

REPORT TO: Cabinet

MEETING DATE: 15 January 2012

BY: Executive Director (Support Services)

SUBJECT: Summary of Contracts Awarded by East Lothian Council,
29 November – 31 December 2012

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1 PURPOSE

- 1.1 To advise Members of all contracts awarded by the Council from 29 November to 31 December 2012 with a value of over £150,000.

2 RECOMMENDATIONS

- 2.1 To note the award of contracts with a value of over £150,000 from 29 November to 31 December 2012, as listed in Appendix 1 to this report.

3 BACKGROUND

- 3.1 Details of all contracts awarded by the Council are lodged in the Members' Library Service. Appendix 1 to this report contains details of all contracts with a value of £150,000 and above which have been awarded since the last meeting of the Cabinet.
- 3.2 Members are asked to note that reports relating to contracts can be accessed via the following link to the Members' Library Service on the Council's eGov system:

http://www.eastlothian.gov.uk/site/scripts/meetings_committees.php?headerID=102

4 POLICY IMPLICATIONS

- 4.1 None

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None.
6.2 Personnel - None
6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 None

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DATE	7 January 2013



**SUMMARY OF CONTRACTS AWARDED WITH A VALUE OF £150,000 AND ABOVE
FOR THE PERIOD 29 NOVEMBER – 31 DECEMBER 2012**

Originator	Report Title/Project Summary	Contract Awarded To	Contract Value	Members' Library Bulletin & Reference
Executive Director (Support Services)	Gullane Day Centre and Medical Centre Facility (update on report to Members' Library dated 22 December 2011, with revised costs)	Hub South East Scotland Ltd	£2,929,967.00 (revised)	283/12 (Dec 12 Bulletin)

7 January 2012

REPORT TO: Cabinet
MEETING DATE: 15 January 2013
BY: Executive Director (Support Services)
SUBJECT: 2013 Corporate Risk Register

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1 PURPOSE

- 1.1 To present to Cabinet the Corporate Risk Register 2013 for discussion, comment and approval.

2 RECOMMENDATIONS

- 2.1 It is recommended that Cabinet approves the 2013 Corporate Risk Register.
- 2.2 In doing so, Cabinet is asked to:
- agree that the relevant corporate risks have been identified and assessed in the Corporate Risk Register
 - agree that the significance of each risk is appropriate to the current nature of the risk
 - agree that the total profile of corporate risk can be borne by the Council at this time in relation to the Council's appetite¹ for risk; and,
 - recognise that, although the risks presented are those requiring close monitoring and scrutiny throughout 2013, many are in fact longer term corporate risks for the Council that are likely to be a feature of the risk register over a number of years.

3 BACKGROUND

- 3.1 The Council's first Corporate Risk Register was approved by Audit and Governance Committee in April 2011.
- 3.2 The Corporate Risk Register has been revised and updated following a review by the Council Risk Management Group on behalf of and in consultation with the Council Management Team. Under the Council's Risk management Strategy, Cabinet has delegated authority for approving the Corporate Risk

¹ How much risk the council can bear, or could be willing to take in pursuit of an opportunity (if it were judged to be (1) worthwhile pursuing and (2) the council was confident in its ability to achieve the benefits and justify the risk).

Register and ensuring that corporate risks and any emerging significant (Very High and High) risks within their specific remit are adequately controlled.

- 3.3 The Risk Management Strategy defines corporate risks as risks with the potential to impact on the 'corporate body', East Lothian Council, in achieving its stated policies and corporate objectives and those that require strategic leadership. Service risks may be included in the Corporate Risk Register where a risk impact on multiple services or requires significant central resources in the development of risk control measures.
- 3.4 All risks are analysed in terms of impact on the Council and the likelihood of occurrence. This analysis, using a standard 5 by 5 matrix provides an evaluation of risk as being Low (score of 1-4), Medium (5 – 9), High (10 – 19) or Very High (20-25). The Council's response in relation to adverse risk or 'tolerance for risk' is such that:
- Very High risk is unacceptable and measures should be taken to reduce, transfer or treat the risk to a more tolerable position
 - High risk may be tolerable providing the Council is assured that adequate and effective control measures are in place
 - Medium risk is tolerable with control measures that are cost effective
 - Low risk is broadly acceptable without any further action to prevent or mitigate risk.
- 3.5 In accordance with the Risk Management Strategy Very High and High risks identified in the Corporate Risk Register will be subject to closer scrutiny by the Council Management Team, the Cabinet and the Audit and Governance Committee. The 2013 Corporate Risk Register includes no Very High risks, 10 High risks and nine Medium risks.

4 POLICY IMPLICATIONS

- 4.1 In approving the 2013 Corporate Risk Register the Cabinet will ensure that the Council has an up to date Corporate Risk Register and that risk control measures are in place to mitigate the likelihood and/ or impact of significant risks.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – Recurring costs associated with the measures in place for each risk are proportionate to the level of risk. The financial requirements to support the risk control measures identified in the Corporate Risk Register should be met within the proposed budget allocations. Any unplanned and unbudgeted costs

that arise in relation to any of the corporate risks identified will be subject to review by the Council Management Team.

- 6.2 Personnel – There are no immediate implications.
- 6.3 Other – Effective implementation of this register will require the support and commitment of the Risk Owners identified within the register.

7 BACKGROUND PAPERS

- 7.1 Appendix 1 – Corporate Risk Register
- 7.2 Council Risk Management Strategy; report to Council, 18th December 2012

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DATE	4 th January 2013

East Lothian Council Corporate Risk Register (V7: January 2013)

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Additional Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency
			Likelihood	Impact	Total		Likelihood	Impact	Total		
			L	I	L x I		L	I	L x I		
ELC CR 1	<p>Abolition of priority need in 2012 will place an obligation on the council to accept an estimated additional 250 to 300 homeless cases per year as having a full re-housing right and also an obligation for the provision and funding of temporary accommodation until that responsibility is delivered in order to meet 2012 requirements.</p> <p>The Council will have to access accommodation from the private sector but a number of potential problems exist in terms of the DWP changes etc which may affect / or negate the impact of such action.</p> <p>The impact of the DWP Welfare Benefit Reform process has had a negative impact on the use of the private sector for single people between 25 and 35.</p>	<p>Limited lobbying possible via COSLA/Scottish Government.</p> <p>Meetings with Scottish Government to scope problem.</p> <p>Plans in place to increase use of Private sector.</p> <p>New homeless prevention approaches to be introduced.</p> <p>Increased use of rent deposit – underway and intended to continue.</p> <p>Unknown impact of increased use of prevention approach but expected to mitigate demand slightly.</p> <p>An increased level and also an improved stock and availability of temporary accommodation have reduced the reliance on costly and often unsuitable B&B accommodation.</p> <p>Ongoing use of private sector properties and the rent deposit scheme as a housing option.</p> <p>The Housing Options approach introduced in April 2011 has assisted with preventing homelessness by reducing direct demand for crisis homeless services but the impact does not mean that the Council can easily meet the requirements of the 2012 legislative change.</p>	4	4	16	<p>Dialogue with Scottish government is continuing.</p> <p>The Council is reviewing the Housing Allocations Policy to ensure that it continues to meet statutory legislative requirements and local objectives.</p> <p>The Council's Acquisition Strategy is focussed on increasing the availability of permanent and temporary stock to meet the needs which will arise as a result of the legislative change. As the additional housing requirement will be mainly for 1 bedroom size properties a significant proportion of the investment will be aimed at acquiring such properties.</p> <p>The Housing Options approach is ongoing and will continue to reduce the level of "crisis" homeless presentations thus assisting in preventing homelessness.</p>	4	3	12	<p>Executive Director (Services for Communities)</p> <p>Homelessness Manager</p>	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>
ELC CR 2	<p>The Council has a duty of care for its service users across the range of services it provides. Any breach of this duty of care may compromise health, safety and wellbeing, impacting on, for example, the protection of children and adults.</p> <p>Failure to fulfil the duty of care could also result in prosecution, having to pay compensation and have a negative impact on the reputation of the Council.</p> <p>The duty of Care is at the heart of the services approach to risk management.</p> <p>The likelihood of this risk occurring is influenced by a range of factors including for example:</p> <p>(1) Complexity of partnership arrangements in the care sector; (2) Number of vulnerable people in East Lothian; (3) Levels of deprivation in East Lothian; (4) Increased population and more complex service demands presented by an increasing number of</p>	<p>Corporately</p> <p>There is an HR policy in place on procedures laid down by Disclosure Scotland and the Protecting Vulnerable Groups scheme and training sessions are in place for all managers and staff to make them aware of the policy and processes to be followed to comply with the PVG scheme.</p> <p>Employees' contracts state that where an employee is convicted of a criminal offence which is likely to adversely affect their work or their working relationship with the Council, they must advise their Director or Head of Service.</p> <p>Details of the posts which are subject to the disclosure process are published on the Council intranet.</p> <p>Case management is carried out so that the duty of care and risk are central to the care planning</p>	4	4	16	<p>Implementation of Action Plans following on from Child Protection (single and multi-agency) and SWIA/Care Inspectorate inspections. As part of GIRFEC, Staged Assessment and Intervention the project board will oversee a 3 year action plan with the overall aim of improving assessment and planning in Children's Wellbeing from very good to excellent.</p> <p>The development of a multi-agency Signs of Safety Model Development of an overall learning culture and promotion and development of skills such as "Giving and Receiving Feedback" and</p>	3	4	12	<p>Executive Director (Support Services)</p> <p>Executive Director (Services for Communities)</p> <p>Executive Director (Services for People)</p>	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>

