

Minutes of the Meeting of Executive Council held on Wednesday, 18th December 2019 at
10.30am in the Council Chamber

Present: His Excellency the Governor (Dr Philip Rushbrook)
The Hon Chief Secretary (Mrs S O'Bey)
The Hon Financial Secretary (Mr D L Richards)
The Hon Attorney General (Mr A T Cansick)
The Hon C R Beard
The Hon A A Green
The Hon L A Henry
The Hon D F Thomas
The Hon R K Yon

In attendance: Clerk of Councils (Mrs C C Johnson)
Head of Corporate Support (Mrs C A George)
Head of News (Mrs K Yon)
Head of Governor's Office (Mr Greg Gibson)

OPEN SESSION

63.1 Welcome

The Governor welcomed all to the meeting. He wished all a Merry Christmas and Happy New Year.

63.2 Public Solicitors Fees (ExCo Memo 62/2019)

The Chief Secretary introduced the memorandum asking whether the fees proposed by the Public Solicitor in respect of charges for legal services by his office, should be published in the St Helena Government Gazette, subject to the approval of the Chief Justice.

The Chief Secretary advised that the Chairman of the Economic Development Committee had received written representation from the Equality and Human Rights Commission about the perceived impact on members of the public and there was also a concern raised from a member of the public about the time of consultation and in particular the last band increasing from £75 to £150 per hour. It had been noted that no fee structure for the Public Solicitor's Office had been approved by Executive Council in the past. The question of whether the Public Solicitor's Office would continue to be subsidised by SHG if the increases in fees were to go ahead was also raised.

The Chairman of the Economic Development Committee expressed concerns that there had been no publicity about the proposed increases; the Governor advised that there was no legal requirement to do so as this is only a procedural requirement for Executive Council to consider, as the final approval for these fees was a matter for the Chief Justice.

Following some discussion, Council advised and the Governor agreed, that the Public Solicitor should be invited to the next Executive Council meeting to clarify the following:-

- whether legal advice provided for any medical negligence claims should remain free of charge or subject to a fee structure
- whether the fee structure could move away from being based on household income to individual income
- the fee bands for overseas nationals need to be more sophisticated and individuals who do not have Saint Helenian status and businesses outside of St Helena should be paying full cost recovery for legal services provided by the Public Solicitor's office
- does the maximum fee of £150 per hour reflect the costs of the service provided
- commercial clients should pay full cost recovery for legal services
- whether anyone has not been able to obtain legal advice due to the current fee structure
- the Public Solicitor's Office needs to be more explicit about what services are provided free of charge at the point of use, eg Lay Advocate services
- Further definition/clarification is needed on what is meant by 'expatriate worker'
- Review and recommend changes to the Legal Aid and Legal Services Ordinance as it is out of date.

The Memorandum was deferred until the next meeting of Executive Council to enable further clarification to be sought from the Public Solicitor.

(Action: Clerk of Councils)

63.3 Employment Rights Ordinance - Minimum Wage (ExCo Memo 63/2019)

The Hon Cruyff Buckley (Chairman, Employment Rights Committee) and Chief Economist, Mrs Nicole Shamier were in attendance for this item of business.

The Chairman of the Social and Community Development Committee introduced the memorandum, starting with a proposed amendment to the decision sought in that, he asked Council to advise whether the Gazette Notice attached "Determination of Minimum Wage" made pursuant to Section 11 of the Employment Rights Ordinance 2010 should be approved and published.

He further explained that Executive Council was being asked to advise whether an increase of 5p in the minimum wage should be approved to take effect from 1 April 2020. This change would increase the minimum wage to £3.18 per hour for all employees having attained the age of 18 years and £2.23 per hour for all young people having attained the age of 16 and 17 years.

Based on input given during public consultations and also from the Social and Community Development Committee, the Employment Rights Committee had recommended that Executive Council, on the basis of evidence provided in Appendix A attached to the Memorandum, approve an increase of 5p.

Following discussion, Council advised and the Governor agreed, that an increase of 5p in the minimum wage should be approved to take effect from 1 April 2020. This change would increase the minimum wage to £3.18 per hour for all employees having attained the age of 18 years and £2.23 per hour for all young people having attained the age of 16 and 17 years.

