposal was received from the Leader of the Independent Group requesting that a number of changes to memberships be implemented. In order to facilitate the request and allow the continuation of Council business, the changes, which are set out in recommendation (1) of paragraph 2.1 were made.
- 3.2. Following further consultation with the Business Manager of the Labour Group, Councillor Walker had filled a temporary vacancy of ordinary member on the Lanarkshire Valuation Joint Board due to the commencement of Councillor Hamilton's family leave.

4. Employee Implications

- 4.1. There are no employee implications in terms of this report.

5. Financial Implications

- 5.1. There are no financial implications in terms of this report.

6. Climate Change, Sustainability and Environmental Implications

- 6.1. There are no climate change, sustainability or environmental implications in terms of this report.

7. Other Implications

- 7.1. There are no implications in terms of risk.

8. Equality Impact Assessment and Consultation Arrangements

- 8.1. There was no requirement to carry out an EIA or formal consultation process.

Paul Manning

Executive Director (Finance and Corporate Resources)

26 August 2020

Link(s) to Council Values/Ambitions/Objectives

- ◆ Accountable, effective, efficient and transparent

Previous References

- ◆ None

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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Report

14

Report to:	South Lanarkshire Council
Date of Meeting:	23 September 2020
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	South Lanarkshire Integration Joint Board – Reappointment of the Council's Voting Members and Substitute Members
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ♦ advise on the action taken, in terms of Standing Order No 36(c) because of the timescales involved, by the Executive Director (Finance and Corporate Resources) in consultation with the Chair and an ex officio member, for the reappointment of the Council's voting and substitute members on the South Lanarkshire Integration Joint Board (IJB)

2. Recommendation(s)

2.1. The Council is asked to approve the following recommendation(s):-

- (1) that the following action taken, in terms of Standing Order No 36(c), by the Executive Director (Finance and Corporate Resources), in consultation with the Chair and an ex officio member, be noted:-
- ♦ approval of the reappointment of Councillors Allan Falconer and Jim McGuigan as voting members on the South Lanarkshire Integration Joint Board
 - ♦ approval of the reappointment of Councillors Maureen Chalmers and Hugh Macdonald as substitute members on the South Lanarkshire Integration Joint Board

3. Background

- 3.1. The South Lanarkshire Integration Joint Board at its meeting on 6 October 2015 approved the Integration Joint Board's Standing Orders. The Standing Orders are required by the Integration Joint Board under the Public Bodies (Joint Working) (Scotland) Act 2014 and the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 (No 285).
- 3.2. The Standing Orders allow for the Council to appoint its voting members and substitute members to the IJB for a period of 3 years, after which they require to be reappointed.
- 3.3. Following the Local Government elections in May 2017, the Council agreed that Councillors Allan Falconer and Jim McGuigan be appointed as voting members and that Councillors Maureen Chalmers and Hugh Macdonald be appointed as substitute members to the IJB for a period of 3 years to 31 May 2020.

- 4. Reappointment of Voting and Substitute Members of the South Lanarkshire Integration Joint Board (IJB)**
 - 4.1. It is proposed that Councillors Allan Falconer and Jim McGuigan be reappointed as voting members and that Councillors Maureen Chalmers and Hugh Macdonald be reappointed as substitute members to the IJB for a period of 3 years with effect from 1 June 2020.
- 5. Employee Implications**
 - 5.1. There are no employee implications associated with this report.
- 6. Financial Implications**
 - 6.1. There are no financial implications associated with this report.
- 7. Climate Change, Sustainability and Environmental Implications**
 - 7.1. There are no implications for climate change, sustainability or the environment in terms of the information contained in this report.
- 8. Other Implications**
 - 8.1. There are no risks to the Council in relation to the recommendation contained in this report.
- 9. Equality Impact Assessment and Consultation Arrangements**
 - 9.1. This report does not introduce a new policy, function or strategy nor recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.
 - 9.2. There is also no requirement to undertake any consultation in terms of the information contained in this report.

Paul Manning
Executive Director (Finance and Corporate Resources)

1 July 2020

Link(s) to Council Objectives/Values

- ◆ Fair, Open and Sustainable
- ◆ Accountable, Effective, Efficient and Transparent

Previous References

South Lanarkshire Integration Joint Board 6 October 2015

List of Background Papers

Standing Orders for the Integration Joint Board

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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Report

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Report to:	South Lanarkshire Council
Date of Meeting:	23 September 2020
Report by:	Chief Executive

Subject:	Standards Commission's Hearing Outcome
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1. Purpose of Report

1.1. The purpose of the report is to: -

- Advise the Council of the decision of the Standards Commission of Scotland following the Hearing into a complaint against Councillor Gerry Convery held on 23 July 2020.

2. Recommendation(s)

2.1. The Council is asked to approve the following recommendation(s): -

- (1) that the decision of the Hearing Panel of the Standards Commission for Scotland that Councillor Gerry Convery had breached paragraphs 5.2,5.3,5.10 and 5.12 of the Councillors' Code of Conduct be noted; and
- (2) that the decision of the Hearing Panel to censure Councillor Convery be noted.

3. Background

3.1. A complaint was received by the Commissioner for Ethical Standards in Public Life in Scotland (ESC) that on 6 February 2019, during a special meeting of the Housing and Technical Resources Committee, Councillor Convery had not declared an interest in a report proposing a budget saving arising from a redesign of the Housing Repairs Standby (Out of Hours) Service in which his son had a financial interest as he participated in the Standby Service as part of his employment and also a non -financial interest as a local representative of a trade union that represented other employees who participated in the service. Also, that Councillor Convery participated in the debate on this item and voted in support of an amendment put forward by the Independent Group.