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	<p>clients whilst resources are already stretched.</p> <p>More than half of the care provided is purchased from private and voluntary sector agencies. The risks associated with purchased care are well understood and monitored through contract compliance and the monitoring of care providers in association with the Care Inspectorate.</p> <p>The introduction of Self Directed Care and the increased uptake of Direct Payments may present new challenges in relation to the service user choice and the application of PVG checks.</p>	<p>process.</p> <p>Framework is used to identify and record risk factors in a structured and consistent manner.</p> <p>Any Significant Case Reviews are discussed at multi-agency meetings, as and when required.</p> <p>Service level</p> <p>All Services should be implementing the corporate guidance and the rolling programme of checking referred to above.</p> <p>The Directorate of Services for People, encompassing Children's Wellbeing, Adult Wellbeing and Education Services, carries lead responsibility for Child and Adult Protection within the Council, and has operational procedures in place to maintain 'protection' arrangements in compliance with legislation and inspection regimes applicable. Action Plan following on from Child Protection and SWIA/Care Inspectorate inspections in place.</p> <p>There is an ongoing follow up of service user feedback and we are working in partnership with care providers to raise standards. This approach has had demonstrable success with residential providers and is now being used in relation to care at home providers.</p>				<p>"Coaching".</p> <p>Co-ordinate CAMHS support for all children who need it and in particular those with the most complex needs as a result of trauma, abuse and parental difficulties.</p> <p>Re-launch of East Lothian Quality Improvement Group.</p> <p>Systems to manage Adult Protection are in place and being developed to safeguard the most vulnerable people.</p> <p>Framework is being developed to improve the ways cases are recorded and risks identified (for example the introduction of geanograms)</p> <p>The duty of care is reinforced through support and supervision arrangements as well as professional development.</p>					
ELC CR 3	<p>Welfare reform</p> <p>The UK Government is introducing a range of measures to reform the welfare system and reduce the budget for welfare benefits by at least £11 billion annually. It has been estimated (Scottish Local Government Forum Against Poverty, Sept 2010) that the changes could result in the loss of £8m - £9.5m annually from welfare benefits paid to East Lothian residents.</p> <p>The changes could lead to:</p> <ul style="list-style-type: none"> Increase in rent arrears from reduced Housing Benefits and possible increase in evictions increased pressures on tenancy support and rent collection teams increase in homeless presentations, placing even more pressure on already stretched resources for temporary accommodation increase in Council Tax arrears and non-payment 	<p>The Council has received several update reports on the impact of welfare reforms and the Council's response and will continue to be updated.</p> <p>The Council has established a Welfare Reform Task Group to plan for the changes to the welfare system. The Task Group has four workstreams:</p> <ul style="list-style-type: none"> Communications Data Sharing Training Migration <p>The Task Group and workstreams are meeting regularly and will continue to report back to the CMT.</p> <p>The 2011-12 Council budget reflects the need to build on the early intervention approach which tackles the root causes of poverty, to protect services which can prevent individuals and families from falling into poverty, or help them to manage their household income. Initiatives include:</p>	4	4	16	<p>The Council's Welfare Reform Task Group and four workstreams will develop a detailed action plan that will ensure the Council takes necessary measures to prepare for the changes in the welfare system.</p> <p>A Tackling Poverty Strategy and Action Plan is being prepared detailing how the Council and the Community Planning Partnership aims to achieve the outcome: 'Fewer People in East Lothian will experience poverty'.</p> <p>The Fairer East Lothian Fund in 2013/14 will be used to assist in achieving the Strategy and Action Plan.</p>	4	3	12	Executive Director (Support Services)	<p>Action to be completed April 2013</p> <p>Risk to be reviewed Dec 2013</p>

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	<p>of Council Tax</p> <ul style="list-style-type: none"> increase in caseload for Adult Wellbeing and Children's Wellbeing staff dealing with vulnerable people affected by cuts in benefits increase in caseload and demand for services from the Welfare Rights Service loss of income the Council currently receives for administering Housing Benefits 	<p>- The protection of grant funding to support tackling poverty work (see 'Fairer East Lothian Fund' below)</p> <p>- The expansion of the free school meals to P1-3 in some primary schools</p> <p>- Funding identified in relation to the Homelessness 2012 targets</p> <p>- Creation of two new additional Tenancy Support Officer posts to deal with tenancy sustainment and rent arrears</p> <p>The Council endorsed the work of the Tackling Poverty Theme Group to refocus the work of the group on a single headline outcome: 'Fewer People in East Lothian will experience poverty'. The Fairer East Lothian Fund (£476,000 in 2011/13) funds projects to deliver on the following key outcomes:</p> <ol style="list-style-type: none"> 1. Fewer people in East Lothian will be financially excluded. 2. Financial capability in East Lothian will be improved. 3. The life chances of people at risk of falling into poverty, or already living in poverty, will be improved. 4. People in East Lothian will have better access to advice and information services, including debt and money advice. 									
ELC CR 4	<p>As the incidence of flooding and coastal erosion increases as an impact of Climate Change, there is an increased risk of disruption to road and path networks, impact on public safety, damage to roads, property, harbours and natural heritage sites and an associated increase in claims against the Council.</p>	<p>Inspection regimes and good housekeeping measures in place and working effectively.</p> <p>Emergency surface water and river flood procedures in place and have proven effective.</p> <p>Shoreline Management Plan has been produced.</p> <p>The Severe Weather Response Plan has been developed over the past few years and ensures a co-ordinated and consistent multi-agency response across the county.</p> <p>Flooding advice is given on the Council website and directs people to the relevant pages on the SEPA website.</p> <p>Flooding and drainage issues are considered when processing planning applications.</p> <p>Flood Risk Management surveys and associated prevention works are being conducted to meet the requirements of the Flood Risk Management (Scotland) Act 2009.</p>	4	4	16	<p>The Council is working with other agencies to enhance community resilience.</p> <p>Improved communication with vulnerable groups regarding access and assistance during severe weather events.</p> <p>ELC are hoping to engage a consultant to further develop Flood Prevention works on our rivers, although this is reliant on funding availability.</p> <p>The Council is currently in the process of setting up a cross departmental group to consider the threat climate change presents to the environmental, social and economic well being of East Lothian.</p>	3	3	9	<p>Executive Director (Support Services)</p> <p>Executive Director (Services for Communities)</p>	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>

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ELC CR 5	<p>Financial pressures:</p> <p>If the council's financial pressures were not to be successfully planned for and managed effectively over the medium to longer term (i.e. the next 3 and possibly up to 7 years), there would be a serious risk of unplanned/ reactive budget realignments with significant adverse impact on availability and quality of both front-line services and required investment in the Council's infrastructure and asset base.</p> <p>Over the medium term it is highly likely that the Council's income will remain static. At the same time it will have specific cost pressures to deal with. These include:</p> <p>(1) demographic change and social-economic pressures - increasing pupil and elderly numbers;</p> <p>(2) general inflationary pressures;</p> <p>(3) specific cost pressures such as the affordability of the increasing number of high-cost individual care packages; and</p> <p>(4) potential financial costs associated with legislative changes such as a number of environmental issues.</p>	<p>The Council has well developed short to medium term financial planning arrangements and financial management arrangements for managing in year budget performance, both of which provide mitigating controls in terms of the immediate financial risk and pressures the Council is faced with.</p> <p>Long-term modelling is deemed to be of little value as the public sector financial environment is unlikely to be stable in other than the short and medium term. Focus is on creating a programme of short and medium term organisational change that can be adapted to match the Councils position as that emerges.</p> <p>The Chief Social Work Officer also has a role to play in overall performance improvement and the identification and management of corporate risk in so far as they relate to social work services.</p>	3	5	15	<p>CMT/Managers continue to follow the financial strategy i.e. cost control/cost minimisation/deliver on agreed savings.</p> <p>Through the Corporate Asset Group, the Council implements the approved Asset Management Strategy and related action plan.</p>	3	4	12	<p>Chief Executive</p> <p>Executive Director (Support Services)</p> <p>Head of Council Resources</p>	<p>Action ongoing.</p> <p>Control measures approved by Council, October 2012. Monitoring arrangements will continue to be applied.</p> <p>Risk to be reviewed Dec 2013</p>
ELC CR 6	<p>Failure to have comprehensive council wide Information Security Management measures in place will put at risk the availability, integrity and confidentiality of the councils information.</p> <p>Since April 2010 the Information Commissioners Office has the power to fine government organisations up to £500,000 if they are found to be either in breach of the Data Protection Act or failing to put in place measures to protect their information (electronic, paper etc).</p> <p>Council wide catastrophic failure of central I.T. systems (incl. Telephony) caused by Fire/Flood event, major viral attack etc.</p>	<p>In 2004 East Lothian Council started the implementation of an Information Security Management System which is compliant with the International standard for Information Security - ISO27001 (which covers confidentiality, integrity and availability of Council held information. Since then we have put in place our Information Security policy, Information Security Manual and various other policies and procedures to ensure we have robust systems in place to protect our information.</p> <p>There is a council wide Information Security Forum hosted by the IT Security Officer which meets 4 times a year to discuss, agree and update policy.</p> <p>The Council also has a dedicated Data Protection Officer in place.</p> <p>Planned regular security audits and ongoing training for all I.T. users.</p> <p>I.T. Disaster Recovery plan in place - backup site for systems identified and core system backup plan created.</p>	3	4	12	<p>Information Security Awareness training to be made mandatory for all Council employees, Online system is being updated and allows for reporting on who has completed training and when. Training to be included as part of employee induction.</p> <p>Data Protection and FOI training package that align with the Info Sec training above have been purchased and will be implemented in the same way.</p> <p>Both sets of training should be made regular for employees.</p>	2	4	8	<p>Executive Director (Support Services)</p>	<p>Action to be completed May 2013</p> <p>Risk to be reviewed Dec 2013</p>

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ELC CR 7	<p>Waste Management</p> <p>If the Council does not make the most of innovative opportunities to develop solutions and/or implement robust arrangements for Waste Management challenges, there is a risk of reputational harm (in terms of corporate social responsibility) but more especially the potential for significant unbudgeted costs and financial penalties.</p> <p>The Waste (Scotland) Regulations 2012 has placed additional statutory obligations upon Local Authorities. Additional services will need to be provided if the Council is to meet these obligations. This will impact current service provisions and has yet to be budgeted.</p>	<p>Waste Management (targets, recycling, equipment disposal)</p> <p>Local recycling initiatives implemented, including managed weekly collections meaning we are achieving a minimum 40% recycling & composting target now and aiming to achieve a minimum 50% by December 2013. Waste Services have procured a long term treatment Contract which will allow for additional recovery and should enable compliance with bans on waste disposal.</p>	4	3	12	<p>An analysis will be undertaken outlining options for consideration for each type of Waste and Recycling Collection the Council carries out.</p> <p>Following Council consideration the impact upon resources, finance and compliance with the Waste (Scotland) Regulations 2012 will be determined.</p>	4	3	12	Executive Director (Services for Communities)	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>
ELC CR 8	<p>Incident Response and Management:</p> <p>Any ineffective preparation and planning for potential crises and disruptive events such as those reflected within the Community Risk Register, that directly relate to the council as a 'Category 1 Responder' may result in the council's inability to effectively respond and manage the event in a way that minimises harm to the community, our employees and the reputation of the council.</p>	<p>Corporate emergency planning arrangements are in place, including media and public information arrangements.</p> <p>Working with other Category 1 and 2 Responders as defined by the Civil Contingencies Act 2004 to ensure effective and integrated response to emergencies.</p> <p>Debriefing arrangements to enable lessons to be learned and fed back into the contingency planning process.</p> <p>Incident Response resources are identified in contingency plans.</p> <p>Training and exercise events are held for employees – both in-house and through external providers - to ensure an efficient and effective response to emergency situations.</p>	3	4	12		3	4	12	Executive Director (Support Services)	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>

