

Minutes of the Meeting of the Executive Council held on 3rd October 2017 at 9.30 am in the Council Chamber

Present: Her Excellency the Governor (Ms L Phillips)
The Acting Chief Secretary (Mrs S O'Bey)
The Financial Secretary (The Hon D L Richards)
The Acting Attorney General (Mrs C Cooper)
The Hon A A Green
The Hon L A Henry
The Hon C L Scipio-O'Dean
The Hon D F Thomas
The Hon R K Yon

In attendance: Head of the Governor's Office (Ms L MacMorran)
Acting Assistant Chief Secretary (Support) (Mrs C A George)
Clerk of Councils (Miss L H Buchanan)

Overseas: The Chief Secretary (Hon R D Burke)
The Attorney General (Hon A Berbotto)

OPEN SESSION

4.1 Welcome

The Governor welcomed all present and commented on the successful loading of Executive Council Memoranda on to the SHG Website and the positive reaction from members of the public. It was seen as a positive step towards the Government being more open and transparent.

4.2 Mental Health and Mental Capacity (Lasting Power of Attorney) Regulations 2017 (ExCo Memo 54/2017)

The Chairman of the Public Health Committee presented this Memorandum to the Executive Council and explained the reasons for introducing such Regulations. All agreed that the most vulnerable in society need to be protected and this being a clear step towards that. **It was agreed by all, that no consultation with the public was needed on this matter, but that public awareness of the Regulations needs to be facilitated, in particular regarding the proposed fees.**

(Action: Chairman, Public Health Committee/ Clerk of Councils)

Council advised and the Governor agreed, that the Regulations should be brought into force.

4.3 Port (Health) (Amendment) Bill 2017 (ExCo Memo 55/2017)

The Chairman of the Public Health Committee introduced the Memorandum and explained that he would like Executive Council to ratify the decision which has been made by the

Public Health Committee giving the Air Access Directorate the mandate to begin the drafting procedure. All agreed that this matter should not have come before the Executive Council, and that drafting can go ahead without its input. The Air Access Directorate would send drafting instructions to the Attorney General to amend the Port (Health) Ordinance and associated Regulations. **It was likely that the legislation would be ready for presentation as Government business at the December 2017 meeting of the Legislative Council.**

(Action: Clerk of Councils)

4.4 Welfare of Children (Employment of Children) (Amendment) Bill, 2017 (ExCo Memo 56/2017)

The Chairman of the Social and Community Development Committee introduced the Memorandum and highlighted the reasoning for bringing about this amendment to the Welfare of Children Ordinance after the publishing of US Labour Report and the Convention of the UN being extended to St Helena. It was noted that there have been minimal or no advances since the previous USA Labour report, highlighting the urgency to now act on this. It was explained that the Bill had received input from the Safeguarding Children's Board but had not yet been discussed by the Education Committee and apologies were extended to the Chair of that Committee; it was noted however, that a compromise has been reached between the two Chairs on this matter. Despite not going to the Education Committee, it was confirmed that it has had input from the Safeguarding Children's Board.

There was mention of some concerns having been raised by the Human Rights Commission about the minimum age for work being 16 years of age, as they had been in favour of 15 years of age being the minimum age. The Acting Attorney General had addressed this, explaining that the Convention required the age to be the same as the official school leaving age (which was 16 years on St Helena). It was also highlighted that targeted consultation will take place and this should include the Human Rights Commission to ensure full participation from the relevant bodies.

Council advised and the Governor agreed, that the Welfare of Children (Employment of Children) (Amendment) Bill should be published and **that targeted consultation should take place, with a view to the Bill being presented as Government Business at the formal meeting of the Legislative Council scheduled for December 2017. Any major amendments to the Bill that may be required following the consultation process would need to be considered by Executive Council before progressing as Government business.**

(Action: Chairman, Social and Community Development Committee/Clerk of Councils)

4.5 The Viability of Trials by Jury on St Helena (ExCo Memo 58/2017)

The Acting Attorney General introduced the Memorandum and highlighted the lack of convictions from Jury trials over the past few years. She also explained that Council was not being asked to advise the Governor on a concrete decision on which system to adopt at this time but general discussion on options and a steer as to which options could be developed further was being sought.

It was highlighted throughout the discussion, the fact that members of the public are reluctant to have the names added to the electoral register as they do not want to be chosen for Jury service and the negative effect this has on democracy on St Helena. All accepted that there was some issue with the jury system as it stands but that the lack of convictions cannot wholly be placed on the fact that members of juries do not want to convict those accused.

Much debate continued on the matter, with the majority of members stating they would still rather a jury system on St Helena than moving to a judge alone system, as members of the public should accept that they have a civic responsibility. Many options were suggested by Members to solve the problem, including selecting a 'volunteer' jury that would preside over numerous trials, with this group of people being trained for such duty. The Acting Attorney General highlighted the problems with this, stating that 'training' for a select pool of Jurors was not feasible, as there would not be the benefit of a Jury trial if people were 'trained'; we would end up with professional jurors which could also prove problematic.

Following discussion, Executive Council advised and the Governor agreed that further consideration needed to be given to the options of continuing trial by jury, compulsory registration, other possible options and awareness raising of civic responsibility in general.

The Acting Attorney General would look into this option further and come back to Executive Council once research and options are compiled.

(Action: Acting Attorney General)

4.6 Domestic Abuse Bill 2017 (ExCo Memo 57/2017)

The Head of the Safe Haven, Safeguarding Directorate, Nicolene Adams and Detective Sergeant Dave Honan joined Executive Council for this memorandum.

