

severely criticised by the Accounts Commission for not conducting business in an open and transparent manner.

- 4.7.4 In his notes, the Legal Officer states that a number of elected members took exception to his advice; voices were raised and questions asked as to whether the Provost was going to accept the advice. However, the comments were all directed at the advice, rather than at himself as advisor until Councillor Bollan interjected and said the advice being given was contorted. He pointed at the Chief Executive and the Legal Officer and said "you are trying to gag us". He also said it was a 'stitch up' and that a meeting had taken place between the Legal Officer, the Chief Executive, the Head of Human Resources and the Council Leader earlier in the day to stitch this matter up. Throughout this he was gesticulating and shouting and the Legal Officer states that eventually he, himself, rose to his feet saying that he was not prepared to accept allegations that his advice was contorted, nor that he was trying to gag people or that there was any form of stitch up. Councillor Black then said he believed the Legal Officer was unprofessional to intervene whilst another Councillor was speaking. At that, the Chief Executive rose to defend the role of officers and to refute the allegations made by Councillor Bollan. The Provost indicated that he was making a ruling and accepting the legal advice that the motion was incompetent
- 4.7.5 Councillor Bollan continued with what the Legal Officer described in his notes as a rant, accusing officers of being in cahoots with councillors. He was shouting and gesticulating, and said that he was "not prepared to put up with this shite any longer". He pointed at the Administration councillors saying "You lot are a fucking lot of shite and I can tell you this is not going to end here". He then stormed from the meeting and slammed the door behind him. At that stage, there was a ten minute recess during which the Legal Officer said various councillors and officers came and expressed their regrets to him and indicated that they thought Councillor Bollan had gone too far. In his notes, the Legal Officer says that, following the recess, the Provost said that, having been in discussion with the Chief Executive, he was going to take the amendment as an urgent item of business. The Legal Officer in turn said that, with Councillor Bollan's departure, this may not be considered as particularly fair, but the Provost indicated to the Council meeting that he now felt the matter should be dealt with. The item of business was then raised as an urgent item, the original Labour amendment now being moved by Councillor Craig McLaughlin, SNP. There was extensive debate lasting approximately 1½ hours. An amendment to preserve the status quo was moved by Councillor Robertson SNP and was carried by 11 votes to 10.

4.8 **The Committee Clerk's Notes from the Council meeting on 26 March 2008**

- 4.8.1 Written notes taken by the Committee Clerk during the meeting describe some of the exchanges which took place during item 6. The notes are not verbatim. The Clerk has explained that item 6 proposed some nominations to committees and outside bodies which required Council approval and were not controversial. The Clerk's notes confirm that the Provost did not accept the SNP motion on single status. The following slightly abbreviated extract starts at the point where the Council Leader moved to approve the report on Changes to Committees and

Outside Bodies, and the Provost ruled that Councillor Rooney's amendment (described in footnote 2 on page 8) was not competent:

- Cllr Bollan: This is a stitch up
 Provost: I completely reject the accusations that this is a stitch up. I am the
 Chair and I have taken advice from the Legal Officer.
 Cllr Black: This is unnecessary intervention, how can the paper not be competent?
 Cllr Bollan: (To the Provost) - You are a disgrace to the Chair. (He went on to refer to the meeting between officers and the Council Leader prior to the meeting) - Did Mr Brown, Mr McMillan and Tricia O'Neill meet with the Leader of the Council ...to discuss item 6 Yes or No?
 Ch Executive: (Started to answer and was interrupted)
 Cllr Bollan: Yes or no, was Tricia O'Neill and the Leader present?
 Ch Executive: Yes
 Cllr Bollan: Did you discuss item 6?
 Ch Executive: Yes
 Cllr Bollan: Was there a briefing paper? There was because I've seen it
 Cllr Robertson: (started to speak but was interrupted by Councillor Bollan)
 (The Provost told Councillor Bollan to take his seat.)
 Cllr Robertson: I discussed the proposed motion and took legal advice...I have the right to do so. Iwanted to check if the proposed motion would be competent in law.
 (The Provost invited the Chief Executive to speak.)
 Ch Executive: The briefing note referred to earlier did not refer to single status...the discussion was on the competence of the proposed SNP motion. This is being taken way out of context.
 Cllr Bollan: This is a stitch up

4.8.2 The Provost reminded members of the Chief Executive's letter regarding conduct at Council meetings. Councillor Robertson acknowledged the Provost's decision not to accept a motion on item 6 and suggested they move on. Councillor Calvert expressed the opinion that the motion did arise out of the business of the meeting and in response the Provost referred said the item could not be considered unless it appeared in the agenda issued at least 3 days in advance of the meeting, or if, by reason of special circumstances, it was considered a matter of urgency. A number of members continued to question the decision.