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ELC CR 9	<p>Public Sector Reform</p> <p>Major elements of public sector reform are either taking place or being proposed including:</p> <ul style="list-style-type: none"> The creation of a national police force and a national fire service Integration of Health and Social Care and creation of a new H&SC Partnership Review of Community Planning Possible new legislative duties in relation to procurement, community empowerment, regulation, and children and young people <p>These reforms create uncertainty, additional workload for senior staff, a requirement to restructure services and create new accountability, governance and partnership arrangements.</p> <p>Whilst these risks are dealt with in detail in service risk registers there is a corporate level risk that the Council will not have the capacity to prepare for all these reforms simultaneously.</p>	<p>Effective working relations with key partners including Lothian & Borders Police, Lothian & Borders Fire and Rescue Service, East Lothian CHP and the voluntary sector are being further developed through regular meetings to prepare for public sector reform.</p> <p>The Council Management Team and Council / Cabinet receive regular reports on the implications of the reform proposals and on the Council's preparations.</p> <p>Planning processes are being led by the Chief Executive.</p> <p>Responses to the Scottish Government on consultations around public sector reform are prepared and submitted as required.</p> <p>Financial and resource scoping is carried out as required.</p> <p>Systems for operational, performance and financial management and scrutiny are being prepared.</p>	4	3	12	<p>The review of the CPP will be completed by March 2013.</p> <p>The governance arrangements for Police and Fire services will be established by April 2013</p> <p>The shadow governance arrangements for the new Health and Social Care Partnership will be put in place by April 2013</p> <p>Review of Policy and strategy staff across all Council services will aim to provide greater capacity to provide advice and guidance to the Council and to prepare for public sector reform</p>	3	3	9	Executive Director (Support Services)	<p>Action to be completed April 2013 and Dec 2013</p> <p>Risk to be reviewed Dec 2013</p>
ELC CR 10	<p>Condition of the School Estate</p> <p>Failure to review and improve the condition of schools through the school estate management plan may be as a result of the inability to identify and deal with issues impacted through a lack of management capacity or budget constraints. This in turn may result in the deterioration of the estate, financial risk, health and safety concerns and disruption to school life inherent in such major construction projects.</p> <p>Changes in the economic climate lead to either a decelerated and decreased house programming during economic downturn or accelerated and increased programming during economic upturn.</p> <p>Currently out with the Local Plan the department are receiving a large number of speculative developer application and proposals which in turn puts pressure on the system.</p>	<p>Services for People liaise closely with the corporate asset management section in relation to the school estate management plan.</p> <p>Maintenance arrangements in place/system of delegated repairs and maintenance for schools.</p> <p>Financial monitoring arrangements to highlight potential financial risks are in place via established financial monitoring meetings.</p> <p>Performance measurement system in place to determine future investment and further development of the school estate management plan.</p> <p>Monitoring meetings have been set up involving ECS and the Energy Management Unit to improve efficiency in carbon management throughout the education and children's services estate - systems for consumption and target monitoring have been established.</p> <p>Systems are in place to ensure that ECS monitors costs (incidental to the construction programme).</p> <p>PPP invoice processes have been reviewed by consultants to confirm soundness of approach.</p> <p>Strategic Health and Safety Monitoring Groups are</p>	3	4	12	<p>An enhanced and more robust school roll projection system is in place which will be key to determining the future capacity needs of schools.</p> <p>An extension of all Secondary Schools is planned which will take account of the increase in school rolls.</p> <p>These extensions will maximise the use of Section 75 developer contributions.</p> <p>Asset Management Strategy</p> <p>Enhanced tracking & monitoring systems in development for Section 75 developer contributions</p> <p>Communication lines to be enhanced between Planning and Education Authority regarding the programming and completion rates of new housing sites and the status</p>	2	4	8	Executive Director (Services for People)	<p>Action to be completed June 2013</p> <p>Risk to be reviewed Dec 2013</p>

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		<p>established.</p> <p>Local school Liaison groups are operating and school continuity management plans are in place.</p> <p>There is currently a sufficient Repairs and Maintenance budget in place.</p> <p>House programming for allocated sites annually agreed through the Housing Land Audit negotiations with Homes for Scotland and Planning Authority</p>				of residential planning applications feeding into the pupil roll projections.					
ELC CR 11	<p>There is a risk that an extended period of very cold weather or snow such as that which occurred in November to December 2010, will lead to a demand for gritting and clearing of footpaths in all areas which exceeds normal capacity and supplies of salt.</p> <p>This could result in travel disruption, difficulties for people in accessing services, failure to maintain refuse collection timetable and school closures at short notice as well as a possible increase in insurance claims related to pothole damage.</p>	<p>The Infrastructure Winter Maintenance Plan has been in place for some time and ensures that main transport routes are treated as priority.</p> <p>The Council Severe Weather Response Plan has been developed over the past few years and ensures a co-ordinated and consistent multi-agency response across the county.</p> <p>There is a claims protocol in place within the Insurance section.</p> <p>New Salt Barn in place which has a capacity of 9,000 tonnes.</p> <p>Snow clearing equipment has been supplied to Primary Schools and Community Councils on request.</p> <p>Grit bins are provided to enable self-help gritting of adopted roads and footways.</p> <p>Winter Maintenance Duty officers trained as Winter Service Supervisors to City and Guilds level.</p>	3	3	9	Training and awareness sessions for staff	3	3	9	Executive Director (Services for Communities) Head of Policy and Partnerships	Action ongoing Risk to be reviewed Dec 2013
ELC CR 12	<p>Energy and Carbon Management</p> <p>There is a risk of reputational harm (in terms of corporate social responsibility) and the potential for significant unbudgeted costs and financial penalties if the Council does not meet Climate Change (Scotland) Act 2009 statutory obligations.</p> <p>An example of this type of risk would be a failure to meet the Council's Carbon Reduction Commitment (CRC) obligations or failing to reducing the Council's exposure to future uncertainties in energy prices.</p>	<p>A carbon management plan is in place to achieve emissions and cost reductions set out by the Scottish Government and the Council. The plan is reviewed and updated annually and includes a number of energy management and efficiency projects:</p> <ul style="list-style-type: none"> • Conserve Resources At Work network in place promoting energy awareness and recycling processes throughout the Council; • Energy efficiency measures across the Council's estate; • Improved metering and monitoring; • Printsmart Project – reducing the cost and amount of paper used and copies produced; • Worksmart Project – rationalising office accommodation; • Council's fleet includes low carbon vehicles. 	3	3	9		3	3	9	Executive Director (Services for Communities)	Action ongoing Risk to be reviewed Dec 2013

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Additional Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency
			Likelihood	Impact	Total		Likelihood	Impact	Total		
			L	I	L x I		L	I	L x I		
ELC CR 13	<p>Council re-structuring/ business transformation</p> <p>The re-structuring of the Council Management Team in April 2012 reduced the number of senior officers in the Council Management Team from 17 to 12.</p> <p>Further re-structuring is necessary as part of the business transformation required to deal with public sector reform and the financial constraints faced by the Council.</p> <p>Re-structuring and business transformation cause uncertainty amongst staff, increase in workload and changes in reporting lines and responsibilities for some staff. This could affect staff morale and reduce the capacity of the Council to manage change effectively.</p>	<p>New service groupings have been established and new Executive Directors and Heads of Service engage with all staff teams</p> <p>Regular communication to staff via Team Talk and managers</p> <p>Regular meetings of the new Council Management Team</p> <p>Meetings of the extended Council Management Team</p>	3	3	9	<p>Results of the Employee Engagement Survey (Dec 2012) will be used to identify and address areas of staff concern</p> <p>Improve communications to staff of CMT decisions</p> <p>Leadership Development programme is being developed for managers across the Council to increase management and leadership skills</p> <p>Masterclass programmes for the Extended Council Management Team and managers are being established</p>	2	3	6	Chief Executive	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>
ELC CR 14	<p>Failure of corporate governance or to meet standards in public life</p> <p>Failure of the Council's corporate governance or of officer or members to meet standards in public life could result in reputational damage</p>	<p>The main internal controls are the Council's Code of Corporate Governance, the Annual Governance Statement, Standing Orders, Scheme of Administration and Financial Regulations.</p> <p>The conduct of elected members and employees is governed by Codes of Conduct. The Audit and Governance Committee also has a role in promoting good governance. The Council's Monitoring Officer and legal advisers provide advice as required.</p> <p>A new members' induction programme was provided for members elected in May 2012 including sessions on standards in public life and the legal duties of elected members.</p> <p>The Council is developing its links with the Local Area Network of audit and inspection agencies and with its Auditors.</p>	3	3	9	<p>The Council's Standing Orders and Scheme of Administration are being revised. These will include the role of statutory officers, job outlines for senior officers and for elected members</p> <p>All elected members will have the opportunity to participate in the Improvement Service's Continuous Professional Development programme, including self-evaluation and training and development</p> <p>CIPFA will provide training on the role of the Audit and Governance Committee</p>	2	3	6	Executive Director (Support Services)	<p>Action to be completed April 2013</p> <p>Risk to be reviewed Dec 2013</p>
ELC CR 15	<p>Land Management</p> <p>There is a risk of environmental and reputational harm (in terms of corporate social responsibility) and also the potential for significant unbudgeted costs if the Council does not develop solutions and/ or implement robust arrangements for Land Management challenges:</p> <p>The Council currently has ownership of potentially contaminated land sites (including the former</p>	<p>Land Management (remediation) sites in Council ownership subject to environmental monitoring to evaluate risk.</p> <p>Former Carberry Landfill site is subject to SEPA waste management licence conditions.</p> <p>• Implementation of the Contaminated Land Inspection Strategy in line with the Environmental Protection Act 1990. Potential contaminated sites across East Lothian including Council development</p>	2	4	8		2	4	8	Executive Director (Services for Communities)	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Additional Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency
			Likelihood	Impact	Total		Likelihood	Impact	Total		
			L	I	L x I		L	I	L x I		
	Carberry landfill site, old coal mining sites etc). Whilst there are no current indications of significant problems, possible remediation costs to the Council could be substantial.	sites will be remediated as part of development plans through planning conditions.									
ELC CR 16	Business Continuity Non availability of: (1) premises, through fire, flood or other incident; (2) key staff or significant numbers of front-line staff; and/ or (3) systems (IT, telephony, power failure etc) may result in adverse impact on all council functions	Business Continuity Framework Plan in place and regularly reviewed. This corporate document reflects information from each service continuity plan and contains information required to prioritise relocation of services across the council and restoration of critical services. Business Continuity Plans are produced by all service areas, giving details of minimum levels of staff, alternate locations, exercise and review dates and version control. IT –specific disaster recovery arrangements in place for the critical systems – e-mail and social care. These have duplicate services in place off site which can be brought into action if we lost the main data centre at JMH. For single server failure - there are over 50 systems now running on virtual servers which automatically fall over to another server if there are hardware issues. Controls that are in place to prevent and limit the effects of IT system unavailability including firewalls, anti-virus software, system/ data backup routines, and resilience in the form of a back-up generator for the main data centre at JMH.	2	4	8	An IT Disaster Recovery Plan to be written which will cover Disaster Recovery arrangements for the Council's main data centres (JMH & Penston House).	2	4	8	Executive Director (Support Services)	Action to be completed May 2013 Risk to be reviewed Dec 2013

