

**FALKIRK COUNCIL**

**Subject: LOCAL GOVERNMENT FINANCIAL SETTLEMENT 2016/17 –  
UPDATE POSITION**  
**Meeting: SPECIAL EXECUTIVE**  
**Date: 5 February 2016**  
**Author: DIRECTOR OF CORPORATE & HOUSING SERVICES**

**1. INTRODUCTION**

- 1.1 A report was submitted to Executive on 12 January 2016 setting out the Local Government Financial Settlement flowing from Mr Swinney's Budget and his letter to Council Leaders dated 16 December 2015. In the interim, there have been protracted negotiations between the Scottish Government and Cosla leading to a letter from Mr Swinney dated 27 January 2016 confirming "final details of the Local Government Financial Settlement for 2016/17".

The trail of engagement is attached for Members' review:-

- Appendix 1 Mr Swinney's letter to Leaders dated 16/12/15
- Appendix 2 Cosla Report
- Appendix 3 Mr Swinney's letter to Moray Council
- Appendix 4 Mr Swinney's letter to Leaders dated 27/01/16

- 1.2 The primary purpose of this report is to focus on the terms of Mr Swinney's final Settlement Letter dated 27 January 2016. There are four primary elements:-

- Council Tax Freeze
- Teacher Numbers
- IJB Integration Fund
- The complete package is to be agreed or grant penalties will apply.

The following Sections of the report consider each of these in turn.

**2. COUNCIL TAX FREEZE**

- 2.1 Mr Swinney reaffirms his government's mandate to freeze the Council Tax and notes, moreover that with the release of the report from the Commission on Local Tax Reform, "now is not the time to dispense with the protection the freeze offers". Consequently, the Council Tax freeze is to remain in place for the ninth consecutive year.
- 2.2 It is now clear that any Council which elected to break the Council Tax Freeze would incur severe grant loss.

### **3. TEACHER NUMBERS**

- 3.1 The Scottish Government has indicated that it seeks to maintain the national pupil teacher ratio (PTR) at 1:13.7. In Falkirk the PTR is currently 1:13.5 (i.e. better than the national position). Over the last two years it has been clear that Councils were required to maintain their own PTRs to contribute towards the national target and officers are working on this assumption even although this is not specifically articulated in the letter from the Cabinet Secretary. Provided our ratio remains unchanged, it is anticipated that the Council should receive approximately £1.6m from the Scottish Government allocation of £51m to maintain pupil teacher ratios.
- 3.2 The requirement to maintain PTR is not advantageous to Falkirk Council as our pupil roll is rising. This requirement therefore limits our flexibility regarding teacher deployment and our ability to make savings or reduce expenditure. Based on our current roll projections we anticipate needing to recruit a further 6FTE teachers (cost £240k) to meet this target. This is an additional pressure over and above the £1.6m funding provided.
- 3.3 Falkirk Council has well developed practice in meeting our stipulated core probationer commitments and will be able to continue to comply with this requirement. It should be noted however that should Falkirk Council be allocated fewer probationers than in recent years from the national allocation it will require to recruit additional teachers to meet the PTR requirement and this will also increase our expenditure.

### **4. IJB INTEGRATION FUND**

- 4.1 This is in many respects the most significant and problematic element in Mr Swinney's letter and the main reason why negotiations between the Scottish Government and Cosla have been protracted. It has to be said that the final iteration of the terms contained in this letter still leaves uncertainties. A sum of £250m has been made available to the new Adult Social Work & Health Integration Joint Boards (IJB). This sum is to be routed via Health and it can reasonably be argued that this has been taken from the Local Government Settlement. It is split into two equal tranches of £125m and the Falkirk IJB share is £3.54m for each tranche. The position with each tranche is considered in the following paragraphs.
- 4.2 With respect to the first tranche, Mr Swinney's letter states this, "is provided to support additional spend on expanding social care" and "this additionally reflects the need to expand capacity to accommodate growth in demand for services as consequence of demographic change". As the Council had provisionally identified an element of uplift in the funding for the IJB to reflect demographic pressures and the IJB will now have funding made available for the same purpose, it is proposed that the payment made to the IJB will be reduced to the extent of that identified element of the uplift. Engagement with the IJB will be required in relation to this adjustment.

4.3 Turning to the second tranche of £125m, Mr Swinney's letter states that this "is provided to help meet a range of existing costs faced by local authorities ... this includes our joint aspiration to deliver the living wage for all social care workers. The allocation of this resource will enable Councils to ensure that all social care workers including in the independent and third sectors are paid £8.25 an hour. This assumes that private and third sector providers will meet their share of the costs. "The Council already pays its existing staff the Living Wage and thus this element is already built into the Council's 2016/17 Budget. The difficulty arises with external contract arrangements which cover a significant proportion of our social care outlay. The following bullet points, which are not exhaustive, illustrate the variety of variables in the mix and the complexity of the matter:-

- C200 Adult Service providers, with over 3,000 service users
- Wide range of payment arrangements in place from hourly to weekly to block funding arrangements
- 50% of Adult Services spend contracted through Cosla/Scotland Excel via National Care Home Contract (which is currently being negotiated) and Other Adult Residential Homes
- Falkirk Council contracts in place for Community Care and Care at Home
- The Settlement letter allows until 1 October 2016 for implementation of the Living Wage
- It is assumed that external providers will provide 25% of the cost of the Living Wage, although there is no basis for believing that they will be willing to do so even if they could afford it.

