



**MINUTES OF THE MEETING OF
EAST LoTHIAN COUNCIL**

**TUESDAY 28 AUGUST 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

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|---------------------------------------|-------------------------|
| Councillor S Akhtar | Councillor W Innes |
| Councillor D Berry | Councillor M Libberton |
| Councillor L Broun-Lindsay (Convener) | Councillor P MacKenzie |
| Councillor S Brown | Councillor F McAllister |
| Councillor S Currie | Councillor P McLennan |
| Councillor T Day | Councillor K McLeod |
| Councillor A Forrest | Councillor J McNeil |
| Councillor J Gillies | Councillor T Trotter |
| Councillor J Goodfellow | Councillor M Veitch |
| Councillor D Grant | Councillor J Williamson |
| Councillor N Hampshire | |

Council Officials Present:

Mrs A Leitch, Chief Executive
Mr D Ledingham, Executive Director (Services for People)
Mr A McCrorie, Executive Director (Support Services)
Ms M Patterson, Executive Director (Services for Communities) and Monitoring Officer
Mr J Lamond, Head of Council Resources
Mr M Leys, Head of Adult Wellbeing
Mr R Montgomery, Head of Infrastructure
Mr T Shearer, Head of Policy and Partnerships
Ms S Bogunovic, Customer Feedback Manager
Ms S Cormack, HR Manager – Operational Services
Mr J Cunningham, Benefits Manager
Mr D Evans, Senior Environmental & Consumer Services Manager
Ms M Ferguson, Corporate Legal Adviser
Mr D Russell, Corporate Communications Manager
Mr P Vestri, Corporate Policy Manager

Visitors Present:

Mr Phil Denning, District Inspector, Local Area Network

Clerk:

Mrs L Gillingwater

Apologies:

Councillor J Caldwell
Councillor J McMillan

Prior to the commencement of business, the Provost announced that Tony McAuley, Trading Standards Manager, had recently been awarded a Fellowship of the Trading Standards Institute, having been nominated for the award by members of the Scottish Branch of the Trading Standards Institute for an original and exceptional contribution to Trading Standards and for his outstanding and distinguished service to the objectives of the Institute. The Provost noted that Mr McAuley had been the Council's Trading Standards Manager since 2001 and had also held a number of significant and key posts within Trading Standards in the UK. In addition, he had raised the profile of East Lothian Trading Standards with radio appearances and had appeared as a Trading Standards expert on a number of television programmes. Members and officers attending the meeting joined the Provost in congratulating Mr McAuley on his exceptional achievement.

1. COUNCIL AND COMMITTEE MINUTES FOR APPROVAL

The Minutes of the Council and Committee meetings specified below were submitted and approved:

Cabinet – 12 June 2012

Matter arising: Item 2 – Councillor McLennan asked for an update on the site at Abbeylands, Dunbar. Councillor Innes advised that a report would be presented to Cabinet on this matter at the earliest opportunity.

Matter arising: Item 9 – Councillor Currie asked if further consideration had been given to allocating funding to Richmond's Hope and the Children's Hospice Association Scotland. Councillor Innes advised that he would discuss this matter with Councillor Currie outwith the meeting.

Policy & Performance Review Committee – 12 June 2012

Education Committee – 19 June 2012

Audit & Governance Committee – 19 June 2012

East Lothian Council – 26 June 2012

Matter arising: Item 2 – Councillor McLennan asked for an update on the costs associated with implementing the Council Plan. The Provost suggested that he raise this issue during the discussion on Item 3 on the agenda.

Audit & Governance Committee – 17 July 2012

2. ASSURANCE AND IMPROVEMENT PLAN UPDATE 2012-2015

A report was submitted by the Chief Executive informing the Council of the Assurance and Improvement Plan (AIP) Update 2012-2015, provided by Audit Scotland.