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Additional Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency
			Likelihood	Impact	Total		Likelihood	Impact	Total		
			L	I	L x I		L	I	L x I		
ELC CR 17	<p>East Lothian Council has a duty of care to all its employees across the full range of services.</p> <p>Any breach of this duty of care may affect the health, safety and wellbeing of the Council's employees leading to increased sickness absence, pressures on service delivery and also potential claims against the Council.</p>	<p>Quarterly Joint Health and Safety Committees oversee the Health and Safety Agenda of Council. This is supported by Departmental committees examining health and safety at a department level.</p> <p>All Health and Safety Training needs identified from project plans and Risk Assessment Findings. All health and safety training identified through thorough risk assessment to be scheduled and implemented.</p> <p>Safety Management System is in place and is supported by audit and inspection programme across all areas of the Council.</p> <p>Managing attendance and Managing sickness Absence Policies in place and maintained by Human Resources. Training for managers in managing attendance and sickness absence in place and is supported by Guidance notes. Human Resources business advisors assist managers in monitoring their sickness absence.</p> <p>Quarterly reviews of Occupational Health Service referral levels take place. Monthly Occupational health contract and work level review takes place along with a review of service need and demands.</p> <p>Health and Safety to be taken into account in the planning of projects / activities.</p>	2	4	8	<p>H&S Policy, Approved Guidance and Training Suite being created which builds into a H&S competency framework which will then be audited.</p> <p>Training will be identified from Risk Assessments and delivered timously and built into H&S competency framework.</p>	2	3	6	Executive Director (Support Services)	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>
ELC CR 18	<p>Failure to deliver the objectives and outcomes of the Council Plan 2012-2017</p> <p>There is a risk that the Council may not deliver the objectives and outcomes of the Council Plan 2012-2017 thereby failing to meet the major challenges faced by the Council and East Lothian.</p> <p>Failure to achieve the Council Plan would result in reputational damage for the Council.</p>	<p>The Council's senior management was restructured in March 2012 to reflect the objectives of the Council Plan.</p> <p>The Council Management Team and Administration are focussed on delivering the Council Plan.</p> <p>The Corporate Risk Register identifies the key risks that might reduce the Council's capacity to achieve the Council Plan and existing and planned risk control measures will mitigate and reduce these risks</p>	2	4	8	<p>Service Plans and other strategic documents are being produced to detail how the commitments made in the Council Plan will be met over the five year period of the Plan</p> <p>Council budgets over the next four years will identify resources required to fulfil the commitments made in the Council Plan</p>	1	4	4	Chief Executive	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>

Risk Ref.	Risk Description	Existing Risk Control Measures	Assessment of Current Residual Risk			Planned Additional Risk Control Measures	Assessment of Predictive Risk			Risk Owner	Timescale for Completion / Review Frequency
			Likelihood	Impact	Total		Likelihood	Impact	Total		
			L	I	L x I		L	I	L x I		
ELC CR 19	<p>Failure to meet duties and legislative requirements of the Single Equality Act 2010</p> <p>The Single Equality Act 2010 and related guidance places a general duty on public authorities to be active in promoting equality, eliminating unlawful conduct and fostering good relations. It also places specific duties on public authorities to</p> <ul style="list-style-type: none"> • report on mainstreaming the equality duty • publish equality outcomes and report progress • assess and review policies and practices • gather and use employee information • publish gender pay gap information • publish statements on equal pay • consider award criteria and conditions in relation to public procurement • publish in a manner that is accessible. <p>There is a risk that the Council may not be able to meet its general or specific duties and in particular at a time when difficult budget decisions are having to be made that there will be cuts in services or increases in charges that have a disproportionate impact on people who may need those services most because of their equality background.</p> <p>The Council would be open to legal challenge of not meeting its duties and in particular of not carrying out adequate assessment of impact of policies and budget decisions.</p>	<p>Single Equality Scheme published.</p> <p>Work has begun to prepare equality outcome report and other information required under the specific duties.</p> <p>Training programme being prepared.</p> <p>Equality Impact Assessment as part of a Combined Impact Assessment is being developed to take account of the new duties.</p>	2	4	8	<p>Briefings and training for senior officers and elected members on the new duties and on Combined Impact Assessment.</p> <p>Embedding of new Combined Impact Assessment procedure across all Council services.</p> <p>Equality Impact Assessment carried out as part of the budget preparation process.</p> <p>Production and monitoring of reports on equality outcomes, mainstreaming the equality duty and employee information.</p>	1	4	4	Executive Director (Support Services)	<p>Action ongoing</p> <p>Risk to be reviewed Dec 2013</p>

Original date produced (Version 1)	13 April 2011		
File Name	East Lothian Council Corporate Risk Register		
Original Author(s)	Scott Kennedy, Risk Officer		
Current Revision Author(s)	Scott Kennedy, Risk Officer		
Version	Date	Author(s)	Notes on Revisions
1	13/04//2011	S Kennedy	Original Version
2	05/12/2011	S Kennedy	2 nd version made available to BoD for review
3	23/08/2012	S Kennedy	Draft version updated
4	15/11/2012	S Kennedy	Updated following BoD meeting and Strategy update
5	07/12/2012	S Kennedy	Updates received from services following BoD recommendations
6	18/12/2012	S Kennedy	Updated with additional risks.
7	04/01/2013	S Kennedy	Updated following consideration by CMT

Risk Score	Overall Rating
20-25	Very High
10-19	High
5-9	Medium
1-4	Low

REPORT TO: Cabinet

MEETING DATE: 15 January 2013

BY: Executive Director (Support Services)

SUBJECT: Pensions Auto-Enrolment – Transitional Arrangements Option

3

1 PURPOSE

- 1.1 To advise Cabinet of the financial and operational implications of auto enrolment and to recommend exercising the option to delay auto-enrolment for certain employees to September 2017.

2 RECOMMENDATIONS

- 2.1 That Cabinet notes the potential financial and operation implications of auto-enrolment
- 2.2 That Cabinet approves that the Council applies the transitional arrangement option.

3 BACKGROUND

- 3.1.1 A report was taken to JCC in June 2012 explaining the impact and obligations the Pension Act 2011 places on employers and in particular the Council.
- 3.1.2 In summary the requirement placed on the Council is that by its implementation date 1 May 2013 (the date on which the Council must commence auto enrolment), the Council must:
- provide employees access to a qualifying pension scheme;
 - pay appropriate employer pension contributions; and
 - automatically enrol eligible employees into the pension scheme.
- 3.1.3 The current Local Government and Teaching pension funds meet the requirement to be a qualifying pension scheme. Approximately 9% (446) of employees who are eligible to join these funds have to date exercised their right to opt out. Under the new Act, there is an obligation to automatically enrol all eligible employees who would then subsequently

need to determine whether they wish to remain members of the scheme or consciously opt out. There would be additional employer pension contributions relating to those who chose to remain in the pension fund.

3.1.4 Communications have already begun with the Trades Unions and employees alerting them to the introduction of pension's auto-enrolment. In addition there is now a national advertising campaign on TV funded by the government to raise employee awareness.

3.1.5 Within the Pension Act there is the option to apply "transitional arrangements" i.e. to delay the automatic enrolment of certain employees.

3.2 Applying the Transitional Arrangements?

3.2.1 As both the Local Government and Teaching Pensions Funds are defined benefit schemes, this gives the Council the opportunity to delay auto-enrolment until 30 September 2017, in respect of the 446 employees detailed in 3.1.3 above as they meet conditions below:

1. The employee must have been in post before the implementation date, and
2. At the date of implementation the employee was entitled to become an active member of the pension scheme, and
3. The employee is, and always has been, entitled to become a member of the pension scheme, and
4. The pension scheme is a qualifying scheme, and the employee is entitled to become a member, on or after the implementation date.

3.2.2 However, though we can delay automatically enrolling these 446 employees, we still have to write to them in advance of 1 May 2013 informing them of this action and advising them they are eligible to join the pension fund now if they wish.

3.2.3 It is recommended that Cabinet should agree to apply the transitional arrangements to the approximately 446 employees who have previously opted out of the current scheme, potentially defraying much of the additional cost of pension contributions, recognising that some may choose to exercise their right to join the fund anyway.

4 POLICY IMPLICATIONS

4.1 The implementation of these arrangements requires a review of a number of the Councils Policies including Recruitment and Selection and Casual Workers Policy as well as employee contractual documentation.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an EIA is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – There is potential for significant costs of up to £900k to the Council through increased membership as a result of auto-enrolment. By exercising its right to apply the “transitional arrangements” to those who have already chosen to opt out of joining one of the pension funds the Council could defray employer contributions for a significant part of that.. Consideration will need to be given to making some sort of provision within the budget development process for 2013-16.
- 6.1.1 In addition the requirements of auto-enrolment place a major administrative burden on HR, but in particular Payroll in order to comply with the new legislation, communication with employees and the constant monitoring of earnings.
- 6.2 Personnel – There are a number of ongoing communications which need to be undertaken with the Trades Unions and employees, this will be jointly undertaken between HR and Payroll.
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Auto-Enrolment - JCC Report June 2012

AUTHOR'S NAME	Paul Ritchie/Les Ritchie
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DATE	20 December 2012

REPORT TO: Cabinet
MEETING DATE: 15 January 2013
BY: Executive Director (Services for People)
SUBJECT: Physical Disability Strategy

4

1 PURPOSE

- 1.1 To seek Cabinet approval for East Lothian's Joint Strategy for Physical Disability and Hearing or Sight Loss 2012-2020 (see Members' Library Ref 1/13).

2 RECOMMENDATIONS

- 2.1 Members are asked to;
- i) Note the contents of this report
 - ii) Approve the Strategy

3 BACKGROUND

- 3.1 This Strategy describes the future development of health and social care services for people with a physical disability and for their families and carers in East Lothian. It sets out the way in which services will be developed between 2012 and 2020.
- 3.2 Opportunity and Independence: Joint Strategy for Physical Disability and Hearing or Sight loss is our vision for developing support and services in East Lothian and has been informed by the priorities of people with physical disabilities and their carers. The Strategy has been lodged in the Members' Library (Ref 1/13), and can be accessed via the following link: http://www.eastlothian.gov.uk/meetings/meeting/5342/members_library_service .
- 3.3 The Strategy has been developed in partnership with people who use services, their families and carers, East Lothian Council, NHS Lothian, East Lothian Community Health Partnership and voluntary and independent sector providers in East Lothian. It sets out the steps we

will take to improve both services and the outcomes experienced by service users.

3.4 This Strategy underlines our commitment to work collaboratively to ensure that the support and care available is provided to a high standard. We will work in tandem with wider service redesigns underway, for example in response and rehabilitation, telehealthcare and respite services. We aim to ensure that anyone can access services and other resources when they need them, regardless of income or where they live.

3.5 The Strategy focuses on four main themes:

- Raising awareness of the impact of physical disability on the lives of East Lothian residents
- Ensuring access to information and opportunities during the day, at evenings and weekends, for example through a community information centre
- Promoting self-management: developing services which focus on supporting people to manage long-term conditions and disabilities themselves
- Ensuring access to intensive day support for people with complex disability.

3.6 Section 1 of the Strategy summarises our purpose, values and outcomes, while section 2 describes the local context, including demographic changes. Section 3 describes the extensive consultation and partnership working with both members of the public and other stakeholders which has informed the development of our Strategy. Section 4 looks at the developments within our organisations and culture which will support the planned changes in services and resources and Section 5 outlines the national context and the factors driving those changes. Section 6 outlines the significant elements of the plan and Section 7 sets out how we will engage with communities, both geographical and communities of interest, on specific projects and on any ongoing matters.

