

URGENT BUSINESS COMMITTEE

ABERDEEN, 18 December 2024. Minute of Meeting of the URGENT BUSINESS COMMITTEE. Present:- Councillor Yuill, Convener; Councillor Allard, Vice Convener; and Councillors Blake, Brooks, Greig, Malik and Radley.

Also in attendance:- Councillors Graham, McLellan, Nicoll and van Sweeden.

The agenda associated with this minute can be found [here](#).

Please note that if any changes are made to this minute at the point of approval, these will be outlined in the subsequent Council minute and this document will not be retrospectively altered.

STATEMENT BY THE CHIEF EXECUTIVE

1. The Chief Executive offered an apology to elected members on behalf of herself, the Director, the Chief Officer and officers. She advised that in reviewing the motion that was agreed by Council on 11 October 2024, officers did not identify all of the implications of the suggested modification and that was a mistake. She added that it had been a very active meeting with many questions, motions and amendments to consider and in this case an oversight brought us here today.

The Chief Executive noted it was her duty to minimise the risk of any Council decision being subject to legal challenge and that was why the meeting was taking place today. She added that she was genuinely sorry to be in this position, but it was important that officers had the ability to be open when there was an oversight and that corrective action could be brought forward.

The Chief Executive advised that the team had been reflecting on what happened and there were lessons to be learned with regard to improved scrutiny, particularly around statutory processes which could be complex. She highlighted that officers were happy to explore with the Governance Reference Group ways to improve the advice given on motions and amendments.

The Chief Executive recognised the frustration this matter had caused close colleagues in Aberdeen Inspired and local businesses and that irrespective of the decision today, colleagues looked forward to working together positively for the good of the city.

DETERMINATION OF URGENT BUSINESS

2. The Convener explained that that the matter was urgent and required to be considered this day to ensure officers received the necessary instruction from the Committee to implement the legal processes for making the Experimental Traffic Regulation Order (ETRO) permanent within the legislative timeline before 1 February 2025. He added that the report proposed a course of action to manage the risk to the Council and this was timebound under the legislation, and noted that if instruction was given today, this would provide the required time for officers to make the necessary

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preparations, which involved writing the required Traffic Order, responding to objectors and publishing the notice for making the Order.

Following questions to officers on the process and urgency, some members expressed the view that the matter was not urgent.

The Convener moved as a procedural motion, seconded by Councillor Radley:-

That the Committee agree that the item was of an urgent nature and required to be considered this day and decisions taken thereon, for the reasons set out in the report and by the Convener.

On a division, there voted:- for the procedural motion (4) - Convener; Vice Convener; and Councillors Greig and Radley; against the procedural motion (3) - Councillors Blake, Brooks and Malik.

The Committee resolved:-

to adopt the procedural motion.

DECLARATIONS OF INTEREST AND TRANSPARENCY STATEMENTS

3. The Convener advised that he had connections in relation to the item as a member of Cycling UK and as a member of the AA (Automobile Association), however having applied the objective test he did not consider that he had an interest and would not be withdrawing from the meeting.

DEPUTATION

4. The Committee was advised that a deputation request had been received from Adrian Watson, Chief Executive Officer of Aberdeen Inspired, however Standing Orders would require to be suspended to hear the deputation as the request had been received beyond the deadline contained within Standing Order 14.1

The Committee resolved:-

to suspend Standing Order 14.1 to hear the deputation.

Mr Watson thanked the Committee for the opportunity to speak and advised that he was doing so on behalf of the 700 or so businesses that Aberdeen Inspired represented, but also businesses outside of the city centre and further afield. He added that he was also representing other organisations that could not be here, such as Aberdeen & Grampian Chamber of Commerce, the Federation of Small Businesses and Our Union Street.

Mr Watson sensed that the Council was driving through the ETRO to make it permanent, which he strongly disagreed with and had made that clear in his letter to the Council of 13 November 2024. He noted that Aberdeen Inspired had identified a flaw in

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the process, however this should be viewed as an opportunity by the Council to get round the table with key partners to talk things through. He added that the consternation from local businesses was well documented and was evidenced in surveys by the Chamber of Commerce and Aberdeen Inspired, which demonstrated that 93% of businesses were concerned moving forward.

Mr Watson stated that he had taken advice from independent consultants in the field of roadscape and they believed that the Council should consider a Traffic Regulation Order (TRO), rather than the ETRO, which would give people and businesses a chance to air their concerns.

Mr Watson observed that people from Aberdeenshire were not visiting the city in the same numbers as they had done previously. He believed that much more than a communications strategy was required - the city needed to be accessible and open to business and it was well documented that businesses were closing. Mr Watson underlined that he walked the streets on a daily basis and could see the pain being felt by businesses, there was deep anxiety and a lot of emotion. Since bus gates were introduced, he stated that there had been between a 15% and 40% downturn for businesses. He acknowledged the viewpoint that footfall was holding firm, however footfall was not the acid test - it was sales that really mattered.

Mr Watson called on the Council to slow things down, to pause and not drive towards the date in January. He believed that it was not healthy to be on opposing sides with regard to such a crucial issue and that the Council was unsighted on the economic ramifications as the economic impact assessment was flawed, having been put in place for previous plans based on pedestrianisation.

Mr Watson concluded that there was no evidence base for making the ETRO permanent and urged the Committee to take the opportunity to move towards a TRO process. He pleaded for healthy engagement with businesses which would lead to working together for a common sense compromise moving forward.

Members asked questions of Mr Watson and thanked him for his deputation.