4.8.3 The Clerk's notes continued:

- Cllr Bollan: (To the Legal Officer) Can you confirm if this Council has never considered an item of business without 3 days notice?
 Legal Officer: No
 Cllr Bollan: Is it not true that we consider items without 3 days notice every month? Your argument is flawed, officers are gagging this Council, officers have contorted the truth, it's despicable.

- Legal Officer: I'm not prepared to accept this. Are you accusing me of gagging this Council, of contortion? Councillor Bollan who are you accusing?
- Ch Executive: No more. I am not taking any more Provost. Councillor Bollan, I am reporting you to the Standards Commission.
- Cllr McLaughlin: Provost, I think we should adjourn this meeting.
(Councillor Bollan left the meeting at this point. There was some further discussion about the ruling and an exchange between the Chief Executive and Councillor Black).
- Cllr Black: Everyone is getting emotional. I am disappointed that the Legal Officer got on his feet to address a member of this Council.
- Ch Executive: Councillor Black, my officers are not in these Chambers to be shot at.....I will not take these 'stitch up' accusations.
- Cllr Black: I am mindful of caution. The Chief Executive must accept some self criticism about the way he addressed me - not a good way of conducting business. Suggest recess to speak to the Legal Officer about rulingconsider views on ruling.

4.9 The Clerk said there were members of the public present due to the fact that at the start of the meeting there had been an item where the Health Board's Chief Executive had been invited to address the Council. During interview the Clerk said that Councillor Bollan's conduct was the worst he had seen; in his view it was an attack on officers. When the meeting reconvened after the adjournment, the Provost indicated he was going to take the item tabled (ie Councillor Rooney's amendment) as an urgent item of business. It was now being moved by Councillor McLaughlin, SNP. The Clerk recalled the Legal Officer saying that, with Councillor Bollan's departure, this may not be considered fair. The Labour Group indicated they were not surprised that the item was now being allowed because Councillor Bollan had left and this affected the voting balance in the Chambers. The debate lasted approximately 1½ hours and, after a motion for closure of the debate, an amendment to preserve the status quo was put forward by Councillor Robertson and was carried by 11 votes to 10.

4.10 **Record in the Approved Minute of the Council meeting on 26 March 2008**

4.10.1 The minute confirms that the Provost ruled Councillor Rooney's amendment was not competent as it did not relate directly to the item of business before the Council. At this point, a number of members challenged the decision. It is recorded that Councillor Bollan made certain accusations about interference of officers in Council business. In reply, the Legal Officer informed Councillor Bollan that his accusations were unacceptable. The Chief Executive informed Councillor Bollan that he would not tolerate such verbal attacks on his officers and as a consequence he would report Councillor Bollan to the Standards Commission. At that point, Councillor Bollan left the meeting. The minute also records that, following the adjournment, after hearing Councillor McLaughlin, the Provost agreed to accept the paper previously circulated by Councillor Rooney as an urgent item of business in accordance with Standing Order No 7. The Provost noted that the business raised in the paper should be debated by Council due to the serious nature of the proposals contained therein.