3.7 The Action Plan sets out the action our partnership will take to deliver the vision we have set out in the Strategy.

3.8 At present, we face greater demands and more acute levels of need as East Lothian's population is rising quickly and people are living longer. Public bodies are facing their greatest financial challenge in a generation. The extent of the challenge we face requires us to develop our services differently in the future.

3.9 The increase in volume and intensity of need because of physical disability relates directly to the increase in the demographic of older people. The consistent indicator of increase in physical disability is age-related. Research on incidence and prevalence figures indicates no

projected spikes in any condition or illness to predict significant increases in the number of children and/or working age adults who are physically disabled.

3.10 This Strategy describes the changes and actions we see as necessary. We remain committed to the dialogue with the public that we began during the consultation on the Lothian strategy 'Our Lives, Our Way' and continued through our local event 'Our Lives, Our Opportunities'. We look forward to continuing that dialogue.

3.11 Across Lothian we have established a multi-agency Joint Strategic Programme Board for Physical and Complex Disabilities and the East Lothian Joint Planning Group for Physical Disability and Sensory Impairment. Lothian Physical and Complex Disability – Joint Strategic Programme Board is a collective representation of the four Lothian Local authorities, NHS Lothian and third sector partners in Lothian.

3.12 To consult with the public on the content of the Strategy, a Community Action Research project led by service users and carers was commissioned by the Council. This asked people with a physical disability or hearing or sight loss in our communities what day, evening and weekend opportunities they value and would like to see developed.

3.13 This was followed up by a three day Rapid Improvement event in 2011 where the joint planning partners met with a wide range of stakeholders to agree the future shape of accessible day opportunities with integrated networks of support. These support options include:

- Access to Self-Directed Support to enable people to make active choices about how their care and support is organised and delivered
- A community information and activity hub
- Ongoing support to help people manage their conditions themselves
- A more integrated service for people with hearing and/or sight loss
- Planned respite opportunities for people with a physical disability
- Intensive day support for people with complex needs who live at home
- Independent advocacy for adults with a physical disability
- Support and training to access mainstream resources.

4 POLICY IMPLICATIONS

- 4.1 The Physical Disability Strategy is the key policy document setting out how the Council and its partners will improve support and services for people with a physical disability between now and 2020.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 An Equalities Impact Assessment has been completed and no negative impacts have been found

6 RESOURCE IMPLICATIONS

- 6.1 Financial – The Council is redesigning its Adult Day Services. The Council and NHS Lothian will agree reinvestment priorities on an incremental basis. Implementation will be funded through the redesign and transformation of existing Council and NHS services between now and 2020.

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 East Lothian's Joint Strategy for Physical Disability and Hearing or Sight Loss 2012-2020 (Members' Library Ref: 1/13)

http://www.eastlothian.gov.uk/meetings/meeting/5342/members_library_service

AUTHOR'S NAME	Julia White
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DATE	26.11.12

REPORT TO: Cabinet

MEETING DATE: 15 January 2013

BY: Executive Director (Services for Communities)

SUBJECT: Consultation by Marine Scotland on a Section 36 application for Neart na Gaoithe offshore windfarm and a Marine Licence application for the windfarm and transmission assets

5

1 PURPOSE

- 1.1 To inform Members of a Section 36 Electricity Act application for an offshore windfarm and associated works off Fife Ness and to agree the Council's consultation response to Marine Scotland.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Council:
- 2.1.1 Approves this report as its response to the consultation on the Neart na Gaoithe offshore windfarm proposal;
- 2.1.2 Advises Marine Scotland that it has some concerns over the visual impact of the proposed Neart na Gaoithe offshore windfarm on the seascape of the Firth of Forth and its offshore islands, and its impact on the landscape setting of significant built environment features in East Lothian;
- 2.1.3 Requests that Marine Scotland review the accompanying Environmental Report's assessment of the magnitude of the impacts of the proposed development on landscape and seascape, particularly within East Lothian;
- 2.1.4 Requests that Marine Scotland consider the implications of any change to these impacts, and to the other matters raised in this submission, prior to taking any decision on this section 36 application.

3 BACKGROUND

- 3.1 An application with an accompanying Environment Statement (ES) has been made by Mainstream Renewable Power under Section 36 of the Electricity Acts for an offshore windfarm, as well as for a Marine Licence for the windfarm and transmission assets. Marine Scotland is seeking the views of East Lothian Council on this application, along with statutory and other consultees. As the Section 36 application covers the windfarm itself and not the transmission assets, and no part of that application is within East Lothian, an objection by this Council would not automatically require Scottish Ministers to hold a public inquiry. The Environment Statement is available online at <http://www.neartnagaoithe.com/environmental-statement.asp>. Visualisations and visibility mapping are in *Appendix 21.2 – Extended* of this document, at the foot of that page. Alternatively, the ES can be seen at Planning Reception in John Muir House.
- 3.2 The Neart na Gaoithe (NnG) windfarm site covers an area of 105km². It is some 15km (9 miles) from Fife Ness, the closest point to the coast, and some 28km (17 miles) northeast of Dunbar and 32 km (19 miles) northeast of North Berwick. The exact design details of the windfarm have not been determined due to the need to allow for technological progress and detailed technical work between consenting and construction of the windfarm which may lead to alterations in the details of the design. Design parameters are set to allow for assessment and consent, and are based on ‘worst case’ for each potential impact, but one that nonetheless gives a realistic project. There will be between 64 and 125 turbines, of 3.6MW – 7MW capacity. The maximum height will be between 171m and 197m above lowest astronomical tide. For reference, the turbines at Aikengall are 125m to blade tip, the Forth Road Bridge towers are 156m above mean river level, and North Berwick Law is 187m. The windfarm will have a maximum capacity of 450MW. For comparison, Aikengall has a maximum capacity of 48MW, Crystal Rig (all phases) 253.5MW, and Pogbie 5.1MW. There will be either more, smaller, or fewer, taller turbines. The colour of the turbines will be decided in discussion with the Northern Lighthouse Board and Civil Aviation Authority but are likely to be light grey.
- 3.3 Consent is also sought for turbine foundations, a meteorological mast, one or two offshore collector stations, an inter-array of subsea cables connecting the turbines to the offshore substation, and 2x 33km export cables to landfall, which is at Thorntonloch, near Torness, in East Lothian. There will also be further onshore works associated with the grid connection within East Lothian, which will be the subject of a separate planning application and Environmental Impact Assessment submitted to this Council. These works will include a transition pit at Thorntonloch, as well as cabling and a substation at Crystal Rig, which are considered an integral part of this project. As Marine Scotland is responsible for consenting works up to the High Water Mark and East Lothian Council is responsible for consenting works above the Low Water Mark, there is an overlap in the intertidal zone.

- 3.4 In considering an application for a Marine Licence, Scottish Ministers must take into account the need to protect the environment and human health, prevent interference with legitimate uses of the sea and such other matters as they consider relevant. In considering an application under the Electricity Act 1989, Scottish Ministers must have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest, and the extent to which the developer has done what they can to mitigate any adverse effect on these.

History and context

- 3.5 In 2008, the Crown Estate sought bids for offshore windfarm sites within Scottish Territorial Waters (STW) (which extend to 12 nautical miles offshore). Exclusivity agreements were reached with 10 developers, 4 in the Firth/Tay area. Of these four, this application and a further project at Inch Cape off the Angus Coast are still being taken forward. The Scottish Government identifies NnG as a short term option in *'Blue Seas – Green Energy – the Sectoral Marine Plan for Offshore Wind Energy in STW'*. This plan recommends: that evidence available at the stage of publication suggests that the East region [in which NNG is located] is a suitable region to progress the development of offshore wind in the short and medium term; that the short term options in the East Region [including NNG] should be taken forward to the licensing stage; that there is potential for effects including cumulative effects which will require careful consideration. The key findings of the plan include that *"the development of the short term options appear at this stage to be publicly and environmentally acceptable"*.
- 3.6 A further offshore site close by, known as 'Firth of Forth' has been identified in Scottish Offshore Waters through 'Round 3'. The Crown Estate has awarded an exclusivity agreement to Seagreen Wind Energy Limited to bring forward development here. Both Inchcape windfarm and parts of the Firth of Forth site are expected to be visible from East Lothian, though at a greater distance than NnG. An application for Phase 1 of the Firth of Forth site, off the Angus coast, has been submitted to Marine Scotland.
- 3.7 The Scottish Government has strong support for renewable energy which is seen as key in meeting climate change targets. Their Climate Change Delivery Plan has, as a transformational outcome, *"a largely de-carbonised electricity generation sector by 2030, primarily using renewable sources for electricity generation"*.
- 3.8 The policies of the East Lothian Local Plan do not apply to the offshore works as the plan only covers land to the Low Water Mark; however, they will apply to the inter-tidal works.

Potential Impacts on East Lothian

Landscape and Seascape

- 3.9 There are likely to be significant adverse seascape and visual impacts from the development. The main impact will be from the introduction of turbines, associated lighting, and associated structures into an area of formerly open sea. The turbines and associated infrastructure will require to be lit for aviation and navigation purposes. It is not certain how visible the lighting will be but the assumption is that it will be visible in the dark in suitable weather conditions from wherever the turbines are visible in the day. This will lead to changes in the perception of the seascape and landscape character, and impacts on visual amenity. There will also be impacts from construction and maintenance in the movement of boats, cranes and other equipment. In the case of cranes, these impacts are likely to be temporary and, in the case of construction traffic, an intensification of the shipping already in the Forth. There will also be temporary impacts on the beach at Thorntonloch during construction.
- 3.10 There are also likely to be consequent impacts from the grid connection onshore works which are not part of this application but are integral to this project.
- 3.11 The proposal will be visible from the coast and coastal areas from Yellowcraig to the boundary with the Scottish Borders Council area. The proposal will also be visible from the parts of the A1 and East Coast Mainline and from the A199 from Pencraig Hill to Dunbar. It will be visible from higher ground such as Traprain Law, the Garleton Hills, and parts of the Lammermuir edge. Where there are no intervening buildings or trees, there will be views from North Berwick, Dunbar, parts of Gullane and, further afield, Tranent. According to the ES, due to weather conditions there will be visibility at 30km (18 miles) (the rough distance to Dunbar or North Berwick) for around half of the time, while beyond 50km (30 miles) (Tranent, roughly), there will be visibility less than 20% of the time.
- 3.12 The coastal landscape where there is predicted visibility is varied with extensive beaches at North Berwick, Ravensheugh and John Muir Country Park. The seascape is wide and open generally but has more intricate coves and rocky promontories closer to the shore with views across the offshore islands. The seascape of the outer Firth of Forth and Islands is almost completely untouched by built development. Most of the coast is designated as an Area of Great Landscape Value.
- 3.13 There are three areas of seascape assessed in the Environmental Statement (ES): SA16 (Edinburgh to Gullane), SA17 (Eyebroughy - by Gullane – to Torness Point) and SA18 (Torness Point to St Abbs Head). The ES states the sensitivity of these areas is **Medium**. It is agreed that the sensitivity is medium on SA16 Edinburgh to Gullane and SA18 Torness Point to St Abbs (commenting on the East Lothian section only). However, the sensitivity of SA17, Eyebroughy to Torness Point, is considered by the Council's Principal Landscape and Projects Officer to

be **High** as, using the classification system in the ES, *“it’s a seascape of landscape of particularly distinctive character which may be nationally designated for its scenic quality or where its key characteristics have limited resilience to change of the type proposed.”* This section of seascape contains iconic views from North Berwick (and Ravensheugh beach) to the Bass Rock and Isle of May and similarly from Dunbar to Fife Ness.