THE ABERDEEN CITY COUNCIL (CITY CENTRE, ABERDEEN) (TRAFFIC MANAGEMENT) (EXPERIMENTAL) ORDER 2023 - IMPLEMENTATION - CR&E/24/360

5. With reference to Article 4 of the minute of the meeting of Council of 11 October 2024, the Committee had before it a report by the Chief Officer - Operations which provided an update on the Council decision relating to the Aberdeen City Council (City Centre, Aberdeen) (Traffic Management) (Experimental) Order 2023 and sought an alteration of that decision.

The report recommended:-
that the Committee -

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- (a) note that the overall outcome for the city centre intended by the Council decision of 11 October 2024 may not be capable of being achieved in the precise way set out in that decision;
- (b) agree to approve the making of The Aberdeen City Council (City Centre, Aberdeen) (Traffic Management) Experimental Order 2023 as a permanent Order, with continued monitoring in terms of the ongoing City Centre Masterplan; and instruct the Chief Officer - Operations to implement the procedure for the Order to be made permanent;
- (c) instruct the Chief Officer - Operations to commence a statutory consultation on potential removal of the ban on right turns from Union Terrace onto Rosemount Viaduct;
- (d) instruct the Chief Officer - Operations, should there be no objections received during the statutory consultation period, to make an appropriate Traffic Regulation Order giving effect to the removal of the ban on right turns from Union Terrace onto Rosemount Viaduct or to report back to the Net Zero, Environment and Transport Committee if objections are received during the statutory consultation period; and
- (e) agree that the costs of undertaking the physical works to remove the prohibition on the ground, if required and estimated to be approximately £3,000, will be funded from the General Fund Capital Programme contingency budget in 2024/25.

Following an introduction to the report from officers, the Convener advised that the Committee would need to go into private session to consider legal advice.

At this juncture, the press and public were excluded from the meeting in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, so as to avoid disclosure of exempt information of the class described in paragraph 12 of Schedule 7A of the Act.

The Interim Chief Officer - Governance (Legal) advised that the legal landscape was quite complex, however he was happy to provide a summary of the legal opinion, although it would also be made available for inspection on screen for members of the Committee if they wished. Following questions on the procedure, the legal advice was then made available for inspection, which was followed by questions on the legal advice.

The press and public were then readmitted to the meeting.

Councillor Malik moved as a procedural motion, seconded by Councillor Blake:-
That the legal advice be shared in written form with all 45 Councillors.

On a division, there voted:- for the procedural motion (3) - Councillors Blake, Brooks and Malik; against the procedural motion (4) - Convener; Vice Convener; and Councillors Greig and Radley.

The Committee resolved:-

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to reject the procedural motion.

Further questions were then asked in relation to the report, which officers responded to.

The Vice Convener moved, seconded by Councillor Greig:-

That the Committee approve the recommendations contained within the report.

Councillor Malik moved as an amendment, seconded by Councillor Blake:-

That the Committee -

- (1) agree that the motion moved by the Administration at the Council meeting on 11 October 2024 would have had to meet with certain Standing Order requirements such as Standing Orders 29.3 and 29.8 relating to competency. Agreeing the recommendations from officers at Urgent Business Committee today would suggest a complete failure in governance which has led the SNP and Lib Dems to convene this meeting with officers being forced to use Standing Order 42.2 allowing for an alteration or reversal of a previous decision within 6 months;
- (2) agree that on the day of the Council meeting on 11 October 2024, legal advice was offered to Elected Members but did not address all the legal implications of the Administration's motion that was approved. Agree that given the recommendations within the report to the Urgent Business Committee, Elected Members must see all legal advice which has brought about these recommendations noting that if Aberdeen Inspired had not raised these matters and the Press and Journal had not run the story on 16 December this matter might not have come to light;
- (3) agree the Monitoring Officer must use the powers under section 5 of the Local Government and Housing Act 1989 as amended to investigate any unlawful act or any maladministration committed by the Administration and report the findings to Council as soon as possible;
- (4) agree the calling of an Urgent Business Committee meeting shows the gross incompetence of the ruling SNP and Lib Dems who are supposed to be in charge of running the Council. Either the Administration did not know what the law around the ETRO changes required or they did know and concealed it from the Council meeting. Agree they were too busy denying members a copy of the legal advice relating to Bus Gates. Agree at best the Administration is incompetent with serious questions requiring to be answered about the chaotic calamity of a Council Administration that appears to have acted unlawfully on this issue;
- (5) agree to support the many businesses who have been calling for common sense proposals from the Council and therefore instruct the Chief Officer - Operations to abandon the order; and
- (6) note that the Labour Group opinion is that politically there is zero chance of what officers are suggesting coming to fruition with regard to risk of grant funding being reclaimed. However, in the highly unlikely event of Transport Scotland reclaiming the funding from the Bus Partnership Fund, in whole or part, note the advice of the Chief Officer - Finance is that the capital grant will have to be replaced by borrowing at a cost to the General Fund

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Revenue Budget of up to approximately £480,000 per annum for the next 30 years, which will increase the budget gap in the Medium Term Financial Strategy from financial year 2025/26.

On a division, there voted:- for the motion (4) - Convener; Vice Convener; and Councillors Greig and Radley; for the amendment (3) - Councillors Blake, Brooks and Malik.

The Committee resolved:-
to adopt the motion.

In accordance with Standing Order 32.8, Councillors Blake, Brooks and Malik intimated their dissent against the foregoing decision.

- IAN YUILL, Convener.