4.4 Financial modelling has been undertaken reflecting the scenario outlined above and it is believed that an additional outlay of circa £3.5m is a reasonable estimate of the additional cost attributable to the Living Wage. This would broadly match the Council's share of the second tranche. To the extent that costs proved to be more than that, it could be left to the Integration Joint Board to manage within its overall resources, or the Council could elect to support the position from its reserves. This would be a matter for consideration once the relevant costs crystallised. To the extent Living Wage costs proved to be less than the Council's share of this tranche, there will be other cost elements reflected in the 2016/17 Budget base that could legitimately be claimed against the available grant.

4.5 Notwithstanding the financial risk reflected in the above paragraph, there is a further concern contained in Mr Swinney's letter. That relates to the Scottish Government's potential to clawback elements of grant where that element of the package is not delivered in practice. The relevant part of the letter is quoted at paragraph 5.2 of this report. The practical difficulty is that it is not in the Council's gift to ensure all external contractors do actually pay the Living Wage (procurement rules bar us from stipulating this in contracts) and consequently it is not reasonable to hold a Council responsible in such a situation. In responding to Mr Swinney's letter, it would seem appropriate and necessary to highlight this reality, but making clear that we do share the "joint aspiration" to deliver the Living Wage, notably by paying it to our own staff, and by making best endeavours with respect to external providers.

## 5. REQUIREMENT TO AGREE THE COMPLETE PACKAGE

- 5.1 Mr Swinney's letter of 27 January 2016, as was the case with his letter of 16 December 2015, requires Councils to "agree the full package of measures". Moreover, "any Council that does not sign up to the complete package will not receive their share of:-

	<u>£'m</u>
• Integration Fund	250
• Support for Teachers	88
• Council Tax Freeze/Support	<u>70</u>
	<u>£408m</u> "

Falkirk's share of this on a population basis would be £11.75m.

- 5.2 There is a section of the letter which deals with circumstances where a Council does formally agree to the package but then does not manage to deliver on any element and this is repeated below:-

"If in the event, however, a Council that does sign up then does not deliver any of the remaining specific commitments on council tax freeze, social care spend, including delivery of the £8.25 per hour Living Wage or national teacher targets then the Scottish Government reserves its position to take action to remove access to or recover that element of the additional funding support earmarked to deliver each of the remaining specific measures. In the case of pupil teacher ratio not being maintained nationally then the Scottish Government reserves its position to recover monies allocated to individual authorities whose pupil teacher ratio rises. This action will be proportionate and apply only to that element of the funding for a specific measure that a local authority subsequently does not deliver as set out in the paragraph above."

- 5.3 Council Leaders are required to respond to Mr Swinney by 9 February 2016 at the latest advising their response to the package of measures he has offered.

## 6. CONCLUSIONS

- 6.1 The Council is now at the stage where the proposals to be considered at the Budget meeting on 17 February 2016 need to be collated to allow the timeous issue of the agenda.
- 6.2 This has proved to be an exceptionally challenging Budget cycle, compounded by both the scale of the grant loss the Council has incurred and the very late negotiations between Scottish Government and Cosla.
- 6.3 A decision now needs to be taken on the Council's response to Mr Swinney's letter of 27 January 2016. Based on the content of this report, the following particular points are highlighted to inform this response:-
- a) There is no relaxation of the Council Tax Freeze and any move to breach this would trigger severe grant penalty loss

- b) The requirement to maintain teacher numbers retains a focus on inputs rather than outputs. The measure has expenditure implications, albeit this will wholly or substantially be expected to be covered by Scottish Government grant.
- c) With respect to the IJB Integration Fund, there still remains some lack of clarity and the Council seems to be being asked to deliver an outcome with respect to the delivery of the Living Wage by external contractors, where it is not master of its own destiny and with consequent risk of grant clawback. The basis of a response is contained in para 4.5. Moreover, looking forward there will be full year costs of the Living Wage to be paid in 2017/18 and in future years and we have no information as to the grant arrangements which will apply in 2017/18 and beyond.
- d) The package as a whole must be delivered, with the penalties for failure to accept the package or deliver on it are both clear and significant.

## **7. RECOMMENDATIONS**

**Members are invited to:-**

- 7.1 Consider whether the terms of Mr Swinney's letter of 27 January should be accepted; and**
- 7.2 Consider the matters they would wish reflected in that response.**

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**DIRECTOR OF CORPORATE & HOUSING SERVICES**

**Date: 3 February 2016**

**Ref: AAB05.02.16 – Special Executive Local Government Financial Settlement**

**Contact Officer: Bryan Smail**

### **LIST OF BACKGROUND PAPERS**

NIL

Deputy First Minister  
and Cabinet Secretary for Finance, Constitution and Economy  
John Swinney MSP

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Copy to: The Leaders of all Scottish local authorities

16 December 2015

Dear Cllr O'Neill

This letter contains proposals for the terms of the settlement to be provided to local government for 2016-17 under the 2015 Spending Review which is set against the UK Government's continuing austerity programme and the real terms reduction in the Scottish Budget. This has required tough decisions to be taken about expenditure across government and careful consideration of pressures and priorities in all portfolios including local government. I propose that we engage in further discussions to consider the approach to implementing the budget in advance of Stage 3 of the Budget Bill, and associated Local Government Finance Order, and recognise that we need to conclude these discussions as early as possible so councils can confirm their plans for setting their budgets in the new year.