The Chief Executive, Angela Leitch, advised Members of the remit of the Local Area Network (LAN), and introduced Phil Denning, the Local Area Network District Inspector who would be presenting the AIP update. She pointed out that the report demonstrated continuous improvement over the past 3-4 years, and drew attention to the three areas of uncertainty: Corporate Services, challenge and improvement, and use of resources.

Mr Denning provided Members with further details of the AIP process and the positive progress made by the Council. In particular, he commended the Council's record on self-evaluation and its constructive approach to working with scrutiny bodies. He noted that

there would be further engagement with the Council Management Team (CMT) and Elected Members, and highlighted the importance of a strong, open and honest relationship between the Council and the LAN. Mr Denning also outlined changes to the shared risk assessment process.

Councillor Berry questioned the absence of information relating to the Economic Development Division within the report. The Chief Executive, Angela Leitch, advised that the AIP was developed on the basis of risk and that as the Economic Development Division was performing well, there was no priority risk attached to it which would merit further scrutiny.

Councillor Berry asked how much scope there was for further improvement in a number of areas, in particular self-evaluation. Mr Denning advised that although significant progress had been made in relation to self-evaluation, there were still some areas within the Council where improvements could be made. He also advised that stronger links between the LAN and the CMT would assist in embedding a culture of self-evaluation. Mr Denning accepted an invitation from Councillor Berry to discuss this further at a meeting of the Policy & Performance Review Committee.

As regards the link between housing and education, Councillor MacKenzie commented that, according to Audit Scotland information, the Council was performing very well in the national context.

Councillor Innes welcomed the report and the opportunity to work more closely with scrutiny bodies.

Councillor Currie paid tribute to the work done by the previous Administration and the scrutiny committees, and in particular former Councillor Neil Rankin, for their contributions, and was confident that this positive work would continue with the new Administration.

Decision

The Council agreed:

- i. to welcome the Assurance and Improvement Plan Update 2012-2015; and
- ii. to request that the Chief Executive keeps the Council updated on any ongoing monitoring of Areas of Uncertainty by the Auditor and Local Area Network.

3. COUNCIL PLAN 2012-2017

A report was submitted by the Chief Executive presenting the Council Plan 2012-2017 for approval.

The Chief Executive presented the report, informing Members that the Council Plan would provide a clear vision for the Council that would reflect the needs and views of local people as well as national priorities. She advised that annual reports on the progress of the Council Plan would be presented to Council. She pointed out that there were no immediate financial implications and that the three-year budget set in February 2012 would still stand; however, further details of financial and policy implications would be brought forward as required and during the budget process.

Councillor MacKenzie raised a question in relation to the allocation of £100,000 to each secondary school cluster. The Chief Executive advised that officers and head teachers would be considering how the additional funds could be allocated on a cluster basis and that

further details would be presented to Members in due course on this issue. Councillor Akhtar added that the Council Plan would enable the Council to work more closely with schools, parents and carers and focus on education attainment, and that school clusters would be empowered to determine priorities within their own areas.

In response to a number of questions from Councillor Berry as regards economic development, the Chief Executive advised that the Council had been working with the University of Glasgow on a new Economic Development Strategy, which would be presented to Cabinet for approval in the coming months, and that a number of initiatives would be covered within that Strategy, including employment pathways, land for business use and town centre regeneration.

The Chief Executive clarified that the majority of the commitments made in the Labour and Conservative manifestos had been incorporated into the Council Plan and that it would provide the basis for service planning.

Councillor Brown asked how the Council would meet its commitment to providing specialised support services relating to the safety of women and young people. Councillor Innes commented that this particular contract had been dealt with by the previous Administration, but confirmed that vulnerable women and children would receive the protection they required.

Councillor McLennan expressed concern about the potential costs associated with delivering the Council Plan, in particular the allocation of £600,000 to school clusters.

Councillor Veitch advised that the Council Plan would provide a solid policy framework for the next five years and reflected the priorities of the people of East Lothian. He thanked officers for their work in producing the document, and welcomed in particular the pledges to secure strict regulations in relation to wind turbines, to protect the roads maintenance budget, to improve car parking at railway stations and in town centres, and to re-open the railway station at East Linton.

