

Motion by the Conservative Group

City of Edinburgh Council

23 September 2021

Item 1.1 – Order of Business

Item 1.1 – Order of Business

Council notes that Item 7.4 has been circulated to members with a related confidential Annex with the intention by officers that it be considered as private business.

Council further notes that an identical private report circulated to Council on 26 August contained an Annex with the Court Judgement in the case; that Court judgements are published as public documents by the Court Service and welcomes the fact that this Annex is now a link in the public report to Council as this provides transparency by allowing the public swift access to the main document that explains the case.

Council also notes that, barring one paragraph (4.9), the reason given for the remainder of the report being circulated under a 'B agenda' as private is because it relates to potential legal arguments which the Council did not use in the case.

Council notes the decision by the "Proper Officer" that paragraph 4.9 of the private report contains personal data and cannot be released, however is concerned that this reasoning was only provided to councillors during the meeting on 26 August without a previous opportunity for councillors to seek a briefing on the Data Protection issues involved despite a detailed briefing being released to Council Group Leaders on 25 August which failed to mention this issue.

Council considers that, as the case has been lost, as the Court has ordered release of the document to the Whistleblower and as this has been complied with, there is no further value in protecting the legal argument outlined in the report and no reason why the remainder of the report, with a redaction of Paragraph 4.9, should not be made public.

Council therefore agrees to publish the remainder of the report on the 'A agenda' and to consider the matter in public.

Moved by: Councillor Iain Whyte
Seconded by: Councillor Jim Campbell

Amendment by the Coalition

City of Edinburgh Council

23 September 2021

Item 6.1 - Appointments to Outside Organisations

Council notes changes to the following committees:

Councillor Bird to be replaced by E Young on Governance, Risk & Best Value Committee.

Councillor F Ross to replace D Dixon on Governance, Risk & Best Value Committee.

Councillor D Dixon to replace E Young on Planning Committee.

Councillor C Fullerton to replace D Key on Culture & Communities Committee.

Councillor A McNeese-Mechan to replace C Fullerton as Convener of Jean F Watson Committee.

Moved by: Councillor Catherine Fullerton

Seconded by: Councillor Karen Doran

Amendment by the Conservative Group

City of Edinburgh Council

23 September 2021

Item 6.1 - Appointments to Outside Organisations

Council

The Conservative Group nominates:

- Councillor Joanna Mowat to replace Councillor Iain Whyte to serve on the on the Board of Trustees on the Edinburgh International Festival Council.

Moved by: Councillor Iain Whyte

Seconded by: Councillor Jason Rust

Amendment by the Green Group

City of Edinburgh Council

23 September 2021

Item 7.3 – St James Quarter GAM: Interim Payment

Delete 1.1 and replace with

1.1 Council notes that the Growth Accelerator Model was agreed in 2016 on the basis of public benefits being secured which otherwise would not materialise and on the net uplift in Non domestic rate income funding the GAM over time; notes that, while progress has been made towards achieving the requirements set out in the GAM, these have not yet been fully achieved; and therefore agrees only to make payment once the council requirements have been fully achieved.

1.2 Council agrees payment of £1,321,415 for Picardy Place works on the terms set out in the report.

Moved by: Councillor Gavin Corbett

Seconded by:

Addendum by the Coalition

City of Edinburgh Council

23 September 2021

7.4 – Report in Relation to a Legal Case

Add:

Delegates the Chief Executive to engage with Mr Travers and his family with a view to addressing any detriment caused to him and his family not covered by previous settlements and for any detriment since the conclusion of the PWC work in 2016. This should include consideration of making a full and final settlement, if appropriate subject to any ongoing legal dispute with the conclusion of any agreement reached being reported back to Council - subject to agreement of Mr Travers.