The proposals are framed by the ongoing partnership between the Scottish Government and local government and our commitment to working together on our Joint Priorities. We have reaffirmed our commitment to our partnership and are clear about the benefits which have flowed from it in the form of more effective delivery of the outcomes on which the people of Scotland and their communities rely.

Local government is an essential partner in the Scottish Government's transformative programme of public service reform. This funding proposal delivers a strong but challenging financial settlement for local government which will be strengthened by our joint working to improve outcomes for local people through health and social care integration and by improving educational attainment.

Following the report from the joint Settlement and Distribution Group, details of the indicative allocations to individual authorities for 2016-17 are also being published today as set out in Local Government Finance Circular No. 7/2015.

Under the settlement we will look to all local authorities to continue to work in partnership with Scottish Government in pursuit of our Joint Priorities, including delivery of the Government's programme as set out in the *Draft Budget 2016-17* and the *Scotland's Economic Strategy published in March 2015*.

In addition to the pursuit of Joint Priorities, the proposition is that individual local authorities will, in return for this settlement, deliver certain specific commitments. The detail of the settlement and the package of measures included are described below.

For 2016-17 individual local authorities will require to agree to work with the Scottish Government to deliver a council tax freeze for the ninth consecutive year.

As we have previously committed to, the consequential for health will be passed on in full to the health budget. However, by contrast with the UK Government, we see health as being about all the services that help people to maintain their wellbeing, not just front line NHS services. For that reason, we will go further than the annual investment of £130 million in the Integration and Delayed Discharge Funds, and direct in the allocations to NHS boards for 2016-17 that an additional £250 million per annum will be transferred to the health and social care partnerships to protect and grow social care services and to deliver our shared priorities in respect of reform.

We agree the need to pick up the pace on health and social care integration by developing better community and primary services to help people to stay safe and cared for at home and the provision of good quality social care provided through local government is central to that reform process.

We understand the pressures on local government spending, including in relation to the Living Wage, and these are the same as for all public services in Scotland. We also recognise that these pressures have implications for all areas of service delivery, but the actions that we have taken under this budget and our commitment to provide support for social care means that the totality of social care spend through health and social care partnerships can be protected and enhanced. We would expect to see the process of reform make clear progress during 2016-17 in terms of sustainability and outcomes for people. Given good progress on reform in localities we would anticipate that health and social care partnerships could deliver cash releasing efficiencies. We would like to work with you to consider that approach further and the extent to which cash releasing efficiencies could be retained by local authorities to offset the contribution they make to health and social care partnerships for social care.

Turning to education I note the positive results at a national level published in the latest Teacher and Pupil census statistics which confirmed that pupil teacher ratios and the number of teachers in Scotland's schools have been maintained since last year.

Taking that into account I confirm the proposal makes provision for a return to a national agreement to maintain teacher numbers at 2015-16 levels, and secure places for all probationers who require one under the teacher induction scheme supported by a continued funding package of £88 million, made up of £51 million to maintain teacher numbers and £37 million to support the teacher induction scheme.

Our position on teacher numbers has been consistent that we see this as a central part of our priority to raise attainment. In parallel we have been developing the National Improvement Framework, to bring together key information to evaluate performance and inform action to improve attainment and wider outcomes for every child in Scotland. We wish to work with COSLA and all local authorities to fully implement the Framework, as the next phase of Curriculum for Excellence to build on our strong record of achievement recognising our shared commitment to improved educational outcomes.

Following the report from the Commission on Local Tax Reform the Scottish Government is considering its position in response to that on the future of council tax. We will bring forward our proposals in the new year and I can confirm our commitment to engage with COSLA as part of our partnership working to help inform our position.

The proposition is that the measures set out in this settlement offer must be viewed as a package to protect shared priorities and maintain a journey of reform. As noted I propose that we engage in further discussions to consider the approach to implementing the measures set out in this budget in advance of Stage 3 of the Budget Bill and this would include agreement on the scale and retention of cashable efficiency savings for local authorities contribution for social care to the health and social care partnerships.

Following those discussions and agreement on the implementation of the measures I have set out in the settlement offer I will write to you and council Leaders again confirming all the details we have agreed. My expectation is that I will again ask any Council not intending to take up the offer and agree the terms of the full package of measures to write to me setting out the reasons why they do not wish to comply and to do that by no later than Friday 22 January 2016 in Order to meet with our Parliamentary timetable for the Budget Bill and Local Government Finance Order.

For 2015-16 I can also confirm that as an act of good faith, I will maintain the existing distribution of the £41 million to support teacher numbers across all 32 local authorities and will not seek to claw back funding which I am entitled to under the terms of my agreement with individual local authorities. However, in the interests of fairness, I will reward only those authorities who have maintained or increased teacher numbers and maintained pupil teacher ratios, by distributing the additional £10 million which I provided last year among them in recognition of the additional staff costs they have incurred and for their contribution to maintaining the national figures.

Having listened to the representations from COSLA, the total funding which the Scottish Government will provide to local government in 2016-17 as part of this package of measures is £10,244 million.

This total includes the Government's estimate of non-domestic rate income in 2016-17. Within this total, revenue funding will amount to £9,637 million and capital £607 million.

This takes into account the re-profiling of -£150 million from the 2016-17 capital budget and comes with a commitment that £150 million will be added to Local Government's capital share in the next Spending Review covering the period 2017-20. Taking into account the reprofiling the capital settlement meets our commitment to maintain local government's share of the Scottish Government's capital budget.