- 3.14 North Berwick in particular is a popular holiday and recreational resort and home to the Scottish Seabird Centre, which is a centre for bird and wildlife watching, part of whose attraction is the spectacle of the gannets on the Bass Rock and the puffins on the Isle of May. The ES assesses magnitude of effect as **‘Low to Negligible’** in all East Lothian seascape units. The Council’s Principal Landscape and Projects Officer does not agree with this and considers the effect to be at least **Medium** and **possibly High**. For much of this coastline there will be a clearly visible additional change in the view, visible for a long time, and affecting key views e.g. from North Berwick Harbour to the Bass Rock and Isle of May where the turbines would appear on most of the horizon between the Isle of May and the Bass Rock. The development will be seen in context with these islands for much of this unit and will clearly affect the seascape setting.
- 3.15 From SA18 (East Lothian section), the impact is also likely to be at least **Medium** as there will again be a clearly perceptible change to the key characteristic of wildness and openness of the sea view.
- 3.16 The ES gives visualisations from viewpoints at North Berwick Law, Dunbar Harbour and coastal walkway, and West Steel (on the Lammmermuir Edge). The ES includes a viewpoint at the Law (Viewpoint 17B Fig 21.23.2c of the ES) and additional wireframes are supplied of views at the Scottish Seabird Centre. From these viewpoints, the Bass Rock and Isle of May currently appear in an open, wild and uncluttered seascape setting. The proposed development will create a dense line of wind turbines along the horizon broadly from the Isle of May to the Bass Rock. In the viewpoint from North Berwick Law, the turbines will appear on the horizon behind the Bass Rock. From the Seabird Centre, the turbines could appear as higher than the Isle of May, depending on the eventual height chosen. The turbines will form the horizon and backdrop to these islands and will result in a significant change to the seascape setting of these islands from the North Berwick area. The ES (Table 21.17: Viewpoint Assessment Summary) assesses this impact as **Moderate**. This is not accepted; the impact is considered to be **Major** as the sensitivity is agreed to be High, but the magnitude of the effect is also considered High (a clearly perceptible change in key characteristics and character e.g. introduction of a new large scale feature into views from a character area where they are not typical).
- 3.17 From Dunbar, Viewpoint 18A and B (from the Harbour and the walkway to the north of the town), the proposed turbines will be clearly visible on the horizon and will potentially have all turbines visible. ES Fig 21.24.2c

(Viewpoint 18B from the Dunbar Coast) shows that the proposal will be a major feature of the seascape. Again this will be a change to the key characteristic of wildness and openness of the sea view. The ES assess the significance of the impact on this viewpoint as **Major-Moderate**, and this is accepted.

- 3.18 From West Steel, Viewpoint 19, the sensitivity is assessed as **Medium**. This viewpoint was suggested to represent views obtained by walkers in the uplands, and these are usually considered to be highly sensitive receptors. The magnitude of effect is said to be **Low**: this is not accepted as it is thought to be higher.
- 3.19 There will be cumulative impact with other proposed offshore wind development including Inchcape and Round 3, as well as potentially with onshore windfarms. The effect of NnG, in addition to the offshore turbines, is that it will in places extend the length of horizon containing turbines and intensify the concentration of turbines, as well as bringing turbine development closer to the coast and increase the number of days offshore windfarm development is visible. It may also result in effects from a difference of design e.g. turbines of different heights, blade size and speed which will be seen from some locations as superimposed on each other.
- 3.20 From higher ground the additional impact for cumulative effect could be significant – there is considerable extra effect shown at the West Steel viewpoint, though this is not an especially sensitive receptor in itself: it was chosen as representative of views from the Lammermuirs and foothills that would be experienced by walkers. There are parts of East Lothian which are shown as only having visibility of NnG and not other existing windfarm development: consequently, this means that there would be fewer remaining areas which have no visibility of a windfarm. (This is difficult to assess as Fallago Rig and developments at Soutra have not been included in the cumulative analysis).
- 3.21 The cumulative information at the North Berwick viewpoint is poorly done (Fig.21.56) as part of the North Berwick Law obscures the Isle of May and what would presumably be the Inchcape proposal: this makes the cumulative effect from this point unclear. The cumulative effect is described as **Moderate-Minor**. This is not accepted as visitors climbing to appreciate the natural beauty of the area from a high point will see wind development in a direction where there was none previously, in addition to the already extensive wind development to the south and south east.
- 3.22 From lower ground, the cumulative impact is likely to be less. Existing onshore windfarms are generally less visible from lower ground, including from north and east facing beaches (though onshore wind development is clearly visible from John Muir Country Park and Barns Ness). Other offshore windfarms will generally be viewed behind NnG, or as a small extension to it, and are in addition at a greater distance which will reduce both the number of days they are visible, their apparent

size and visibility over the horizon. The main impact is of NnG itself, rather than the cumulative effect with other windfarm development.

- 3.23 It is for Marine Scotland to determine the adequacy of the ES. However it is considered that viewpoints from North Berwick Seabird Centre/East Beach promenade, Broad Sands (which have been supplied separately by the applicant), from Pencraig Hill (A199) showing the setting of Dunbar/East Linton in context with the development, and the setting of Tantallon Castle would be useful for public consultation.
- 3.24 The ES describes the impact on the Longniddry to North Berwick and North Berwick to Dunbar and Dunbar – Barns Ness AGLV's as '**Minor to None**': this is not accepted. Their sensitivity is described as **Medium**, which is accepted. However, the magnitude of effect is either **High** (clearly perceptible changes in key characteristics and character, for example introduction of new large scale features into view from a character area where these are not typical) or **Medium** (Perceptible changes in key characteristics but which result in only relatively subtle changes in character; for example introduction of new large scale features into intermittent views from a character area, or where these are not out of character). This would give a more significant impact.
- 3.25 There is no explanation of the design concept for the windfarm. Given the potential impact on seascape it is not clear that a rigorous design process has been followed to attempt to mitigate these impacts. Consideration should be given to possible design options within the Rochdale envelope to ascertain if any mitigation on the visual/seascape impact (especially the Bass Rock and Isle of May) would be possible.
- 3.26 The impacts will be mainly in the north east, including the resort towns of North Berwick and Dunbar, and along the John Muir Way coastal footpath. It is considered that the ES has underestimated the significance of the impacts on landscape and visual receptors in East Lothian. The seascape and key views will change in character, including the skyline, approaches to coastal towns, and seascape features. This will affect the appreciation of the landscape by people including residents, tourists and visitors, and will affect the natural beauty of the area.

Heritage

- 3.27 It is for Historic Scotland to comment on heritage in the marine environment, such as wrecks. They also comment on national scale impacts on A Listed Buildings, Scheduled Monuments and Historic Gardens and Designed Landscapes. Historic Scotland do not object to the proposal and list assets they have considered in coming to this view. They do not list any assets in East Lothian. The ES does not consider potential impacts on terrestrial heritage assets in East Lothian other than Historic Gardens and Designed Landscapes (HGDL).
- 3.28 There are clearly impacts on the historic environment of East Lothian, both to designated and undesignated sites and monuments. This is of particular concern with those monuments which are linked, either through

primary function or how they are seen and appreciated today, with this seascape. These include the Scheduled Monuments of North Berwick Law, Tantallon Castle, Castle Hill, East Links, North Berwick, Castle Park, Dunbar and Dunbar Castle and the listed buildings at Lamer Battery, Dunbar and Barns Ness Lighthouse.

- 3.29 The main impact will be on the seascape in that the turbines will significantly break the horizon and, from some vantage points, the cumulative effect with NnG, the Forth Array and Inch Cape will essentially fill the seaward horizon. There is the potential for this development to change how these monuments are understood and appreciated for a generation. The impact will be magnified given that turbines have movement, which tends to catch the eye (which could be amplified by the cumulative effect described above of different design for different developments) and may also have visible lighting. This would lead to an adverse impact upon the integrity of the settings of the Scheduled Monuments and Listed buildings affected.
- 3.30 Over all it is likely that there will be an adverse impact upon the historic environment from NnG which will be exacerbated by the construction of further offshore windfarms in this area. Potentially the effects will significantly detract from the appreciation of a number of monuments, both designated and undesignated. Additionally, this development has a high potential to alter how the historic towns of North Berwick and Dunbar (including their Conservation Areas) feel as the seascape is important to the setting of both.

Biodiversity

- 3.31 It is for SNH to comment on impacts on marine ecology, SSSI's and Special Protection areas including the Firth of Forth and Forth Islands.
- 3.32 SEPA comment that the addition of turbine foundations may promote the introduction of non-native species. They note that the Barns Ness to Wheat Stack waterbody is at high ecological status for alien species. The accidental introduction of Marine Non Native Species (MNNS) has been highlighted as a risk for water body degradation and in line with the Water Framework Directive and other strategies. MNNS could also be introduced through construction processes. SEPA recommend controls are included to mitigate this and minimise the risks.
- 3.33 The RSPB object to the proposal as, firstly, they consider the reporting includes fundamental inaccuracies and discrepancies in the presented data, which leads to incorrect interpretation and assessment of potential effects. This relates in particular to the gannet. Secondly, the degree of flexibility of the design between the best and worst case in their view makes assessment difficult as it leads to widely varying results. In the worst case scenario, the RSPB considers the environmental impacts to be unacceptable. Thirdly, the cumulative impact assessment is founded on limited understanding and knowledge. This is due to a lack of significant information on population scale effects of offshore wind development on bird species including those in the Forth. *Work Package*

D (Population dynamics of Forth and Tay breeding seabirds: Review of the available models and modelling of key breeding populations is about to be commissioned by Marine Scotland. This package will seek to review existing literature and population models relevant to the Forth and Tay wind farm developments and provide an appropriate model for kittiwake breeding populations and apply this to the remaining seabird species with modification as appropriate. This is relevant to NnG due to the presence of auk species around these sites. Auks are declining, and are at moderate to high risk of displacement from offshore wind farm sites.

- 3.34 SNH have not yet come to a view on the proposal.