Moved by: Councillor Adam McVey

Seconded by: Councillor Cammy Day

Amendment by the Conservative Group

City of Edinburgh Council

23 September 2021

Item 7.4 - Report in Relation to Legal Case

Delete recommendation 1.1 and replace with:

Council:

1. Notes the content of the Judgment by Sheriff Noble in John Travers v City of Edinburgh Council;
2. Regrets the five year refusal to provide John Travers with a copy of the report which, as the Sheriff has found, the Council agreed to provide (noting that Sheriff Noble found in fact that the contract was established, including by the circumstances, and that the 'balance of probabilities' test is a legal bar above which proof needs to rise);
3. Considers that the extensive legal deployment by the Council during this period is at odds with the statements in the report suggesting the Council has sympathy with Mr Travers and his wish to access the PWC report and has contributed to considerable costs being expended by both the Council using taxpayers funding and by Mr Travers.
4. Notes that the refusal to provide the John Travers with a copy of the report has inhibited full and timeous police inquiry, given that the police indicated they required John Travers to have full access to the results of the inquiry in order to progress their investigation;
5. Considers that the report by the Service Director: Legal and Assurance and Council Monitoring Officer does not appear to reflect the decisive nature of the conclusions of Sheriff Noble's Judgement;
6. Notes a number of apparent inaccuracies or inconsistencies in the report and instructs the Chief Executive to review these and report back to Council as soon as possible, viz.

- a. The 'redacted' copy of the PwC Report supplied to John Travers failed to include a large number of paragraphs which contained no identifiable personal data which necessitated redaction from a data protection argument
 - b. The unredacted PwC report supplied to John Travers was accompanied with a narrative of how it should be used – which may be a limit on the unrestricted provision instructed by Sheriff Noble
 - c. The Financial Impact section of the Report by the Service Director: Legal and Assurance and Council Monitoring Officer states that there are no direct financial impacts **of this report**. Council regrets that it was not informed of potential financial impact given that Sheriff Noble has instructed further hearings to attribute costs.
7. Notes in relation to the Data Protection Acts, the risk to City of Edinburgh Council was not established and that Sheriff Noble noted, *"In my view, neither the Data Protection Act 1998 nor the Data Protection Act 2018 bars the pursuer from receiving an unredacted copy of the PwC report."* Sheriff Noble further notes, *" . . . the balance in my view falls very firmly in favour of providing the pursuer (John Travers) with a copy of the report."* (Judgement, note 38)
 8. Notes that the report appears to perpetuate a culture of protecting the rights of employees and former employees even where they are found to be responsible for wrongdoing over the rights of victims and public transparency;
 9. Instructs that the documents associated with the current debate be passed to the Inquiry, chaired by Susanne Tanner, including the reports and all briefings to councillors, for consideration of what they contribute to the analysis of the current culture of the Council.
 10. Notes that this court case continues a 19-year course of events, and the Council's ongoing fight to avoid release of the report does nothing to encourage whistleblowers or others seeking action to come forward.
 11. Instructs that all councillors should be given access to the 2016 PwC report
 12. Instructs the Chief Executive to engage with Mr Travers with a view to making a full and final settlement for any detriment caused to him and his

family not covered by previous settlements and for any detriment since the conclusion of the PwC work in 2016, the outcome of this engagement to be reported to Council or an appropriate committee for approval.

Moved by: Councillor Cameron Rose

Seconded by: Councillor Andrew Johnston

Amendment by the Conservative Group

City of Edinburgh Council

23 September 2021

Item 8.1 – Motion by Councillor McVey – Council Owned Care Homes - EIJB

Council

1. In paragraph 1, deletes “of the future of Care Homes in Edinburgh” and replaces with “in respect of bed-based care, including Hospital Based Complex Clinical Care, intermediate care and residential care, in Edinburgh.”
2. In paragraph 2 inserts “covering all aspects of the bed-based review” after “as possible”.
3. In paragraph 3, deletes all after “completed” and replaces with “and will implement in Council processes and procedures whatever legislation requires as a consequence of the Feeley Review.”
4. In paragraph 6, replace “two cycles” with “one cycle”.
5. Inserts at end of paragraph 6, “The report should contain explanation of any departure from existing Council policies and procedures in relation to the initial announcement of potential care home closures, particularly in relation to consultation.”