Taking into account non-baselined funding provided in the 2015-16 capital allocation (this includes funding to support implementation of the Children and Young People Act, repayment of the earlier reprofiling agreement and housing support for Shetland) and the further reprofiling proposed for 2016-17, a like for like comparison of the adjusted baseline position shows that capital provision in the settlement will have increased by 9% or £62 million in 2016-17. I can also confirm our intention that, if re-elected, the commitment to protect the local government share of the capital budget, which was due to end in 2018-19, will be extended by a further year to the end of the next Spending Review period in 2019-20.

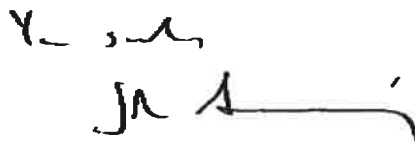
In addition local authorities will receive £250 million from Integration Authorities to support spending on social care which as set out above will allow, subject to our further discussion



and agreement for cash releasing efficiencies delivered through reform to be retained by local authorities.

As in previous years councils will be free to retain any savings they can generate through efficiencies to re-invest in reform and the challenge for them along with the rest of the public sector is delivering transformational change in service delivery, together in key partnerships and through a step change in the implementation of transformation programmes, including shared services between local authorities and between local authorities and other public sector partners.

I believe that in the circumstances this settlement delivers the best possible outcome that can be achieved and the package of measures I have set out, if accepted, provides local authorities with the necessary resources they need to protect our key priorities around investment in health and social care and educational attainment.



**JOHN SWINNEY**



**Private and Confidential**

**Local Government Settlement 2016/17**

**Purpose**

1. The purpose of this report is to allow Leaders to decide COSLA's collective reaction to the final proposals regarding the 2016/17 settlement as they are now presented by Government.

**Recommendations**

2. It is recommended that Leaders:
  - (i) Consider the review of the settlement discussions and their result that is outlined in this report and decide whether or not they form the basis of a voluntary agreement between COSLA and the Scottish Government with regard to the settlement 2016/17.

**Timing of report**

3. As members will be aware, the Presidential Team and Group Leaders met the Scottish Government team yesterday to discuss a revised terms of offer for the settlement for local government for 2016/17. We have been awaiting some final small changes to the draft over last night and this morning from Government. However, our deadline to Government has now passed, these changes have not been forthcoming and therefore this report contains the most current set of proposals. Also as a result of the meeting yesterday, our understanding is that a revised offer will come out to all Councils today with a revised deadline for responses. Unknown to Group Leaders and unmentioned at yesterday's meeting we now understand that Mr Swinney intends to invite an 'arbitrary' twenty Chief Executives to join him for a teleconference at which we believe he intends to emphasise his own and the Government's view of the settlement. This is an unusual move and unprecedented in terms of spending reviews.

**Background**

4. It is important that, in considering the following report, Leaders are in no doubt what COSLA, rather than individual councils, is being asked to decide. Following a final meeting on Tuesday, all Group Leaders and the Presidential team would agree that, in terms of the nature of the local government settlement, there is no more that can be achieved by further discussions with Government. Indeed, given the timescales involved, it is doubtful that further meetings with Government would be possible to arrange even if we wanted them.
5. In short, the settlement that councils are now being offered has developed as far as it can through discussions and will not change any further as a result of more contact with Government. In every sense, the discussion and negotiation is at an end and no improved settlement is likely to be forthcoming. The final draft of the proposals is attached as Appendix 1.
6. However, we also know that the Government are very keen to get the voluntary agreement of local government to the proposals that they have put forward. The purpose of this report is to present evidence to COSLA's Leaders about the process and

outcomes of this spending review so they can decide whether or not that voluntary agreement should be offered to the Government by COSLA.

7. For the avoidance of doubt, it is important to make a clear distinction between what individual councils may eventually have to decide by way of response to the Government's settlement offer and the role and reaction of COSLA. For a variety of reasons, ranging from the concern about the possibility of sanctions to the need to make quick decisions in order to settle budgets locally, individual councils may believe they have little option but to set a budget within the confines of the proposals put forward by Government. From past experience, COSLA is well aware of the level of pressure that can be brought to bear on any individual council which chooses not to comply with the Government's proposed arrangements.
8. However, COSLA is in a quite different position. It represents the collective national reaction to this set of proposals and should reflect local government Leaders' views on the proposal overall rather than what individual councils may feel pressured to do. Indeed, the objectives that COSLA is trying to meet may be different from those of an individual council and the tests applied to the assessment of this proposed settlement may be quite different. While individual councils must be driven by the practicalities of setting their individual budgets and funding their services, by its Constitution, COSLA is required to look at strategic issues, such as the autonomy of local councils and the effect of local democracy on the settlement that is offered.
9. There is no inconsistency between COSLA collectively deciding on one reaction to the settlement while individual councils, because of their pragmatic pressures, individually having to do something different.

#### **Detail**

10. Going into the settlement discussions, COSLA had a number of explicit objectives and the outcome of the settlement should be assessed against these. Firstly, with the explicit agreement of Mr Swinney and the Scottish Government, we agreed that the settlement discussions should exemplify the highest standards of partnership working in order to "reboot" the quality of partnership between COSLA and Scottish Government.
11. Secondly, given the intelligence regarding the likely downturn in resources, COSLA went into discussions to limit the loss of grant to the lowest possible level in order to make it manageable for local councils.
12. Thirdly, we wanted a settlement that increased the flexibility and autonomy of councils and supported the greatest degree of local decision making that was possible to achieve.
13. Fourthly, we wanted to see a redefinition of "health spend" in order that a range of local government services might benefit from the expected protection of health.
14. Lastly, COSLA wanted to negotiate a sanction free settlement.

