

COUNCIL MEETING THURSDAY 17 JANUARY 2019

Table of Adoptions

No	Item	Summary of key Adoptions
3.	Judicial Review – North West 200 Luxury Hotel and Spa Development – Update and Consideration of Funding of Costs	<p>subject to Councillor McShane being refused Legal Aid, this Council will fund relative Legal Advice in relation to the release of the recordings Council has already sought</p>

**MINUTES OF THE PROCEEDINGS OF THE MEETING OF THE COUNCIL
HELD IN CIVIC HEADQUARTERS, COLERAINE ON
THURSDAY 17 JANUARY 2019 AT 6:05 PM**

In the Chair : The Mayor, Councillor Chivers

Members Present : Alderman Blair, Cole, Finlay, Hillis King, McKeown and Robinson

Councillors Baird, Beattie, Callan, Fielding, Harding, Holmes, Hunter, Knight-McQuillan, Loftus, McCandless, McCorkell, McGlinchey, McGurk, A McLean, MA McKillop, S McKillop, C McShane, P McShane, A Mulholland, K Mulholland, Nicholl, Quigley, Stevenson and Wilson

Officers Present : M Quinn, Director of Corporate Services
E Keenan, Council Solicitor
P Donaghy, Democratic & Central Services Manager
S Duggan, Civic Support & Committee & Member Services Officer

In Attendance : T Jebb, BL
N McMullan, Solicitor
Press (2. No)

1. APOLOGIES

Apologies were recorded for Councillors Deighan, McCaw and Watton.

The Mayor introduced T Jebb, BL and N McMullan, Solicitor, in attendance to provide legal advice in relation to the matter of funding and employment matters.

2. DECLARATIONS OF MEMBERS' INTERESTS

Councillor P McShane advised he would not be taking part in a vote, should the situation arise.

MOTION TO PROCEED 'IN COMMITTEE'

Proposed Councillor Baird
Seconded Councillor Mulholland and

AGREED – that Council move, ‘In Committee’.

Councillor P McShane requested confirmation of which Standing Order provided for the switching off of the audio recording during ‘in committee’ business.

Council’s Solicitor advised that there was no specific Standing Order and further advised that it was the custom and practice of Council to turn the recording off whilst, ‘in-committee’.

* **Press left the meeting at 6.05pm.**

3. JUDICIAL REVIEW – NORTH WEST 200 LUXURY HOTEL AND SPA DEVELOPMENT – UPDATE AND CONSIDERATION OF FUNDING OF COSTS

The Director of Corporate Services presented the confidential report and papers, previously circulated to Members. The Director advised Members of an addition to the report in relation to the Whistleblowing Investigation, namely, that the matter was being dealt with under Council’s Whistleblowing Policy *subject to advice from Counsel that it will not prejudice current legal proceedings.*

* **Councillor Stevenson arrived at the meeting at 6.06pm.**

* **Councillor Beattie arrived at the meeting at 6.06pm.**

Councillor P McShane read from a prepared statement. He referred to the report previously circulated to Members and stated that the content was factually incorrect. During the ensuing debate Councillor P McShane also outlined the points contained in the Orders of the Court in relation to proceedings following the submission of his Affidavit and set out a timeline of events and responses to his verbal and written exchanges with Council Officers in the lead up to the submission.

A lengthy discussion took place during which Elected Members sought legal advice surrounding Council’s Whistleblowing Policy and any associated rights as a Whistleblower.

Council’s Employment Law Solicitor responded to queries relating to Council’s Whistleblowing Policy and the rights of Councillor P McShane as a member of the public under the Whistleblowing Policy.

Members raised concerns regarding setting a precedent.

Counsel set out Council’s legal obligations in relation to the decision to fund Councillor McShane’s legal costs and further advised on court procedure surrounding the award of costs and exceptions. He drew Council’s

attention to other considerations outside of legal issues, should Council decide not to fund Councillor McShane's costs and advised on the recommendation before Council "that Council gives consideration to whether it should bear the costs of Councillor P McShane's legal advice, related solely and exclusively to the release of the recordings referred to in his affidavit."

Council's Solicitor advised the Hearing of the Judicial Review had been listed for 4 days at the end of March.

- * **Councillor Callan arrived at the meeting at 7.00pm**
- * **Councillor Wilson left the meeting at 7.20pm and re-joined the meeting at 7.24pm.**
- * **Councillor McCandless left the meeting at 7.20pm and re-joined the meeting at 7.24pm.**
- * **Councillor Quigley left the meeting at 7.20pm and re-joined the meeting at 7.25pm**

In the course of the meeting the Director of Corporate Services, in response to a request, read from the Whistleblowing Policy at paragraphs 1.3 and 1.5. The Director of Corporate Services further provided Members with information in relation to surcharge following guidance sought from the Northern Ireland Audit Office.