Moved by: Councillor Phil Doggart

Seconded by: Councillor Iain Whyte

Amendment by the Green Group

City of Edinburgh Council

23 September 2021

Item 8.1 – Motion by Councillor McVey – Council Owned Care Homes – EIJB

In point 3 replaces “Agrees the Council will maintain the present number of care homes” with “Agrees the Council will work with the EIJB to maintain the present publicly-owned assets”.

And adds a new additional paragraph 4 and renumber:

4 Council will work with the IJB to develop options for Council managed care homes to address the needs of Edinburgh residents, and as a partner is committed to expanding publicly owned and operated care provision.

Moved by: Councillor Melanie Main

Seconded by: Councillor Gavin Corbett

Amendment by the Liberal Democrat Group

City of Edinburgh Council

23 September 2021

Item 8.1 – Motion by Councillor McVey – Council Owned Care Homes – EIJB

Delete paragraph 3 and replace with

Agrees the council will proceed to support the reprovisioning of the Drum Brae Care Home as a HBCCC, and that the council will otherwise retain the number of care homes until the consultation outlined in para 1 is completed

Moved by: Councillor Robert Aldridge

Seconded by: Councillor Neil Ross

Amendment by the Conservative Group

City of Edinburgh Council

23 September 2021

Item 8.2 – Motion by Cllr Macinnes – Health and Inequalities in Relation to Active Travel Provision in Edinburgh

Deletes all and replaces with:

Council:

1. Welcomes the public engaging with the Council on active travel and specifically on *Spaces for People* and *Travelling Safely* measures brought forward by the Council and regrets aspects of the limited and flawed consultation undertaken by the Council to date.
2. Recognises that forcing significant changes on communities where local people have expressed substantive opposition is a cause of reputational damage to the Council and contrary to building support for active travel which is likely to endure and gain public validity.
3. Notes the letter signed by 144 of the 24,000 people involved in delivery of healthcare in Lothian as part of their contribution to the public debate and agrees with the importance of active travel and the positive health impacts but considers that the letter provides no direct analysis of the quality of the measures introduced thus far in Edinburgh, which fail to improve safe, self-powered travel.
4. Considers that in light of the negative impact of *Spaces for People* active travel schemes on disabled people, patients and carers as well as users of public transport amongst others, the Council requires better quality and more inclusive, properly conceived active travel plans for all road users.
5. Agrees that improvement in health and reduction in health inequalities are important citywide and national objectives and there is no evidence that recent and current schemes implemented by the Council are achieving this.

Moved by: Councillor Jason Rust
Seconded by: Councillor Graham Hutchison

Amendment by the Green Group

City of Edinburgh Council

23 September 2021

Item 8.2 – Motion by Cllr Macinnes: Health and Inequalities in Relation to Active Travel Provision in Edinburgh

Create a composite motion of Cllr Macinnes motion 8.2 and Cllr Miller motion 8.4 as follows:

“Council:

1. Welcomes the recent open letter to councillors from a group of 140 health professionals from a wide variety of disciplines including, but not limited to, children’s health, emergency medicine, orthopaedics, those working in health academia, oncologists and cardiac specialists, as well as those in the front line of general practice: [active-travel-letter-060921-3.pdf](#) (wordpress.com)
2. Notes that the letter sets out evidence with references and the following key points;
 - ‘As health professionals, we have a responsibility to protect and promote the health of the population. We have a responsibility to address inequalities and to advocate for the needs of the most deprived and disadvantaged members of the population we serve
 - ‘We are concerned about the impact of the climate crisis on health, globally and locally
 - ‘We are concerned about harms to health caused by air pollution in Edinburgh
 - ‘Regular physical activity is associated with improved health outcomes at all ages
 - ‘We support the retention, and further development and integration of infrastructures designed to support active travel and clean air for the whole population of Edinburgh, to mitigate inequalities in health, local mobility, and air quality