#### **Partnership Working**

15. In terms of the way we work with Government, there is no doubt that over the period from the 5<sup>th</sup> November when the first meeting occurred, right through until the present day, we have had more contact with Mr Swinney and his team than we have had with regard to previous settlements. In addition, there is no doubt that the Government gave us greater access to their information and their officers in terms of investigating figures and proposals than has been available to us on previous occasions.

16. However, the COSLA team felt that it was difficult to genuinely debate and discuss issues with Government and that while a number of meetings occurred, little actually changed as a result of these meetings and the Government's perception of the effect their proposals would have on local government did not alter despite the most robust inputs from all Group Leaders and the Presidential team. Furthermore, while we had greater access to officers and the information they held, it appeared to our team that despite the evidence arising from these officer discussions, the political discussions failed to take that evidence into account.
17. For instance, Mr Swinney and his team continue to insist that there is an inevitability about local government cuts as a result of Westminster's treatment of Holyrood. The officer figures we received from the Government's Central Finance Unit tell quite a different story and, indeed, Leaders will recall that when visiting a Leaders meeting, Alex Neil quite correctly asserted that what he thought Scotland would receive would be a minor cash increase from Westminster. Even despite the fact that the Chancellor's statement was more generous than anybody expected, Mr Swinney's recounting of the position in Scotland altered not one bit.
18. Lastly, in partnership terms, the COSLA team found it very difficult to get clarity about issues from the Scottish Government. Not only was this frustrating in its own right but it has led directly to the situation that despite the fact councils should all now be setting budgets, we have not had until this week clarity about the treatment of certain major issues like the £250 million integration monies and the likely position with regard to sanctions.

#### **The Eventual Financial Outcome**

19. The COSLA team were led to believe by Government from the very first meeting that a loss of grant of something in the order of £500 million or 5% could be expected. As Leaders would imagine, COSLA's reaction to this was an immediate and robust view that this was entirely unacceptable. There is no doubt that the Government heard that message and, as a result, the £500 million reduction was reduced to £350 million. This must be seen in the context however, that the COSLA team felt this figure could have been reduced to something much closer to the average assumed by councils in Scotland of something in the order of £160 million or 1.6%.
20. Within the £500 million reduction proposal, there was a treatment of non-domestic rates income which the COSLA team recognised as being inappropriate. When this was pointed out to Government, these ideas were taken on board and much of the reduction between £500 million and £350 million can be attributed to that change in policy.
21. However, whilst the Government must be given some credit for taking that issue on board, the COSLA team were very clear that there were actions available to Government which could mitigate the loss of resources still further. COSLA believes that different policy choices could have been made about the distribution of resources between the various public services in Scotland or that the Government could choose to raise more money directly by using its income tax raising powers or by allowing local government the freedom to alter its tax base. That none of these things happened are policy choices by Government in Scotland, not inevitable outcomes of the Chancellor's budget, and Leaders must judge whether by making these choices, the Scottish Government did everything in its power to reduce the size of the budget difficulties that local government and local councils would face.
22. This was particularly frustrating because COSLA had produced a list of ways in which the impact of the cuts could be mitigated. Mr Swinney's reaction to that list was to suggest that it was not innovative enough or long enough and we should go away and think of more ways in which our difficulties could be eased. In the event, no mitigation,

not even those things that had no resource implication were discussed or considered by Government and none of them have appeared in the final settlement announcement.

23. Local government offered the Government 17 separate proposals to mitigate the cash cut, ranging from issues with a high political tariff, like teacher numbers, to those of a much less contentious political nature, such as further work on planning fees, right through to issues with no cash implications at all, like the protection of local government in a constitutional sense. Leaders received a copy of these in the November Leaders report. Despite the enormous pressure that Government recognised they have placed on local government and individual councils, none of these mitigating factors are deemed to have been worthy of any serious discussion.
24. In the final analysis, despite all these other issues, the COSLA negotiating team have consistently come back to a single main theme, i.e. that the level of cash reduction is simply too high. Other than the initial move from £500 million to £350 million, little or no account seems to have been taken of those representations.