Economic Development

- 3.35 In terms of economic development, there are two main potential impacts; a negative one on tourism income if visitors are deterred from visiting East Lothian, and a positive one from employment related to construction and operation of the windfarm.
- 3.36 In determining the tourism impacts of this development, officers referred to studies conducted by the RSPB and Visit Scotland. The RSPB study notes the importance of the Firth of Forth due to high numbers of seabirds and abundance of wildlife. Direct and indirect impacts on this resource must be carefully considered and assessed.
- 3.37 Visit Scotland undertook research in 2011 on consumer attitudes to windfarms in which respondents were asked about whether the presence of a wind farm would affect their choice of holiday destination – 80% said not but 20% said it would. The visual impact of the proposal on North Berwick and Dunbar is discussed above. The ES notes '*distant views of the turbines will be seen by visitors who come to appreciate the broad sea views*' at North Berwick and, in Dunbar, '*Turbines will be seen by large numbers of residents and visitors, in the central part of the view*'. Similarly, walkers along the John Muir Way will be exposed to '*continuous but oblique views of the proposed offshore development.*'
- 3.38 Research suggests a minimal impact on visitor numbers and perceptions through the existence of wind turbines and the ES does suggest visual impacts greater than minor in two key tourism destinations for East Lothian, Dunbar and North Berwick.
- 3.39 However page 23.1 of the ES also highlights the positive economic contribution from NnG, namely Gross Value Added for the study area, which covers Angus, Dundee, Fife and Edinburgh as well as East Lothian, of £54million-£440million over the lifetime of the project. Also, for the study area 3000 job years for the project are envisaged with 11900 job years for all project phases. Most of the jobs are associated with construction, which will take around 2 years, though the ES predicts there will also be between 100 – 145 jobs in the operational phase across the study area. This supports the East Lothian Community Planning Economic Development Strategy.

Intertidal works

- 3.40 Where the cable makes landfall at Thorntonloch, a planning application will be made to East Lothian Council. Up to the High Water Mark there is also a requirement for a Marine Licence, so these works are included in this current application. The area is covered by East Lothian Local Plan Policy DC1: Development in the Countryside and Undeveloped Coast: C3: Protection of Open Space, NH4: Areas of Great Landscape Value and NRG2; Torness Consultation Zone. Without prejudice to detailed consideration of the planning application, these works would appear acceptable in principle. It would be through consultation on the proposal as a planning application and East Lothian Councils own consideration as a planning authority to decide whether it is necessary and reasonable to impose any conditional control on the intertidal works.
- 3.41 The Council as planning authority would have regard to comments made by consultees including SEPA. SEPA notes in response to this application that (para 148 of chapter 5 of the ES) the installation method for these works will depend on ground conditions along the route. They highlight that horizontal direct drilling beneath the sand dunes would be their preferred option to minimise impact on sand dune habitats and associated water dependent features. If trenching is taken forward instead, justification should be shown for this through a construction method statement, which should also show how the dune habitat will be restored and erosion problems avoided. SEPA also recommend that beach works will take place outwith the bathing water season as this beach is a designated bathing water.

Consultation

- 3.42 Consultation on this proposal has been undertaken by Marine Scotland. Historic Scotland, SEPA, NERL (air traffic control services), Joint Radio Company Limited (JRC), Firth of Forth Lobster Hatchery do not object to the proposal. The Association of Salmon Fishery Boards and Esk Salmon Fishery Board (Angus area) have objected to the application on the basis that it has not been shown that there are no impacts on atlantic salmon and thus the integrity of Special Area of Conservation rivers on the east coast of Scotland. The Marine and Coastguard agency do not object but raise points about navigational safety. The CAA have responded requesting lighting on each turbine at the periphery of the development. The Northern Lighthouse Board do not object but state their requirements for lighting including marking and lighting of the landfall site of the export cable route in the form of Cable Marker Boards 2.5m x 1.5m, at least 4m about ground level, which should be lit so as to be visible from the seaward side. The RPSB object to the proposal as noted above. SNH are still to respond.

Summary and Conclusion

- 3.43 The Council's technical assessment of this proposed off-shore windfarm suggests that its visual impact and its effect on the seascape, at least when viewed from extensive parts of East Lothian, has been underestimated. Despite their distance, the wind turbines will be a significant feature on the horizon and will be seen as a backcloth to iconic features such as the Bass Rock and Tantallon Castle. It is unlikely that a relatively minor micro-siting of turbines or any practical reduction in their height would significantly reduce this impact.
- 3.44 Against this must be seen the advantages of offshore power generation, contributing significantly to renewable energy production and providing significant capital investment in the construction industry with potential economic spin-off more locally. In addition, the Scottish Government's 'Blue Seas – Green Energy', discussed in para 3.5 above, indicates a degree of qualified support for at least the principle of an offshore windfarm in this location. The very fact that NnG lies within an area within which the Crown Estate has awarded one of the exclusivity agreements for a potential offshore wind farm site further suggests a degree of Government support. Renewable power generation at sea may also reduce the need to accommodate land-based windfarms.
- 3.45 Consequently, and being mindful of the likely impact of this proposal on landscape and seascape, Marine Scotland is requested to ensure that the particular impact assessments highlighted in *landscape and seascape* section of this report (paras 3.9 to 3.26) are reassessed and the implications of any change in this assessment fully considered before a decision is taken on this proposal.

4 POLICY IMPLICATIONS

- 4.1 None

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equality Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - none
- 6.2 Personnel - none
- 6.3 Other - none

7 BACKGROUND PAPERS

- 7.1 Neart na Gaoithe Environment Statement July 2012, with Appendices
- 7.2 East Lothian Local Plan 2008
- 7.3 East Lothian Community Planning Economic Development Strategy
- 7.4 Consultation Responses to Marine Scotland from various respondents including SEPA, Historic Scotland, the CAA, NERL, the Northern Lighthouse Board.

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DESIGNATION	Planner
CONTACT INFO	01620 823966
DATE	12 December 2012

REPORT TO: Cabinet

MEETING DATE: 15 January 2013

BY: Executive Director (Services for Communities)

SUBJECT: Roundabout Sponsorship

6

1 PURPOSE

- 1.1 To inform Members of work currently being undertaken by Transportation Road Network on the potential market for and benefits from sponsorship of roundabouts.

2 RECOMMENDATIONS

- 2.1 To agree to continue to investigate the feasibility of the sponsorship of roundabouts and develop a policy for Cabinet approval.

3 BACKGROUND

- 3.1 The Council have had approaches from several businesses and business associations regarding potential roundabout sponsorship. This was investigated in a small way prior to the last time the Open Golf Championship was held in East Lothian in 2003.
- 3.2 There are 24 roundabout locations in East Lothian which are potentially suitable for sponsorship these are listed in Appendix 1.
- 3.3 Eight other Scottish Local Authorities currently have some form of roundabout sponsorship in place. These include The Highland Council, Angus Council, Aberdeen City Council, Fife Council, North Lanarkshire Council, Renfrewshire Council, West Lothian Council and the City of Edinburgh Council.
- 3.4 All road signs must conform to the Traffic Signs and General Directions 2002 which regulate the size and dimensions for all traffic signs. Sponsorship signage will therefore be of a standard size and design and road safety will be taken fully into account when assessing each location.
- 3.5 It is likely that any proposed signs would be erected by the Council and may contain information such as the name of the roundabout or name of the town / area in addition to the name of the council and information on the sponsor. The sign may therefore be considered a functional sign but further consultation is required with planning officials to determine

whether these signs require further consideration under the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. An example of the type of sign being considered is included in Appendix 2

- 3.6 A list of sponsorship that may be considered unacceptable is included in Appendix 3
- 3.7 Discussions have already taken place with Economic Development regarding Roundabout Sponsorship and further consultation will take place regarding promotional activity and raising the awareness of local businesses.
- 3.8 It will also be necessary to consult the Council's Support Services and the Lothian Joint Valuation Board as any sponsorship signage may be liable to non- domestic rates.

4 POLICY IMPLICATIONS

- 4.1 None

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – There are no financial Implications
- 6.2 Personnel - Any additional work associated with roundabout sponsorship will be undertaken by existing staff.
- 6.3 Other - None

7 BACKGROUND PAPERS

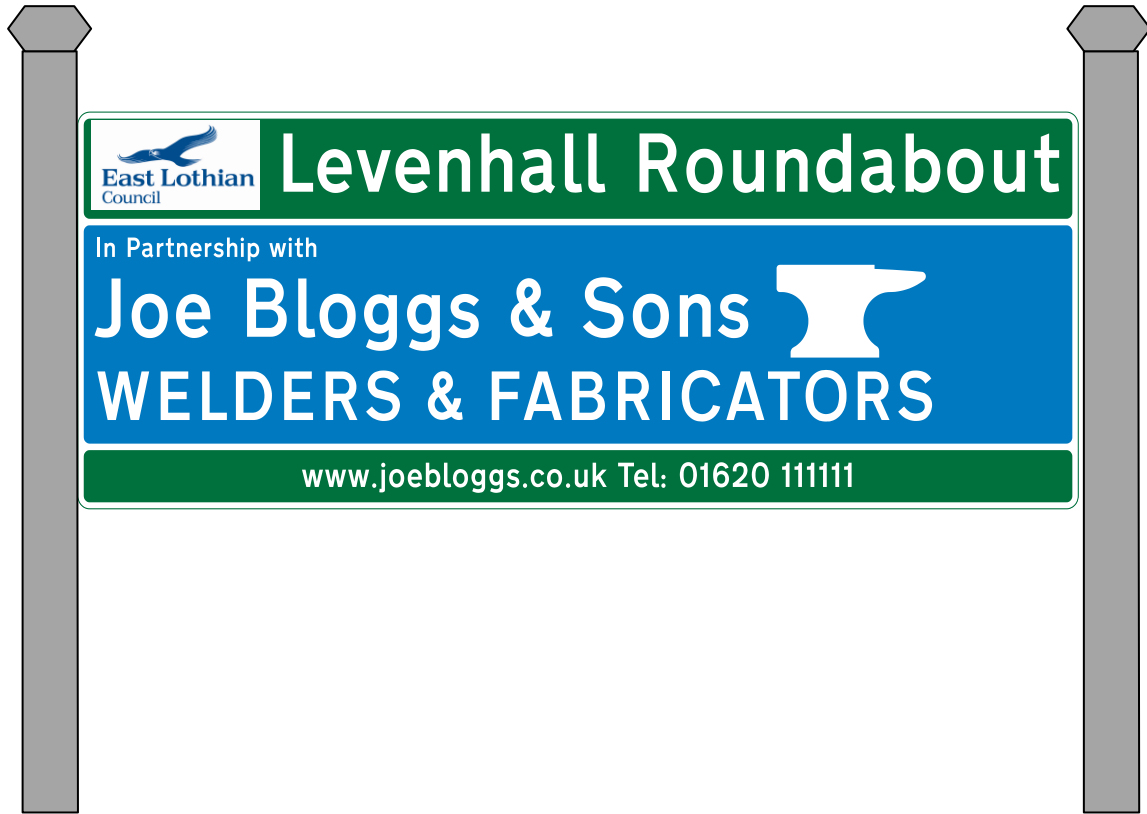
- 7.1 None

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DATE	16 December 2012

APPENDIX 1

Ref. No.	Roundabout Description
1	Bankton North Roundabout
2	Bankton South Roundabout
3	Gladsmuir North Roundabout
4	Gladsmuir South Roundabout
5	Oaktree North Roundabout
6	Oaktree South Roundabout
7	Newhailes Industrial Estate Roundabout
8	Olivebank Roundabout, Musselburgh
9	Levenhall Roundabout, Musselburgh
10	Wallyford Toll Roundabout
11	A6094/A6124 Whitecraig Roundabout
12	A198/B6371 Meadowmill Roundabout
13	A199/B6363 Roundabout, Gladsmuir
14	A199/A6137 Vert Roundabout, Haddington
15	A6137/B1377 Ballencrieff Roundabout
16	A198 Heugh Roundabout, North Berwick
17	A1087 Cement Works Roundabout
18	Alder Road Roundabout, Port Seton
19	A199 Dunbar Road Roundabout, Haddington
20	Abbots View, Haddington
21	A199 Phantassie Roundabout East Linton
22	A199 Beltonford Roundabout Dunbar
23	B1361 Mid Road Roundabout Prestonpans
24	Station Road Roundabout Musselburgh

APPENDIX 2



APPENDIX 3

SPONSORSHIP CONSIDERED TO BE UNACCEPTABLE FOR THE FOLLOWING TYPE OF PRODUCTS, SERVICES, BUSINESSES AND ORGANISATIONS.