Information obtained from interviews

- 4.11 The Chief Executive, Mr McMillan, said during interview that at the February meeting Councillor Bollan had questioned the Legal Officer's advice to the Provost regarding a motion and amendment relating to a Best Value report by Audit Scotland. Councillor Bollan had alleged on that occasion that the Legal Officer was "trying to control what members said in the Council". Had that been an isolated incident, Mr McMillan said he would not have complained of it, but it was followed by the meeting on 26 March 2008. He said they do get heated debates in the Council, but the meeting on 26 March 2008 was the worst. Among the members asking questions, Councillor Bollan was the most vitriolic. He was loud and his voice was angry, as was his body language. The Management Team (ie the Chief Executive and four departmental Executive Directors) subsequently wrote to all elected members on 22 April 2008. The letter referred to their concerns about the treatment of the Legal Officer which they felt was unacceptable, the use of offensive language and their extreme concern about claims that officers had shown bias to any political party. They asked for support from members to ensure that future meetings would be conducted in a more reasonable fashion, devoid of abusive language and unfounded personal accusations.
- 4.12 The Council Leader, Councillor Iain Robertson, has confirmed that he asked the Chief Executive, the Legal Officer and the Head of Human Resources to come to his office on the afternoon of the meeting. Having heard that there might be a challenge to the Administration, he presumed that it could only relate to item 6 on the agenda. He has stated that he wanted advice on the legality of raising this, and raising issues relating to single status, in terms of the business on the agenda. He confirmed that the advice given to him by the Legal Officer was as described in the Legal Officer's notes, as set out in paragraph 4.7.1 above.
- 4.13 Councillor George Black, Independent, was asked to provide information about the Council meeting. During interview, he said that, earlier in the day of the meeting, he had received a telephone call from Councillor Bollan saying that an opportunity could arise to change the Administration. He met with Councillor Bollan that day, but told him he would also like to speak to the SNP as well. At 2.00 pm Councillor Black met with Councillor Robertson, the Council Leader and showed him an addendum on single status which might be raised at item 6. Later, the Leader contacted him and said he had discussed the addendum with senior officers but it had been dismissed. Councillor Black suggested that the Leader meet his members and see what common ground there might be to assure them of his support. Before the meeting, he spoke to Councillor Bollan and showed him a briefing note which he thought had stemmed from the Leader's meeting with senior officers.
- 4.14 Councillor Black described events when the amendment at item 6 was ruled incompetent. To his recollection, Councillor Bollan said the opposition was being gagged and that a secret meeting had taken place. The Legal Officer got up and Councillor Black thought the officer was overwrought. The Chief Executive also got up and said words to the effect "You're not getting away with that" and "You

can't make accusations against officers". It became fairly heated and had the general air of a bunfight, with other members joining in. As far as Councillor Black was concerned, it was no more contentious than other meetings he had attended. He did not recall the use of expressions like 'in cahoots with', but recalled Councillor Bollan said something about colluding with the Administration. It was, in Councillor Black's view, the worst managed meeting he had attended and he thought the fault lay with the Chair. The Legal Officer seemed upset and on point of tears, whereas he had always been calm when challenged in the past. Councillor Black thought that what was being challenged was the advice, not the Legal Officer's personal integrity. When the Chief Executive got to his feet it became personal when he threatened to report Councillor Bollan's conduct. The Chief Executive also said "I'm not putting up with this any more" and Councillor Bollan said "You'll not have to, I'm leaving". As he did so, Councillor McElhill, SNP, said something like "What's up Jim, is it because you can't get your pals in the Labour party in power?" Councillor Bollan then said "Couldn't do worse than that pile of shit", pointing to the SNP Group. In Councillor Black's view, it was a political comment aimed at the SNP and not at officers. Councillor Black said he had been surprised, not at Councillor Bollan's interjections but at those from officers, especially the Legal Officer. Councillor Black also said that he felt the Chief Executive had harangued him personally, although he believed he had not been discourteous to anyone. He thought that the officers' conduct had not been entirely professional.

- 4.15 The Provost, Councillor Dennis Agnew, Independent, said there had been tensions at Council meetings since December 2007 when decisions were taken in regard to the funding of the schools regeneration. The January and February meetings were very tense, but he recalled the February meeting as less loaded than the others. The 26 March 2008 meeting was held in the more intimate setting of the Council Chambers in Clydebank Town Hall. The press were in attendance and, in the early part of the meeting at least, there had been a full public gallery because of the presence of the Parents' Association of Clydebank High School and a presentation by the Health Board's Chief Executive. The Provost said that when item 6 came up a motion was tabled by Councillor Rooney which attempted to distort the item of business. The Legal Officer gave him advice that the motion was not competent and he accepted it. Councillor Bollan made some comments in which he appeared to be trying to negotiate with Councillor Rooney to add an addendum to Councillor Rooney's paper; however, Councillor Bollan's comments about the Council officers then came out of the blue. He said that officers do not always tell the truth (as Councillor Agnew recollected it, he did not use the word 'lying') at which the Legal Officer asked "What are you trying to say?" As exchanges between Councillor Bollan, the Legal Officer and the Chief Executive went on, the Legal Officer said "You have gone too far". The Provost said the Legal Officer was angry and he was shaking; he had known the officer for 20 years and had never seen him like that before. The Provost said he told Councillor Bollan to adjust his language and urged him to withdraw comments he had made, but he did not do so. As Councillor Bollan was leaving, he pointed to the SNP members saying "these shites" and to the Chief Executive saying "this is not over"; he then slammed the door as he left. The Provost said Councillor Bollan had used vehemence and vitriol for 3 to 4 minutes and he was concerned about what the public thought of it. Speaking about his subsequent decision to

allow the motion to be taken after the adjournment, the Provost said that the circumstances had changed. When it had been put forward at item 6, he had been advised that it was not competent in terms of that item of business. However, when Councillor McLaughlin moved the Labour motion after the adjournment, he had asked the Provost to take it as an urgent item. The Provost has stated that he thought it would be best to deal with it. It was not then arising out of a different item of business and he was not advised by either the Chief Executive or the Legal Officer of reasons why he should not take it as a matter of urgency.