### **Flexibility and Autonomy**

25. COSLA's political team always knew that whatever the exact figures were, the 2016/17 settlement was never going to be a good one. As with all councils, COSLA anticipated a cut and recognised that the cut would place pressure on local government overall. Therefore, while we wished to negotiate the smallest cut possible, another major plank of our strategy was that, with less money, councils would find it easier if they had the greatest degree of flexibility and autonomy regarding how these resources could be spent.
26. There were three key issues for COSLA. Firstly, that the two major impediments to flexibility that had existed in previous settlements should be removed, namely the Council Tax freeze and the requirement to deliver a particular number of teachers. Secondly, we wanted no new burdens that represented virtual ring-fencing. Lastly, we wanted no sanctions within the settlement which could be used to coerce councils into making budgetary decisions that they really did not agree with.
27. Once again, it was difficult to make progress on these three issues although the Government must be given some credit for recognising that last year's council by council arrangement for the teacher number condition was inappropriate and are now willing to move to a national agreement based on teacher/pupil ratios.
28. However, even taking that minor movement into consideration, evidence suggests that freedom and autonomy for councils to make their own decisions regarding how they spend resources is even more limited in this settlement than it was previously. In order to comply with the Government's proposals, councils must agree to both the Council Tax freeze continuing and to play their part in a national agreement regarding teacher/pupil ratios. However, in addition to that, in order to make use of any part of the £250 million available for integration boards, councils must agree to pay the living wage to adult social care workers and refrain from reducing their contribution to integration partnerships by more than their assumed share of £125 million.
29. No flexibility has therefore been offered within this settlement and, indeed, when one takes into account an increased set of linked sanctions, the level of risk built into this settlement, whether or not a council seeks to comply with its conditions, is more extreme than we have seen in any other settlement over the last ten years.
30. Furthermore, both the settlement and discussions with Government regarding an issue like the teacher numbers commitment are predicated on a false premise. The First

Minister and Angela Constance continually say that they have paid £88 million for the teacher number and probationary teachers target and therefore they should get something back in return. This is an annoying misrepresentation of the situation. Local government's spend on education is approximately £4.6 billion with £2.5 billion attributable to the cost of teachers. In that context, the £88 million for these targets is nothing more than a minor top up. The difficulty for councils is that as the £4.6 billion reduces by 3.5%, the top up does not even compensate for the loss of resources in the base allocation for this service.

### **Broader Definition of Health Spend**

31. COSLA's objective going into these discussions was that a definition of health spend could be developed that would allow councils to benefit directly from either the protection of health spend or, as is now the case, the increase in health spending. Once again, the Government have to be given some credit for recognising the pivotal position of integration authorities and for attributing additional resources to be spent through these bodies. The difficulty is that the money is allocated through Health Boards and is therefore not immediately available to councils to mitigate budgetary pressures they are suffering.
32. COSLA's team consistently put to the Government the straightforward proposal that if they wished to support council services with regard to social care to the value of £250 million, that £250 million should have been allocated direct to councils. The rather complicated route that the Government have chosen to allow this money to become available disguises the fact that the money is effectively ring fenced. No matter how robustly this proposition was put to the Government, the COSLA team could create no movement around this issue.
33. The COSLA team's understanding has always been that there are two distinct elements to the £250m. It is a 50:50 split giving two pots of £125m. The first pot of money (£125m) would remain in the partnership and it is for the partnership to decide upon its use. In terms of additionality, they have defined this as increasing community capacity. This is aimed to address the existing demand pressures but also an element for real growth in capacity in community care.
34. The second pot of £125m is available to genuinely offset local government pressures. However, the real issue here is that there is an expectation that a significant amount of that will be used to offset the living wage and therefore it will only be around £50m that could offset budget pressures.
35. At the meeting yesterday, it was clear that the Cabinet Secretary has a different interpretation and sees a much finer distinction between the two packages of £125m, one which leads the Government to a view that the whole £250m is available to local government to reduce pressures.

### **Post Settlement Issues**

36. There are two further issues which COSLA believes will be part of the narrative that Government use to promote acceptance of the settlement proposals. The first of these is that the cut is only 2%, not 3.5% as COSLA understands. There is no doubt that using a set of figures we have never used before and going back to the year 2014/15 you can create a calculation that suggests we only have 2% less resources to spend than we had reason to expect. This comes about because not all of local government's spend is delivered through Government grant. However, the simple truth is that we have received a 3.5% reduction in our grant and trying to portray this in any other way is exactly the sleight of hand that the Government accused George Osborne of doing to Scotland at the beginning of our settlement discussions.

37. Secondly, the Government are seeking to portray this settlement that has at its heart reform. They believe they understand the reform process and they believe that when we catch up with their thinking on reform, we will see that this is a reasonable settlement to have put in place. As all Group Leaders and the Presidential team will no doubt assert, our discussions on reform have been fraught with difficulty. Nobody in Government runs services or had run services and therefore their exposition of the reform process is always hugely vague, hugely aspirational and contains none of the detail about how you would go about it that would be necessary to safely include it in this year's settlement. Group Leaders have pointed out that public sector reform, especially across agencies, probably is an area that requires attention and may even be an area where, over time, the possibility of reducing costs exists. However, such reform cannot be driven by local government alone and requires the willing participation of other public sector partners who are currently directed by Government. In many cases, as we have seen with regard to Transport Scotland, such commitment is difficult to rely on.
38. The COSLA team has emphasised to Government that we should be pushing on reform and we should have a real plan to ensure that it happens but we must look in detail at where the greatest advantage in reform will lie, what the business case for reform is, how it will be managed and what the governance arrangements after reform will look like. We believe this can and is being done but the COSLA team is absolutely sure that no significant reform is going to occur in a timescale that allows any council to include the outcome of such reform in the budget that it is approving in the next couple of weeks for 2016/17. This has been pointed to the Government team by COSLA's president in every phone call he has had with Cabinet Secretaries. Despite that, the Government seem to suggest that reform in the timescale required is possible and it is up to local government to move and that if we do not, we are creating a financial difficulty for ourselves.
39. These two post settlement narratives give a further indication of the state of partnership that currently exists between COSLA and national Government and we have to consider whether it is these attitudes that may be carried in to the forthcoming discussions on the remaining three years of this spending review, which are due to take place started early in the Summer.