Councillor Currie claimed that a number of measures contained within the Council Plan did not reflect the commitments set out in the Administration manifestos, and questioned how free special waste uplifts and adding extensions and loft conversions to homes would be funded. He also noted the absence of the reintroduction in the Plan of the Right to Buy policy. His views were shared by Councillor McLennan, who stated that the Opposition would scrutinise every aspect of the Council Plan.

Councillor Hampshire remarked that the Administration would deliver the measures outlined in the Council Plan over the next five years and urged the Opposition to work with the Administration to achieve this.

As regards the Right to Buy issue, Councillor Veitch advised that the Scottish Government had consulted on this policy and had indicated that they were not supportive of continuing with this policy. The consultation response was available in the Members' Library.

Councillor Berry commented that clear goals should be included in the Plan and asked for more details on the Council's economic development strategy, transport strategy and the proposed railway station at East Linton. The Chief Executive explained that an action plan was being developed, which would include targets, and that these would be incorporated into service plans. Councillor Veitch added that funding had already been allocated to look into the development of the railway station at East Linton and that the Scottish Government was being lobbied on the upgrade of the A1.

Councillor McLennan concluded the debate by stating that the SNP Group would not be supporting approval of the Council Plan on the grounds that there was too much uncertainty as to how it would be delivered.

Decision

The Council agreed to approve the Council Plan 2012-2017, attached as Appendix 1 to the report, noting that the SNP Group had abstained from agreeing to the recommendations.

4. EAST LOTHIAN COUNCIL ANNUAL PERFORMANCE REPORT 2011/12

A report was submitted by the Chief Executive updating the Council on its performance and progress through the publication of the Annual Performance Report 2011/12.

The Corporate Policy Manager, Paolo Vestri, presented the report, pointing out that the 2011/12 educational attainment figures were not available as yet, but that they would be incorporated into the report before it was published on the Council's website. He also drew attention to a number of other indicators where information was still to be received.

In response to a question from Councillor Berry in relation to the indicator for homecare, Murray Leys, Head of Adult Wellbeing, advised that this was a positive outcome and that the Council's figures relating to balance of care were currently above the Scottish average. He offered to provide more information as regards the balance of care to Councillor Berry.

Councillor Berry also asked why the fuel poverty indicator related only to tenants. Mr Vestri reported that this was data that the Council had to collate, but that there were other indicators within the Single Outcome Agreement that also used data from the Welfare Rights Service and Citizens Advice Bureau. He added that indicators would be reviewed by the PPRC at its meeting in November and invited Members to suggest new indicators. He also noted that services had been asked to ensure that all targets were more accurate.

Councillor Goodfellow drew attention to the indicator on fly-tipping, remarking that he expected the Administration's policy on special uplifts would improve performance in this area.

Decision

The Council agreed to approve the Annual Performance Report 2011/12.

5. APPOINTMENT OF HEAD OF EDUCATION

A report was submitted by the Chief Executive outlining the process for the appointment of the Head of Education following the reconfiguration of the functions of the Council and the Chief Officer structure that has been in place since 1 April 2012.

The Chief Executive presented the report, advising that the approach to this appointment was the same as that adopted during the Chief Officer restructuring process in February 2012, and seeking nominations for two Administration Members and one Opposition Members to constitute the Appointment Panel.

In response to questions from Councillor MacKenzie, Mrs Leitch confirmed that the budget for this post already existed in the staffing establishment, and that there would be no requirement for candidates to possess a teaching qualification.

Councillor Innes commented that in view of the new management structure implemented by the previous Administration, he was satisfied with the approach to this appointment, but that the Administration would review the new management structure after a year of its operation. Opposition Members expressed surprise to Councillor Innes's comments, given that he had previously opposed an appointment to the position of Head of Education on the grounds that the successful candidate did not have a teaching qualification.

The Administration nominated Councillors Innes and Akhtar and the Opposition nominated Councillor MacKenzie to constitute the Appointment Panel.