The Chairman of the Social and Community Development Committee introduced the Memorandum and explained the need for the Bill. It was highlighted by all involved that steps needed to be taken to protect members of society who currently suffer from domestic abuse and to prevent future cases from arising. Detective Sergeant Dave Honan explained that currently on St Helena there are 50-60 cases of domestic abuse reported every year and often these do not end up in criminal convictions, due to a number of reasons, namely the reluctance of victims to proceed with criminal action and the lack of third person evidence. At times, abuse takes the form of emotional and coercive behaviours, which are not criminal offences. He explained that this Bill defines different types of behaviour which constitutes domestic abuse and offers victims the opportunity to apply to the Court for a protection order. Nicolene Adams explained that currently the Safe Haven can only help victims after an incident has occurred and that there are few preventative measures that are in place on St Helena and that this Bill will go a long way to helping with that. The Acting Attorney General approximates that this Bill will produce around 5 orders a year, based on the current statistics but emphasised that this is only an estimate.

It was agreed that there will be targeted consultation on this matter but that the public should be made aware of the Bill and the significance it has for the Island. Council noted one minor amendment was required to the Index of the Bill.

Council advised and the Governor agreed that the Domestic Abuse Bill, 2017 with one amendment, should be published for consultation and information sharing with a view

to it being presented as Government Business at the formal meeting of the Legislative Council scheduled for December 2017.

(Action: Chairman, Social and Community Development Committee/Clerk of Councils)

4.7 Potential Sites for Proposed New Build Prison (ExCo Memo 59/2017)

All members of Executive Council were given a copy of the initial environment assessment at the beginning of the meeting.

The Acting Chief Secretary introduced the Memorandum and gave a synopsis of the environment assessment to Executive Council. It was explained that Site 1 was located within the area of the Millennium Forest and, in order to develop the area, a large amount of protected species would need to be removed which would require a licence. The advice of the Chief Environment Officer was that this site should not be pursued. In light of this information, all felt it was best to discontinue looking into Site 1 as a viable option for the Prison. Therefore, Site 2 (West of Met Station) and Site 3 (Goat Pen Area) were the only feasible options that would be taken to the public for consultation.

It was also highlighted that there is currently no funding allocated for this project and that once a site has been chosen a proposal would be prepared for consideration by DfID. All agreed that they are keen to keep the public aware of the process of choosing a site and all agree that the community must be listened to.

Executive Council advised and the Governor agreed that Site 2 and Site 3 would be taken to the public for consultation. **The Acting Chief Secretary would work on a consultation plan to enact this, including the development of Q&As. The Environment Assessment to be published and the public made aware of why Option 1 was discounted by Council.**

(Action: Acting Chief Secretary)

4.7 Welfare of Children Ordinance (Cruelty to Children) (ExCo Memo 60/2017)

The Chairman of the Social and Community Development Committee introduced the memorandum and highlighted the fact that the Bill would take account for mental and emotional abuse as well as physical abuse of children. It was noted by the Acting Attorney General that Clause 3 of the Bill was no longer needed due to the Law Revision Bill being enacted.

Following discussion, Council advised and the Governor agreed, that the **Welfare of Children (Cruelty to Children) Bill, 2017 should be published, subject to the amendment advised by the Acting Attorney General, with Elected Members leading on sharing information of the purpose of the Bill. The Bill would be presented as Government Business at the formal meeting of the Legislative Council scheduled for December 2017.**

(Action: Acting Attorney General/Clerk of Councils)

4.8 Social Security (Amendment No 2) Regulations, 2017 (ExCo Memo 61/2017)

Matt Ansell, Director of Safeguarding, Paul McGinnety, Assistant Chief Secretary (Performance) and Connie Stevens, Head of Finance Services attended Executive Council for this memorandum.

The Chairman of the Social and Community Development Committee introduced the memorandum stating that the proposed Regulations were a temporary measure to address around 13 households that were suffering hardship due to the way in which the current Social Security law and Regulations were required to be applied. Council noted that further work was being undertaken to provide long term solutions to the current problems. He explained that the input of many NGOs was taken in to account and the best possible outcome was reached for the most vulnerable in society. Based on the known cases this change in Regulations and policy would cost £20,000 per annum, which could be funded from the current IRB/Basic Island Pension budget. The funding for the Child In Need policy implementation would be funded from the Safeguarding Directorate budget, with £2k identified for 2017/18 and £5k included in the 2018/19 budget submission. .

It was noted that there is currently a wider review of the Benefits system was under way and was expected to conclude in time for any financial changes to occur in April 2018.

With regard to the Welfare Assistance and Child In Need policies, the Director of Safeguarding informed the committee that a working group would be set up to track the progress of the changes to policy and regulations and they would meet monthly to do this. The group would consist of the representatives from the Tax Office, Social Services and NGOs and a formal evaluation would take place after one year. He also informed members that assessments would be undertaken by Safeguarding staff in order to check the need of the person who request assistance. He went on to say that if someone is referred to Safeguarding staff, then an assessment would always be undertaken. It was noted that some of the terminology in the Regulations was incorrect and the Acting Attorney General undertook to make the necessary changes. There were also some inconsistencies in the wording of the Welfare Assistance and Child In Need policies that would require amendment.

Following discussion, during which Council noted and welcomed the continued work on the wider review of Benefits, Council advised and the Governor agreed that the Social Security (Amendment No 2) Regulations, 2017 should be enacted (subject to amendments to the terminology being undertaken), with a view to them coming into force from 6th October 2017. **Council further advised that the Welfare Assistance and Child In Need Policies should be approved, subject to minor amendments in terminology.**

(Action: Acting Attorney General/Director of Safeguarding/Clerk of Councils)