- 4.16 Other persons were also asked to provide information during interview. Councillor Marie McNair, (formerly Labour, now Independent), said she had no recollection of any problem at the 27 February 2008 Council meeting, but the meeting on 26 March 2008 was in general a heated meeting. Labour wanted to take control of the administration and Councillor Bollan had wanted to add an addendum to Councillor Rooney's proposed amendment at item 6. She said Councillor Bollan kept challenging the decision not to consider it, and it was quite fierce. She confirmed having heard Councillor Bollan use the words gagging, colluding and in cahoots. The Legal Officer was upset, which was unusual and out of character, but she said it was understandable as he was being accused. She felt he had just had enough; he had been challenged on several occasions and it was having a cumulative effect. She had no recollection of Councillor Bollan accusing officers of lying, but she confirmed that when he left the room he gestured to the SNP Group and said something about "that shite over there".
- 4.17 During interview, the Legal Officer said it was about 9.20 in the evening by the time item 6 on the agenda was reached. Councillor Robertson brought forward his motion on single status. When the Provost accepted the advice and ruled it was not competent, Councillor Robertson accepted this. Then Councillor Rooney moved his amendment, and while the Legal Officer was explaining his advice on this to the Provost, Councillor Bollan interjected with "Rubbish, rubbish". The Legal Officer said he asked Councillor Bollan twice to desist. As it went on, Councillor Bollan spoke about the advice being contorted. He gesticulated at the Legal Officer and the Chief Executive and said "they are trying to gag us". Referring to the meeting which officers had attended with the Leader, Councillor Bollan said this had been used 'to stitch up the motion'. The Legal Officer said he found the remarks very hurtful and he asked Councillor Bollan to withdraw them but he refused to do so. Councillor Black then said he thought the Legal Officer was being unprofessional by speaking while a councillor was speaking. The Chief Executive intervened by saying that Councillor Bollan had overstepped the mark. However, Councillor Bollan reiterated his remarks, and when he referred to officers being in cahoots with councillors, the Legal Officer believed this was directed at himself. When Councillor Rooney asked if the matter could be raised at a future meeting, the Legal Officer advised that this would be possible if supported by a properly raised motion. The Legal Officer said that Councillor Bollan left saying, "I am not prepared to put up with this shite any longer – you are a fucking lot of shite and I can tell you this is not going to end here". The Legal Officer said the councillor was gesticulating at him, the Chief Executive and the Provost. The Legal Officer said he was shocked and bewildered. He has since left the Council's employment, and although the incident did not, in itself, make him decide to leave, it brought his decision to a head.