Decision

The Council agreed:

- i. to approve the appointment and matching process outlined in Sections 3.2 and 3.6 of the report and to delegate to the Appointment Panel the authority to appoint the Head of Education;
- ii. to appoint Councillors Innes, Akhtar and MacKenzie to constitute the Appointment Panel; and
- iii. to delegate to the Chief Executive the power to appoint suitable officers from Human Resources and Law & Licensing to support the Appointment Panel.

6. 2011/12 YEAR-END FINANCIAL REVIEW

A report was submitted by the Executive Director (Support Services) informing Council of the unaudited financial position for 2011/12 and to finalise arrangements for the carry-forward of funds into 2012/13.

The Head of Council Resources, Jim Lamond, presented the report, advising that the 2011/12 draft accounts has been considered in July by the Audit & Governance Committee and were available via the Members' Library. He highlighted the key aspects of his report, covering the General Services Revenue budget, trading activities, the Housing Revenue Account, capital investment and borrowing, and the impact on reserves. He drew particular attention to areas of overspend within the capital investment plan, noting that he would be looking at control arrangements within such project plans in the future. He also advised that he would report to Cabinet on a review of the capital investment plan which was now underway. Mr Lamond reported that the use of reserves was in line with expectations and that, for the first time, the Council had used reserves to fund core service budgets. He concluded his statement by warning of the financial challenges facing the Council and the measures required to ensure that these challenges could be met.

Councillor Berry raised a question in relation to pension liabilities. Mr Lamond explained that the information provided was required for balance sheet purposes and that there was provision in the budget for immediate liabilities. He added that every three years an actuarial evaluation was made to assess the Council's contribution.

Councillor McNeil expressed concern about the anticipated overspend of the Brunton Hall refurbishment, particularly that he, as a Musselburgh Councillor, had not been informed of the situation. He asked for an assurance that there would be no additional costs associated with this project.

Mr Lamond advised that he had requested reports on all three capital projects that were overspent, but he did not currently have detailed information to share with Members. He undertook to provide Members and Senior Officers with information as soon as possible.

Councillor Currie reminded Members of a previous Council decision to build up reserves in order to protect frontline services in future years. He argued that the previous Administration's budget, agreed in February 2012, was sustainable and deliverable, and that the Council was in a healthy financial position.

Councillor Innes responded, claiming that the previous Administration's acceleration in capital spending had resulted in a significant increase in debt for the Council. His concerns were shared by Councillor Veitch, who suggested that the previous Administration had not been prudent enough in their capital expenditure, and that by using reserves the Council had been left exposed.

Councillor Berry argued that investment in infrastructure had benefitted the East Lothian economy during a particularly challenging period. He also remarked that previous financial forecasts had indicated an improvement in the UK economy within a few years, and that decisions were made to use reserves as a temporary measure on the basis of those forecasts. He also commented on the favourable borrowing rates and that the Council was in a better position than many other Scottish local authorities.

Councillor McLennan pointed out that the capital investment limits presented by the Labour and Conservative Groups had been very similar to those of the previous Administration and questioned why concerns had not been raised during the budget process. Councillor Innes responded, remarking that the projects had to be included in the Labour and Conservative Group budgets because the money had already been committed.

Decision

The Council agreed:

- i. to note the financial results for 2011/12, their impact on reserves and the Council's financial strategy;
- ii. to approve the addition of brought forward DSM surpluses to and deduction of brought forward DSM deficits from the 2012/13 individual schools budget;
- iii. to approve the cessation of the Older Peoples Care Homes Service and Domiciliary Care Service as Trading Activities, with effect from 1 April 2012; and
- iv. to approve the final budget adjustments for the 2011/12 financial year (Sections 3.30 – 3.32 of the report).