- ‘This includes quiet routes in the vicinity of schools to allow safe active travel for families, an integrated network of segregated safe paths for cycling, city-wide subsidised cycle hire programmes, and low-emission zones
 - ‘We are concerned that suggested steps to reverse active travel measures introduced during the COVID-19 pandemic would be a retrograde and harmful step for the health of the population of Edinburgh’
3. Further welcomes their call to retain and extend as much of the recent improvements to active travel infrastructure as possible. Recognises the succinct description in the letter of why active travel and actions to combat air pollution are so important and the health inequalities and outcomes they can help to address and to meet climate obligations.
 4. Notes that this well-researched and evidenced call reflects the Council’s approach towards increased active travel options within and supports the Council’s ongoing work with the Scottish Government to make the Traffic Regulation Order process more efficient as well as wider efforts to help deliver high-quality active travel infrastructure as quickly as possible.
 5. Requests that the Council Leader and the Transport Convenor responds to the letter on behalf of the Council
 6. Welcomes the considered professional opinion of the signatories and requests that council officers and Transport and Environment Committee takes account of these opinions when making any future relevant decisions about active travel measures.
 7. Requests that officers bring forward a report to the Transport and Environment Committee by March 2022 which examines the issues raised in this letter, describes the likely effect of not making significant progress towards improved sustainable transport (ie public transport and active travel) within Edinburgh and its connections with neighbouring authorities) and outlines the transport-related actions the Council is taking towards achieving a more equitable, healthier future for all those living, working and visiting Edinburgh.”

Moved by: Councillor Claire Miller

Seconded by: Councillor Gavin Corbett

Addendum by the Conservative Group

City of Edinburgh Council

23 September 2021

Item 8.3 - Motion by Councillor Macinnes – Climate Charter

Adds to motion:

Council

Notes the current underfunding of local Councils by the Scottish Government, and underlines that this funding would be essential to carry out any goals and recommendations set by Scotland's Climate Assembly.

Moved by: Councillor Iain Whyte
Seconded by: Councillor Jim Campbell

Amendment by the Conservative Group

City of Edinburgh Council

23 September 2021

Item 8.5 - Motion by Councillor Burgess – Better School Milk

Council

Amends recommendation 2 per below

2. Recognises that some believe organic milk can be healthier for children and that reducing single-use plastic and packaging can create less waste and is better for the environment.

Adds recommendation 3 per below and renumbers accordingly

3. Notes that organic milk is considerably more expensive to produce and purchase and asks the report to provide clear costs and possible funding sources, along with evidence of the health benefits of switching from non-organic milk.

Moved by: Councillor Callum Laidlaw

Seconded by: Councillor Scott Douglas

Amendment by the Conservative Group

City of Edinburgh Council

23 September 2021

Item 8.6 – Motion by Councillor Miller – Equal Pavements Pledge

Council

Accepts points 1-4

Deletes the final paragraph and replaces with.

Therefore, agrees that the City of Edinburgh Council adopts this pledge and applies the principles to all schemes going forward and reviews work undertaken in haste over the last year; including but not limited to “Spaces for People” schemes now rebranded as “Travelling Safely” and on works in relation to the Tram Line 1 completion to Newhaven and reports back to Council which schemes comply and where schemes do not comply what remedial work and associated costs and resources would be required to make them compliant

Requests that the Transport Convenor writes to Transport for All to convey support for the pledge

Moved by: Councillor Jo Mowat

Seconded by: Councillor Iain Whyte

Addendum by the Liberal Democrat Group

City of Edinburgh Council

23 September 2021

Item 8.6 – Motion by Councillor Miller – Equal Pavements Pledge

Further agrees that the Council can take a leading role in this work by ensuring those council staff and sub-contractors responsible for delivering core council services are trained in the importance of protecting footway space wherever possible, and by making sure sufficient officer resource is in place to deal with issues of enforcement.

Moved by: Councillor Lang
Seconded by: Councillor Osler

Addendum by the Green Group

City of Edinburgh Council

23 September 2021

**Item 8.1 – Motion by Councillor Doggart – Edinburgh
Integration Joint Board Bed Based Review**

Add

Council will work with the IJB to develop options for Council managed care homes to address the needs of Edinburgh residents, and as a partner is committed to expanding publicly owned and operated care provision.

Moved by: Councillor Melanie Main

Seconded by: Councillor Gavin Corbett