- 4.18 The Executive Director of Corporate Services was newly appointed to her post in January 2008, having come from a private sector organisation. She was shocked by the inappropriateness of what was said. Councillor Bollan's reference to elected members being "gagged" she said was clearly directed at the Legal Officer. Councillor Bollan was on his feet making forceful gestures, with his arms pointing and his body thrown forward in an aggressive manner. The Legal Officer defended his advice but his stature seemed almost physically to crumble and he appeared to be shocked by Councillor Bollan's onslaught. Other members were interjecting with their own views, but none as aggressively as Councillor Bollan. When asked whether the Legal Officer was screaming at the top of his voice (as has been stated by Councillor Bollan) the Executive Director said there was no way this was the case; the Legal Officer is soft spoken, but he was trying to project his voice. She had noted that as Councillor Bollan left the meeting, he gestured towards the SNP and said "lying shit".
- 4.19 Councillor Geoff Calvert (Labour) said he had never witnessed anything like the meeting on 26 March. It was clear there was a move to take control of the Council. He said that under Standing Orders, a motion is usually given to the Clerk and circulated, then the mover of the motion speaks to the paper, but in this case Councillor Rooney had hardly said half a dozen words when he was interrupted by the Legal Officer who objected, saying that no notice of the motion had been given. Councillor Calvert said that, to his mind, what followed was officers trying to protect the SNP administration. At one point there were two officers on their feet screaming at two councillors. He tried to ask for clarification on procedure and competency, but both Councillor Black and Councillor Bollan were challenging the officers and the Chief Executive was trying to shout them down. He recalled Councillor Bollan saying the word 'gagging' but this was in the context of debate being stifled. He also said that Councillor Bollan did refer to a 'stitch up' and to a 'secret meeting'. Councillor Calvert agreed the Legal Officer was upset and seemed to be under pressure, but said he was definitely screaming. Councillor Calvert thought the Legal Officer had got himself into a position he could not get out of. Councillor Bollan left the meeting and there was an adjournment. Councillor Rooney was angry and spoke to the Legal Officer during the adjournment, but Councillor Calvert persuaded him to apologise when the meeting resumed. At that stage, the Provost stated he would now take the motion as a voting item. The Labour Group objected because the voting balance had changed; one minute the item had been ruled incompetent, the next it was to be treated as an urgent item to be voted on. Councillor Calvert's view was that the amendment had been competent under Standing Order 15(i). He had written about this, and other things, to the Corporate Management Team in reply to their letter of 30 April 2008.
- 4.20 Councillor Martin Rooney also prepared a contemporary written statement in which he set out his views and comments about the conduct of agenda item 6. His statement set out the nature of the business before the Council and extracts from Standing Orders. It also referred to the advice given by the Legal Officer to the Provost which Councillor Rooney said was unclear and lacked coherence. He (Councillor Rooney) had attempted to argue that the amendment was competent but was overruled in an aggressive way by the Provost. He and other councillors

took exception to this. Councillor Bollan and Councillor Black were on their feet challenging the Legal Officer's interpretation. A highly emotional Councillor Bollan, in particular, accused the Legal Officer of attempting to 'stitch up' the result, the inference being that Council officers were acting to protect the SNP administration from being removed from office. Councillor Rooney's statement described the Legal Officer and the Chief Executive as being on their feet, loudly arguing with Councillor Bollan; it said both showed a lack of restraint and aggression never witnessed before in West Dunbartonshire Council. After Councillor Bollan left the meeting, and following the subsequent adjournment, the Provost said he would accept the Labour amendment as an urgent item of business. The Labour Group questioned how the item could now be competent, but received no logical explanation; however it was obvious with Councillor Bollan's departure the amendment would be defeated. In Councillor Rooney's statement, he surmised that the SNP assumed that if this were so, their administration would be safe for six months (under the 'six months rule' which precludes consideration of an item within the ensuing six months period). However, it was confirmed by the Legal Officer that committee memberships were not protected by the six months rule and could be changed at any time.

- 4.21 During interview, Councillor Rooney said that the officers and the Provost were aggressive and got members' backs up right away. He agreed with Councillor Bollan's view that it was a stitch up. He said Labour members had become aware of Councillor Bollan's proposed addendum regarding a working group on single status; Councillor Rooney had told Councillor Bollan before the meeting that Labour were trying to take over the Council and were looking to see if they could get his support. The SNP got to know because Councillor Bollan shared it with Councillor Black. In Councillor Rooney's view, the Council's SNP Leader decided to bring forward a motion that would be ruled out on pretty much the same wording as Councillor Bollan's addendum. Councillor Rooney said what was done was wrong and he subsequently wrote to the Chief Executive regarding his concerns about how his amendment was dealt with at item 6. It was his view that, in accordance with Standing Orders, the legal advice should have come after the motion was made and spoken to. Councillor Bollan took exception and said it was a stitch up and undemocratic. The Legal Officer said that was a personal attack on him. Then the Chief Executive got up and it was a slanging match. When Councillor Bollan picked up his papers and went to leave, he was goaded by Councillor McElhill. In response he said "...Can't be any worse than that crowd of shite". This was not directed at officers, as he was gesturing towards the SNP. Councillor Rooney did not recollect Councillor Bollan using the words 'officers are gagging the Council', although it would not be unusual as he has heard similar comments made at previous meetings in West Dunbartonshire. He did not recollect any accusations of 'collusion' or 'lying' being made against officers. Councillor Rooney said he did not condone Councillor Bollan's words against the SNP members, but he felt Councillor Bollan was a victim in this. Had the amendment been allowed to be moved, none of it would have happened.
- 4.22 There was press coverage following the meeting. An article in the Dumbarton & Vale of Leven Reporter was headed *'I want rid of that load of *****'*. It referred to angry scenes and said a councillor was heard to swear at the ruling SNP group. The article described it as just one incident in a heated session that saw a failed