7. WELFARE REFORM UPDATE

A report was submitted by the Executive Director (Support Services) providing an update to Council on expected changes to the Housing Benefit and Council Tax Benefit schemes as a consequence of the Welfare Reform Act (2012); seeking to develop an understanding of what these changes may mean for a number of Council services and for East Lothian households sustaining affordable tenancies; and identifying key steps the Council could take to try to minimise any potentially negative impacts of welfare reform in the community.

The Benefits Manager, John Cunningham, presented the report, advising of the impact of recent and further expected changes to the benefits systems. He highlighted measures

being taken by the Council and other organisations to mitigate the impact of the changes on people in East Lothian.

In response to comments made by Councillor Berry as regards the resource implications for the Council, Mr Cunningham advised that it was not known at this stage what the level of DWP grant would be and that this made it difficult for the Council to plan ahead.

Councillor Berry also voiced concern in relation to the formation of a single fraud investigation service, arguing that local knowledge was very important. Mr Cunningham agreed with this point, advising that the Council's own benefit fraud unit had been very successful in detecting fraud. He noted that regional task groups may be created under the proposed system.

Regarding publicising the changes, Mr Cunningham explained that the Council was looking to identify and contact people affected by the changes and that other ways of communicating the information was also being considered.

Councillor McLennan welcomed the report and the efforts being made to contact those people likely to be affected. He also warned of the potential impact of the changes on the local economy. He then moved an additional recommendation to the report:

“The Council writes to the relevant UK ministers regarding the ongoing effects of welfare reform in East Lothian and states its opposition to further welfare budget reductions”.

Speaking in support of Councillor McLennan's comments, Councillor Currie added that the changes would have a significant impact on the housing and homelessness services. He also spoke of the implications for vulnerable people and for those claiming disability benefits.

Councillor Veitch remarked that the current welfare system had led to many people becoming trapped in a cycle of dependency and commended the UK Government on its reform of the system. He stated, therefore, that he would not be supporting the additional recommendation, as proposed by Councillor McLennan.

Councillor Innes commented that he would support Councillor McLennan's motion.

Councillor McLennan's motion for an additional recommendation was seconded by Councillor Currie. The Provost then moved to the vote on including the additional recommendation:

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|-------------|----|
| For: | 18 |
| Against: | 2 |
| Abstention: | 1 |

Decision

The Council agreed:

- i. to promote awareness and understanding of the impact of the welfare reform agenda on East Lothian communities;
- ii. to take action to try to minimise any potentially negative impacts of welfare reform by ensuring that Council service areas are optimally configured to continue to deliver high quality services to East Lothian residents;

- iii. to note the potential impact of welfare reform on individuals and families when taking decisions about service development and to consider as part of budget deliberations the potential impact of welfare reform on the Council's revenues and Council house rental income; and
- iv. to write to the relevant UK ministers regarding the ongoing effects of welfare reform in East Lothian and state its opposition to further welfare budget reductions.

8. NEW CUSTOMER FEEDBACK PROCEDURE

A report was submitted by the Executive Director (Support Services) advising Council of changes to the customer feedback procedure to bring it in line with a new model complaints handling procedure for local authorities, introduced by the Scottish Public Services Ombudsman (SPSO).

The Customer Feedback Manager, Sarah Bogunovic, presented the report, highlighting the main changes to the feedback procedure and noting that the procedure for statutory social work complaints would remain unchanged. She advised that the new procedure would be publicised through leaflets to area offices, community councils and other community groups, as well as on the Council website and in Council publications such as Living and Home Front. Staff briefings would also be arranged.

The report was welcomed by a number of Members.

Decision

The Council agreed to approve the new feedback procedure with an implementation date of 1 September 2012.

9. SUMMER RECESS BUSINESS 2012

A report was submitted by the Executive Director (Support Services) informing the Council of the urgent business undertaken over the Summer Recess period in terms of the procedures set out in Standing Order 43 and in line with the decision taken at its meeting on 26 June 2012.

The Clerk presented the report, informing Members of the business undertaken during the Summer Recess and noting that all reports were available in the Members' Library.