(Action: Clerk of Councils)

63.4 Employment Rights Ordinance - Maternity, Paternity and Adoption Leave and the Labour Regulating Authority (ExCo Memo 64/2019)

The Hon Cruyff Buckley (Chairman, Employment Rights Committee) and Chief Economist, Mrs Nicole Shamier were in attendance for this item of business.

The Chairman of the Social and Community Development Committee introduced the memorandum, starting with a proposed amendment, whereby he asked Council to consider whether the Employment Rights (Amendment) Bill 2019 should be printed, published and presented as Government Business at the next formal meeting of the Legislative Council and also whether the Employment Rights (Amendment) Regulations 2019, to include a mandate for the introduction of statutory maternity, paternity and adoption leave and pay periods should be given and the recommendations in respect to the Labour Regulating Authority, should be agreed and come into effect from 1 April 2020.

Members acknowledged that this legislation linked to the goals in the ten year plan.

A special mention was made to acknowledge the work of the Attorney Generals Chambers in bringing this work all together.

Following discussion, Council advised and the Governor agreed, that the Employment Rights (Amendment) Bill 2019 should be printed, published and presented as Government Business at the next formal meeting of the Legislative Council and also that the Employment Rights (Amendment) Regulations 2019 to include a mandate for the introduction of statutory maternity, paternity and adoption leave and pay periods should be approved and the recommendations in respect to the Labour Regulating Authority should be agreed and come into effect from 1 April 2020.

(Action: Clerk of Councils)

At this point, the Hon Cruyff Buckley (Chairman, Employment Rights Committee) and Chief Economist, Mrs Nicole Shamier left the meeting.

63.5 Labour Market Strategy (ExCo Memo 65/2019)

The Senior Economist, Mrs Amanda Curry Brown was in attendance for this item of business.

The Chairman of the Economic Development Committee introduced the memorandum, and asked Council to consider and advise whether the Labour Market Strategy (2020 – 2035) should be approved to take effect from 1 January 2020 so that it could be taken forward for implementation.

The previous Labour Market Strategy had been published in 2012 and focused heavily on construction and immediate operations of the Airport. Since that time, the Airport had been built and opened and the promise of a fibre optic internet cable was on the horizon.

St Helena now faced a new generation of challenges and opportunities that the new Labour Market Strategy sought to address.

The Senior Economist explained the process followed with regard to the public consultation meetings, in that they had been held in small groups including the Chamber of Commerce, students at Prince Andrew School and also a workshop to which people had been invited.

The Governor thanked Amanda and officials involved for their hard work.

At this point, the Senior Economist, Mrs Amanda Curry Brown left the meeting.

Following discussion, Council advised and the Governor agreed that the Labour Market Strategy (2020 – 2035) should be approved to take effect from 1 January 2020 so that it could be taken forward for implementation.

(Action: Chairman, Economic Development Committee)

63.6 Confirmation of Open Session Minutes of 21 November 2019

The minutes of the open session of 21st November 2019 were confirmed subject to the following change on item 60.2 - The Rehabilitation of Offenders Act (Application) Order 2019 (ExCo Memo 48/2019) line 8 “amendments” was deleted and “amendment” inserted.

63.7 Matters Arising from the Open Session Minutes

There were no Matters Arising from the open session minutes.

63.8 Any Other Business

63.8.1 Fixed Penalties Notice

The Chairman of the Social and Community Development Committee advised Members that the Public Consultation on the Fixed Penalties Notice would start in January 2020.

63.8.2 Swimming Pool

The Governor asked members about their views on the Swimming Pool which had been closed for several weeks; he said there were three issues, the first is the ph levels varying between 7.8 – 8.2 and normal level is 7.6, the second is low calcium levels and third the sediment created cloudiness.

The Chief Secretary, declared her Interest in the above matter but remained during discussion.

Members were not comfortable making a decision if the Health Directorate was saying there was a risk to the public.

The Governor advised that the Health Directorate was still not sure but had provided a note which he would circulate.

(Action: HE Governor)

It was agreed that the Acting Director of Health should be invited to a meeting on Friday morning to explain the Swimming Pool situation.

(Action: Clerk of Councils)

T. Jansen

P. Rustbrook

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Clerk of Councils

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Governor

28 January 2020

Date