## **Conclusion**

40. Officers have as far as possible given an absolutely accurate description of the way the settlement discussions have progressed and the outcomes of the settlement. It is up to Leaders to weigh up the evidence presented and decide on balance whether they are convinced that COSLA as an organisation should reach a voluntary agreement with Government on the basis of the most up to date proposal.

## LOCAL GOVERNMENT FINANCE SETTLEMENT 2016-17: FURTHER DETAIL ON THE TERMS OF THE OFFER

### General Points

- Confirm that the aim remains to reach an agreement that councils can voluntarily agree to.
- That the measures set out in the settlement offer must be viewed as a package and that in order to access all of the funding councils must agree to deliver all of the measures.
- Confirm that for those councils that voluntarily agree to sign up to deliver the full package then sanctions will be suspended.
- Any council that does not sign up to the package will not receive their share of the Integration Funding (£250m), support for teachers (£88m) and the council tax freeze support (£70m). Steps will be taken to recover the latter two elements that have been distributed from the individual council's allocations in the local government finance settlement in-year *[Note: that only £51m will have been distributed for the teacher's support along with the £70m for the CT freeze, £37m is due to be distributed later once the number of probationary teachers is confirmed];*
- If in the event, however, a council that does sign up then fails to deliver any of the specific commitments on social care spend, including delivery of the £8.25 per hour the living wage, national teacher targets, or council tax levels nationally then the SG reserves its position to apply individual sanctions for authorities' and steps will be taken to remove access to or recover some or all of the additional funding support earmarked to deliver these specific measures. If it proves necessary to apply a sanction then this will be done in a proportionate way.

### Integration Fund

The proposition being made is that the £250 million is provided from the NHS budget to integration authorities in 2016-17:

- That of the £250 million, £125 million is provided to support additional spend on social care to support the objectives of integration, including through making progress on charging thresholds for all non-residential services to address poverty. **This additionality also reflects the need to accommodate growth in demand for services as a consequence of demographic change.**
- That of the £250 million, £125 million is provided to help meet the range of cost pressures local authorities need to address in order to deliver effective health and social care services, including to offset the reduction to council budgets and the joint aspiration to make progress towards the living wage. The allocation of this resource will enable councils to ensure that all social care workers are paid £8.25 an hour by 1 April. This assumes that private and third sector providers will meet their share of the costs. Councils may reduce their contribution to Integration Authorities below their spend in 2016-17, with the only provisos that their contribution must not reduce by more than their share of the £125 million and on the basis that they deliver on the commitment in respect of the Living Wage. To ensure transparency for the flow of funding support for local authorities and delivery of the living wage commitment the arrangements will be signed off at a local level by the appropriate Integration Authority section 95 Officer.

### Teacher Numbers



The Scottish Government has been consistent that the protection of teacher numbers is a central part of our priority to raise attainment. Following our discussions and the further representations COSLA has made, the Scottish Government would agree that the measure for the implementation of that target, against a forecast that pupil numbers will increase over the coming academic year, will be the maintenance at a national level of the pupil teacher ratio.

If the objective to maintain the pupil teacher ratio nationally at a value of 13.7 (the same level as in 2015) in local authority schools is met as shown in the Teacher and Pupil Census published in December 2016 then penalties against individual authorities will be suspended. If, however, the pupil teacher ratio is not maintained nationally then the Scottish Government reserves its position on individual sanctions for authorities' whose pupil teacher ratio rises and steps will be taken to recover proportionate shares of the £88 million which is being provided for the teacher and probationer commitments in 2016-17. In order to support delivery, the Scottish Government will continue to monitor these commitments throughout the year.

### **Council Tax Freeze**

The Government was elected on a commitment to freeze the council tax for the entirety of this Parliamentary session and is committed to delivering this policy. Many local authorities have a commitment to freeze the Council Tax over a similar timescale. Against the questions of the wider revenue-raising challenges raised in the Budget we believe that it is important to provide protection for household incomes in what has been a very financially challenging period for many households.

We have now received the report from the Commission on Local Tax Reform and the Government believes now is not the time to dispense with the protection the freeze offers for what we all agree is an unfair tax. Looking ahead we will be bringing forward plans for reform of the present Council Tax, reflecting the principles of the report, and we are committed to working in partnership with local government on the implementation of that.

The package of funding therefore includes freezing the Council Tax in 2016-17.

Deputy First Minister  
and Cabinet Secretary for Finance, Constitution and Economy  
John Swinney MSP

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The Moray Council  
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Copy to: The Leaders of all Scottish local authorities

29 January 2016

Dear Cllr Cree,

I refer to your letter of 28 January.

You have asked, if the Moray council were to sign up to the terms of the offer set out in my letter of 27 January by the deadline of 9 February and then subsequently decided to raise council tax, would I restrict the recovery of just the council tax freeze element of the package of support, which in Moray's case would be £1.156 million, or would I also deny access to Moray's share of the Integration Fund and the funding to support the teachers commitment.

I can confirm that any Council that confirmed by 9 February that it signed up to the deal then a few days or weeks later reneged on that position, either at their council Budget setting meeting or through another measure, and subsequently increased their 2016-17 Council Tax levels then I would judge that to have overturned their earlier position statement and I would deny them access to all of the money. It is an all encompassing deal to which they must sign up to.

I am copying this response to all Council Leaders.