With respect to the report 'Appointment of Appropriate Representatives to Outside Bodies', Councillor McLennan advised that the SNP Group formally objected to this report having been approved during the Summer Recess and he requested that the report be withdrawn on the grounds that to overturn the previous decision taken by Council (at its meeting on 15 May 2012), the support of two-thirds of Members was required. He argued that the decision taken was in contravention of Standing Orders and that he would be seeking further advice on the matter.

The Provost stated that the appointments made by the Council to the Brunton Theatre Trust on 15 May were not competent and that therefore they could not be bound by Standing Order 27 (Rescinding a Resolution). A report to Council on 26 June had sought to rectify this matter, but that the report had fallen for other reasons. He was of the view that Standing Orders had not been contravened on the basis that the items contained within the Summer Recess report were ones which the SNP Group had not objected to.

Councillor McLennan did not accept the Provost's view on this matter and maintained his objection.

In response to a question by Councillor Berry as to why this matter had been dealt with during the Summer Recess, the Head of Council Resources, Jim Lamond, explained that it was in the interests of those outside bodies concerned to have the appointments confirmed. He added that as the contentious element of the June Council report had been removed, he had not foreseen any problems in dealing with the remaining appointments in accordance with Standing Order 43.

Decision

The Council agreed to note the business undertaken over the Summer Recess period, noting that the SNP Group formally objected to the inclusion of the report 'Appointment of Appropriate Representatives to Outside Bodies'.

10. NOTICE OF MOTION – CARERS' CHAMPION AND CARERS' FORUM

A motion was submitted by Councillors McLennan and McLeod, as follows:

"Council recognises the fantastic work that carers play in the general wellbeing and health in East Lothian.

Council moves that it will appoint a Carers Champion.

This Champion will work with carers and senior Council Officers to support local carers to ensure that they have a strong and effective voice at the heart of Council.

Council also moves that it will support the setting up of a Carers Forum.

This Forum will involve senior councillors, senior officials, providers of care, care support groups, carers and those who receive care themselves.

This Forum should meet on a regular basis to ensure all voices are heard.

Council requests that a follow-up paper be brought to Council at the earliest opportunity with details of the Carers Champion and the Carers Forum".

Councillor McLennan presented the motion, asking Members to recognise the work done by carers and build on the positive work already undertaken in this area.

The motion was seconded by Councillor McLeod.

The Provost invited the Head of Adult Wellbeing, Murray Leys, for an update on the Carers' Strategy. Mr Leys advised that a new strategy for carers was being developed in line with Caring Together: The Carers' Strategy for Scotland 2010-2015. He anticipated that the first draft of the Strategy would be prepared by October 2012, with the finalised version to be submitted to Council for approval in February 2013 and implemented in April 2013. He indicated that the notion of a Carers' Champion and Carers' Forum could be integrated into the Strategy.

Councillor McLennan welcomed this suggestion, commenting that the Carers' Forum did not need to be linked to the Single Outcome Agreement.

Councillor Grant asked Councillor McLennan to continue his motion pending the publication of the first draft of the Carers' Strategy, suggesting that it would be premature to set up a Carers' Forum and appoint a Carers' Champion whilst the Strategy was still under development.

At the request of Councillor McLennan, Mr Leys agreed to bring forward an update report on the Carers' Strategy to Council before the end of the year, which would include the principles of the motion.

Councillor McLennan therefore agreed to withdraw his motion.

Decision

The Council agreed that a report should be presented to the Council before the end of 2012 updating Members on the development of the Carers' Strategy.

11. SUBMISSIONS TO THE MEMBERS' LIBRARY, 14 JUNE – 15 AUGUST 2012

A report was submitted by the Executive Director (Support Services) advising of the reports submitted to the Members' Library Service since the last meeting of the Council, as listed in Appendix 1 to the report, into the Council's business.

Decision

The Council agreed to record the reports submitted to the Members' Library Service between 14 June and 15 August 2012, as listed in Appendix 1 to the report, into the Council's business.

Signed

Provost Ludovic Broun-Lindsay
Convener of the Council