3.2. Following an investigation, the ESC referred the complaint to the Standards Commission for Scotland on the basis that Councillor Convery had failed to comply with the provisions of the Councillors' Code of Conduct and that, in particular, he had contravened paragraphs 5.2, 5.3, 5.10 and 5.12 of the Code which are as follows:

5.2 It is your responsibility to make decisions about whether you have to declare an interest or make a judgement as to whether a declared interest prevents you from taking part in any discussions or voting. You are in the best position to assess your personal circumstances and to judge how these circumstances affect your role as a councillor in regard to a particular matter. You can, of course, seek advice from appropriate Council officers or from other sources

which may be available to you. In making decisions for which you are personally responsible you are advised to err on the side of caution.

- 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.*

The Financial Interests of Other Persons

- 5.10 *The Code requires only your financial interests to be registered. You also, however, have to consider whether you should declare any financial interest of certain other persons.*

You must declare if it is known to you ANY FINANCIAL INTEREST of:

- (i) a spouse, a civil partner or a co-habitee;*
- (ii) a close relative, close friend or close associate;*
- (iii) an employer or a partner in a firm;*
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;*
- (v) a person from whom you have received a registrable gift or registrable hospitality; or*
- (vi) a person from whom you have received registrable election expenses. There is no need to declare an interest if it 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 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.*

The Non-Financial Interests of other persons

- 5.12 *You must declare if it is known to you ANY NON-FINANCIAL INTEREST of:*

- (i) a spouse, a civil partner or a co-habitee;*
- (ii) a close relative, close friend or close associate;*
- (iii) an employer or a partner in a firm;*
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;*
- (v) a person from whom you have received a registrable gift or registrable hospitality; or*
- (vi) a person from whom you have received registrable election expenses. There is no need to declare the interest unless it is clear and substantial. There is only a need to withdraw from the meeting if the interest is clear and substantial.*

4. Hearing Panel Decision

- 4.1. The Hearing called by the Standards Commission took place in Hamilton on 23 July 2020. As a joint statement of facts had been agreed in advance of the hearing, no witnesses were called.

- 4.2. The Hearing Panel considered the submissions given orally at the Hearing and in writing and found that the Councillors' Code of Conduct applied to Councillor Convery and that he had breached paragraphs 5.2, 5.3, 5.10 and 5.12 of the Code.
- 4.3. The Hearing Panel considered how the objective test should be applied in determining whether to declare an interest and confirmed that ,in interpreting and applying the objective test, councillors did not have to worry that one member of the public might be unduly suspicious and consider, without any good reason, that a remote or insignificant interest could affect their decision-making. The objective test requires the member of the public to be in possession of the relevant facts and to make a reasonable judgement.
- 4.4. The Hearing Panel accepted that in this case they had no reason to doubt Councillor Convery's position that his decision- making and voting had not been influenced by his son's interests in the item. The Panel were however of the view that the Councillor, after applying the objective test, should have concluded that his son's financial and non-financial interest would not be perceived by a member of the public as so remote and insignificant or unclear and unsubstantial that it could not influence him. They concluded that a member of the public would be reasonably entitled to conclude that the Councillor would be unlikely to support a proposal that would have a detrimental impact on his son's earning capacity. The Panel took the decision to censure Councillor Convery under section 19 (1) of the Ethical Standards in Public Life etc. (Scotland) Act 2000.
- 4.5. In reaching its decision on sanction, the Panel considered and weighed up all relevant mitigating factors. The Panel noted that the Councillor had fully cooperated with the investigation and hearing process .They emphasised that the requirement for councillors to declare certain interests is a fundamental requirement of the Code and a failure to do so removes the opportunity for openness and transparency in a councillor's role. In particular, it denies the public the opportunity to consider whether a councillor's interests influence their discussion, voting and decision-making.
- 4.5. The Panel emphasised that it was a councillor's personal responsibility to be aware of the provisions in the Code and to ensure that he or she complied with them and that Councillor Convery had failed to correctly apply the objective test as required by the Code.
- 4.6. The Panel was of the view that a more severe sanction was not warranted because there was no evidence of personal gain or that he had attempted to conceal his son's employment or connection to the matter.
- 4.7. The full decision is available on the Standards Commission for Scotland website.

5. Employee Implications

- 5.1. There are no employee implications arising from this report.

6. Financial Implications

- 6.1. There are no financial implications arising from this report.

7. Climate Change, Sustainability and Environmental Implications

- 7.1. There were no Climate Change, Sustainability and Environmental Implications in terms of the information contained within this report.

7. Other Implications

- 7.1. Section 18 of the Ethical Standards in Public Life etc. (Scotland) Act requires a Council receiving a copy of a Hearing Decision to consider the findings within three months of receipt of the decision.

8. Equalities Impact Assessment and Consultation Arrangements

- 8.1. This report does not introduce a new policy, function or strategy and therefore no Equality Impact Assessment is required.
- 8.2. There was no requirement for consultation in terms of the information contained in this report.

Cleland Sneddon
Chief Executive

24 August 2020

Link(s) to Council Values/Improvement Themes/Objectives

- ◆ Accountable, effective, efficient and transparent
- ◆ Focused on people and their needs

Previous References

- ◆ None.

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact: -

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