In response to Elected Members' queries the Director of Corporate Services confirmed to Council that she had written the report presented to Council. She reminded Members that the matter was before Council for consideration and it was for Council to make any amendments or further proposals on the matter.

The Director of Corporate Services provided Members with information on Council's existing insurance arrangements in respect of Officials' Indemnity and in relation to current insurance provision for Elected Members which provided cover for legal advice throughout an Investigation conducted by the Commissioner for Standards.

Following further discussion it was

Proposed by Councillor Stevenson
Seconded by Alderman Finlay and

AGREED - that Council hold a recess.

The Mayor declared a recess at 8.29pm.

The meeting reconvened at 9.08pm.

On resumption of the meeting it was

Proposed by Councillor Quigley
Seconded by Councillor A Mulholland

- that full protection including legal protection is afforded to Councillor Mc Shane for the current Judicial Review and any future actions not anticipated presently that may arise from these proceedings;
- we acknowledge that Councillor Mc Shane is in an unique and important position within the council as Chairperson of the Audit committee;
- further propose that he is given full and immediate access to any information he or his legal representatives deem necessary to facilitate the opening up for inspection of any part of this organisation;
- we the public representatives in this organisation at all times should be comfortable in the knowledge that this corporate body has nothing to hide.

* **Councillor P McShane left the meeting at 9.10pm.**

Councillor C McShane requested a Recorded Vote.

The Mayor put the proposal to the Council to vote.
12 Members voted For, 17 Members voted Against, 0 Members Abstained.

For (12)	Alderman Blair Councillors Beattie, Chivers, McGlinchey, McGurk, MA McKillop, C McShane, A Mulholland, K Mulholland, Nicholl, Quigley, Stevenson
Against (17)	Alderman Cole, Finlay, Hillis, King, McKeown, Robinson Councillors Baird, Callan, Harding, Holmes, Hunter, Knight- McQuillan, McCandless , McCorkell, S McKillop, McLean, Wilson

The Mayor declared the motion lost.

Following discussion it was

Proposed by Alderman Hillis
Seconded by Councillor Harding

- subject to Councillor McShane being refused Legal Aid, this Council will fund relative Legal Advice in relation to the release of the recordings Council have already sought.

Counsel provided advice on the motion and on the process surrounding Legal Aid applications.

In response to a request, the Director of Corporate Services clarified the cover provided to Officers under Council's Officials' Indemnity insurance.

During lengthy debate, Members raised issues relating to the insurance cover being provided to Officers, the Court's future direction on the release of the tapes referred to in the Affidavit. Members also sought advice on other avenues of funding which Councillor McShane could explore before or at the conclusion of Court proceedings.

* **Councillor Loftus joined the meeting at 9.50pm.**

Councillor Callan queried the legitimacy of voting on a second motion when the previous motion had failed. Council's Solicitor advised that it was order to proceed.

At the request of Members to allow them time to consider the advice and information provided the Mayor declared a recess at 10pm.

The meeting reconvened at 10.10pm.

On resumption of the meeting:

Amendment

Proposed by Councillor Quigley

Seconded by Councillor MA McKillop

- that Councillor McShane is afforded the same legal protection i.e. reasonable costs, as has been afforded to Senior Officers, subject to review.

Councillor K Mulholland requested a Recorded Vote.

The Mayor put the amendment to the Council to vote.

13 Members voted For, 15 Members voted Against, 1 Member Abstained.

For	Alderman Blair
(13)	Councillors Beattie, Chivers, Loftus, McGlinchey, McGurk, MA McKillop, C McShane, A Mulholland, K Mulholland, Nicholl, Quigley, Stevenson
Against	Alderman Cole, Finlay, Hillis, King, McKeown
(15)	Councillors Baird, Callan, Harding, Holmes, Knight-McQuillan, McCandless, McCorkell, S McKillop, McLean, Wilson
Abstain	Councillor Hunter
(1)	

The Mayor declared the amendment lost.

The Mayor put the motion (subject to Councillor McShane being refused Legal Aid, this Council will fund relative Legal Advice in relation to the release of the recordings Council has already sought) to the Council to vote.

13 Members voted For, 10 Members Voted Against, 6 Members Abstained.

The Mayor declared the motion carried.

Council's Solicitor responded to a question surrounding the timeline for the release of the recordings.

* **Councillor P McShane re-joined the meeting at 10.20PM.**

MOTION TO PROCEED 'IN PUBLIC'

Proposed by Councillor Baird
Seconded by Councillor Holmes and

AGREED - that Council move, 'In Public'.

There being no further business, the Mayor thanked everyone for their attendance and the meeting concluded at 10.20 PM.

Chair