**JOHN SWINNEY**

Deputy First Minister and Cabinet Secretary for Finance, Constitution and  
Economy  
John Swinney MSP

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Copy to: The Leaders of all Scottish local authorities

27 January 2016

Dear David

I write now to confirm the final details of the Local Government Finance settlement for 2016-17, following the conclusion of our partnership discussions to consider the package of measures contained in my initial letter of 16 December 2015.

This funding package is focussed on delivery of our joint priorities to deliver sustainable economic growth, protect front-line services and support the most vulnerable in our society.

I have considered the representations made to me by COSLA and this is reflected in the detail of the settlement and the package of measures included in this letter. My aim throughout our extensive discussions has been to reach an agreement with councils around the implementation of these commitments. I invite local authorities to agree the terms of the settlement.

The measures set out in the settlement offer must be viewed as a package to protect shared priorities and intensify a journey of reform. In order to access all of the funding involved, of £408 million, local authorities must agree to deliver all of the measures set out below and will not be able to select elements of the package.

#### Integration Fund

The offer being made is that £250 million will be provided from the Health budget to integration authorities in 2016-17 for social care:

That of the £250 million, £125 million is provided to support additional spend on expanding social care to support the objectives of integration, including through making progress on charging thresholds for all non-residential services to address poverty. This additionality reflects the need to expand capacity to accommodate growth in demand for services as a consequence of demographic change.

That of the £250 million, £125 million is provided to help meet a range of existing costs faced by local authorities in the delivery of effective and high quality health and social care services in the context of reducing budgets. This includes our joint aspiration to deliver the Living Wage for all social care workers as a key step in improving the quality of social care. The allocation of this resource will enable councils to ensure that all social care workers including in the independent and third sectors are paid £8.25 an hour. This assumes that private and third sector providers will meet their share of the costs. The Government would prefer implementation on the 1 April but we accept COSLA's point that preparatory work will be required to ensure effective implementation. We therefore agree to an implementation date of 1 October. In 2016-17, Councils can allocate up to £125 million of their 2015-16 costs of providing social care services to Integrated Joint Boards including the uprating of staff to the Living Wage. This will ensure an overall benefit to the provision of health and social care of £250 million. To ensure transparency for the flow of funding support for local authorities and delivery of the Living Wage commitment the arrangements will be signed off at a local level by the appropriate Integration Authority Section 95 Officer.

### Teacher Numbers

The Scottish Government has been consistent that the protection of teacher numbers is a central part of our priority to raise attainment. Following our discussions and the further representations COSLA has made, the Scottish Government have agreed that the measure for the implementation of that target, against a forecast that pupil numbers will increase over the coming academic year, will be the maintenance at a national level of the pupil teacher ratio.

The objective will be to maintain the pupil teacher ratio nationally at a value of 13.7 (the same level as in 2015) in local authority schools as shown in the Teacher and Pupil Census published in December 2016 and the teacher and probationer commitments in 2016-17. In order to support delivery, the Scottish Government will continue to monitor these commitments throughout the year.

### Council Tax Freeze

The Scottish Government was elected on a commitment to freeze the council tax for the entirety of this Parliamentary session and is committed to delivering this policy. Many local authorities have a commitment to freeze the Council Tax over a similar timescale. Against the questions of the wider revenue-raising challenges raised in the Budget the Scottish Government believes that it is important to provide protection for household incomes in what has been a very financially challenging period for many households.

The Scottish Government has now received the report from the Commission on Local Tax Reform and the Government believes now is not the time to dispense with the protection the freeze offers. Looking ahead we will be bringing forward plans for reform of the present Council Tax, reflecting the principles of the report, and we are committed to working in partnership with local government on the implementation of that.

For 2016-17 individual local authorities will again require to agree to work with the Scottish Government to deliver a council tax freeze for the ninth consecutive year.

Any council that does not sign up to the complete package will not receive their share of the Integration Funding (£250 million), support for teachers (£88 million) and the council tax freeze support (£70 million). Should that be the case, steps will be taken to recover the latter two elements that have been distributed from the individual council's allocations in the local government finance settlement in-year.

If in the event, however, a council that does sign up then does not deliver any of the remaining specific commitments on council tax freeze, social care spend, including delivery of the £8.25 per hour Living Wage or national teacher targets then the Scottish Government reserves its position to take action to remove access to or recover that element of the additional funding support earmarked to deliver each of the remaining specific measures. In the case of pupil teacher ratio not being maintained nationally then the Scottish Government reserves its position to recover monies allocated to individual authorities whose pupil teacher ratio rises. This action will be proportionate and apply only to that element of the funding for a specific measure that a local authority subsequently does not deliver as set out in the paragraph above.

I will require those Council Leaders who intend to take up the offer and agree the full package of measures to write to me to set out their position, including on the council tax. Given that I am setting out changes to the proposals we previously discussed, I want to give local authorities every opportunity to consider these issues in full. Leaders should therefore provide their response to me by no later than Tuesday 9 February 2016.

I fully understand the pressures on budgets, which is being felt across the whole of the public sector, but I firmly believe that the funding proposals I have set out for local government protects our shared priorities and delivers practical financial support to intensify the pace of reform. I hope you and your fellow Council Leaders can agree that in the circumstances the proposals deliver a strong but challenging financial settlement. The key to addressing this challenge is reform and local government is a key partner in our programme to reform and improve public services.

A handwritten signature in black ink, appearing to read 'John Swinney', with a stylized flourish at the end.

**JOHN SWINNEY**