- Political parties or where the content is considered to be of a political nature;
- Trade Unions or Employers Federations;
- Advertising contraceptives and associated products and services, except relating to health promotion;
- Sponsorship which may be construed as offering or promoting services of a sexual nature;
- Religious organisations or of a religious nature;
- Sponsorship which may be construed as showing or encouraging any type of prejudice (e.g. racial, sexual or religious);
- Sponsorship which is not considered to comply with the guidelines set down from time to time by the Advertising Standards Authority;
- Sponsorship for products of, or companies dealing in, the Tobacco industry
- Sponsorship for alcohol or alcoholic drinks;
and
- Any other sponsorship type deemed inappropriate by East Lothian Council



**MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE OF THE CABINET**

**THURSDAY 13 DECEMBER 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

7

Committee Members Present:

Councillor D Grant (Chair)
Councillor J Caldwell
Councillor J Williamson
Councillor J McMillan
Councillor F McAllister

Council Officials Present:

Mr I Forrest, Legal Advisor
Ms M Winter, Licensing Administration Officer
Mr I Dalgleish, Transportation Manager
Ms C Molloy, Senior Solicitor

Others Present

Insp S Broadhurst, Lothian & Borders Police (Items 1 & 2)
PC H Bowsher, Lothian & Borders Police (Items 1 & 2)
Mr C Paxton, Co-Chair of the Taxi Association (Items 4-6)
Mr G Brooks, Co-Chair of the Taxi Association (Items 4-6)
Ms S Dougall, Owner of Elite Private Hire (Item 4)
Mrs F Stewart, Committees Assistant (Items 1, 2 & 5)

Clerk:

Ms F Currie, Committees Assistant

Apologies:

Councillor J McNeill

Declarations of Interest:

None.

The Chair welcomed everyone to the meeting and indicated that the private items would be taken first on the agenda.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Licensing Sub-Committee unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

1. Applications for Grant of Taxi/Private Hire Car Driver's Licence

The Sub-Committee considered one application for grant of a licence and this was granted.

2. Application for Renewal of Taxi/Private Hire Car Driver's Licence

The Sub-Committee considered one application for renewal of a licence and this was agreed.

PUBLIC ITEMS

The representatives of the Police left the meeting and Mr Paxton and Mr Brooks, Co-Chairs of the Taxi Association, joined the meeting.

3. AMENDMENT OF RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING REGIME

A report had been submitted by the Executive Director (Support Services) to inform the Sub-Committee of the outcome of the resumed consultation process relative to the proposed amendment to the resolution on Public Entertainment licensing in the light of recent legislation.

The Legal Advisor presented the report. He indicated that previous reports on this matter had been considered by the Sub-Committee on 8 March 2012 and 11 October 2012.

For the purposes of Public Entertainment licensing, Section 41 of the Civic Government (Scotland) Act 1982 defined a "place of public entertainment" as "any place where, **on payment of money or money's worth**, members of the public are admitted or may use any facilities for the purposes of recreation." This helped to ensure that an event which was free to enter did not require a licence under Section 41. However, Section 176 of the Criminal Justice & Licensing (Scotland) Act 2010 amended Section 42 by deleting the words in bold above, resulting in free to enter events being caught by the licence regime with effect from 1 April 2012.

At their meeting on 8 March 2012, the Sub-Committee had agreed that the categories of activities which would require to be licensed under Section 42 should be reviewed and consideration given to specific exceptions to protect free local and charitable events from being unduly penalised. Accordingly, the wording of the resolution was amended and advertised in the local press on 31 August 2012 giving a 28 day period for the submission of objections. At their meeting on 11 October

2012, the Sub-Committee considered the one objection received as a result of this consultation and agreed that the wording of the resolution should be further amended with particular reference to charitable activities and the numerical limit for “small scale” events.

The proposed resolution, amended in terms of this decision, was advertised in the local press for a further 28 day consultation period. The advert appeared on 19 October with the consultation period ending on 16 November. As a result of the consultation, one fresh objection was received.

In their letter of objection, North Berwick Community Council expressed their concerns that the resolution, if adopted, would not result in appropriate scope for entertainment licensing in East Lothian. They urged the Council to consider a wider review of entertainment licensing but, failing that, suggested a revised wording of the resolution, similar to that adopted by Glasgow City Council.

The Chair noted that this matter had been fully debated at two previous meetings; however he accepted the Community Council’s comments regarding clarity of definitions on what constituted “not for profit” and “small scale”. He invited comments from Members.

Councillors Caldwell and McAllister agreed that, although there was no need for a wider consultation on Public Entertainment licensing, the current wording of the proposed resolution could benefit from amendment. Councillor McMillan pointed out that some “not for profit” events involved the participation of stall holders who paid a fee to the organisation/charity to be present but who were selling their own products for profit. Ms Winter, Licensing Administration Officer, explained that these events would be covered by a Street Traders’ licence and there would be no requirement to consider them in terms of Public Entertainment licensing.

Members agreed that there was a need for clarification of what the resolution meant by “not for profit” and “small scale” but that they did not want to adopt word for word the definition used by Glasgow City Council. The Legal Advisor indicated that further drafting could be done and circulated to members by e-mail for agreement; this would allow the Licensing Office to re-advertise the amended resolution early in the New Year. Ms Winter agreed that the Licensing Office would also undertake to ensure that clear and up-to-date guidance was available on the Council’s website.

Decision

The Sub-Committee agreed to authorise the Corporate Legal Advisor and such staff as she may delegate to draft further changes to the amended resolution, in line with the objection received and taking account of the views of Members, and to advertise the amended wording in the local press.

4. PROPOSED AMENDMENTS TO CONDITIONS OF LICENCE – TAXI AND PRIVATE HIRE

The Executive Director (Support Services) had submitted a report to advise the Licensing Sub-Committee of the results of the consultation on proposed changes to licensing conditions regarding the age of vehicles and signage to be used on Private Hire Cars.

The Legal Advisor presented the report. He indicated that a previous report proposing changes to current procedures in three areas had been considered by the Sub-Committee at its meeting on 11 October 2012. One of these, relative to a new form of “red sticker” label to be used on cars which were suspended from active service, was accepted at that meeting. The Sub-Committee agreed as regards the other two proposals that the Corporate Legal Advisor would consult with members of the Trade and report back to the next meeting.

The first proposal was that the wording of the current taxi/PHC licence be amended relative to the clauses on the age of vehicles, in particular to remove the words “Prima facie” where they appear in clause 9. If the amendment was accepted, it would be the clear position that a vehicle which had reached the age of six years (or twelve for custom built cabs) would no longer be suitable for renewal of licence.

The second proposal was to replace the current system of screen lights for Private Hire cars with an adhesive label which would be placed on each door/side of the cars. This would result in a significant financial saving to the Council. Currently the screen light costs around £40 per vehicle. The proposed labels would in contrast cost approximately £3.

Following consultation on these proposed changes, two letters of objection were received. One objected to the proposed adhesive labels for private hire vehicles but supported the clarification of the age of vehicles. The letter suggested that a more acceptable solution would be to continue with screen lights but pass the cost on to operators. In contrast the other letter suggested that the six year limit was too arbitrary and should be relaxed.

The Legal Adviser circulated a document showing the arrangements currently in place in other local authority areas relative to the age of taxi/Private Hire vehicles. He also pointed out that the Department of Trade and Industry recommended that the test for renewal of a vehicle’s licence be based on roadworthiness rather than age. However, it was a matter for individual Councils to decide on their own test criteria.

Present at the meeting were Ms Sheila Dougall, owner of Elite Private Hire, who had submitted one of the written objections and Mr Paxton and Mr Brooks, Co-Chairs of the Taxi Association.

The Chair invited Ms Dougall to speak first. She advised Members that, as indicated in her letter, her objections related solely to the proposal to replace the current screen lights with a sticker for the side of the vehicle. She claimed that the proposed sticker was unsightly when compared with a screen light and that the design did not make it clear enough that the vehicle was for private hire. She suggested that if the Council decided to continue with screen lights, the added costs could be passed on to operators as part of their licence fee.

The representatives of the Taxi Association were then invited to put forward their views. Mr Brooks began by apologising for the Association’s failure to submit a written response to the consultation. He indicated that for a variety of reasons they had been unable to arrange a meeting of their members to discuss the proposals. Mr Brooks made a formal request that the Sub Committee delay their decision to the next meeting to allow the Association’s members to meet and agree a formal response to the proposals.

In the meantime, Mr Paxton indicated that he personally would have no objection to replacing screen lights with stickers but would suggest that any cost savings be used to reduce the current licence fee. Mr Brooks wished to make his own views clear in relation to the age of vehicles. He recommended that the age restriction be removed and for the test criteria to be based on the roadworthiness of the vehicle. He pointed out that in the last ten years improvements in manufacture meant that vehicles were much safer and lasting longer – often far beyond the current six year limit. He also felt that the current age limit did not take into account the fact that Private Hire vehicles often had lower mileage than hackney cabs.

Ms Dougall commented that the six year age limit for vehicles was appropriate and should not be relaxed as there were many vehicles on the road at present which, in her view, were not up to standard. She also felt that there should be more spot checks and inspections to ensure that the overall standard of Private Hire vehicles was maintained at an acceptable level.

The Chair invited comments from Members and there was general agreement that continuing with an age restriction was too arbitrary a test and there needed to be more emphasis on the roadworthiness and overall condition of the vehicle. It was also noted that the majority of Councils did not have an age restriction on vehicles. Councillor Caldwell supported Ms Dougall's comments in relation to the general condition and cleanliness of vehicles and felt that these matters should be addressed during tests and inspections.

In relation to the replacement of screen lights with stickers, Councillor Williamson suggested revising the proposed design to make its purpose clearer. Overall, Members were of the view that continuing with screen lights was no longer appropriate on the grounds of fitness for purpose and cost.

The Chair then asked all visitors to withdraw to allow the Sub-Committee to consider the matter in private.

Decision

The Sub-Committee agreed:

- (i) to authorise the Corporate Legal Adviser and such staff as she may delegate to make amendments to the proposed sticker for Private Hire vehicles in line with the objections received and taking account of the views of Members; and
- (ii) to postpone a decision in relation to the proposals on changes to the age restriction on taxi/Private Hire vehicles to allow the Taxi Association to submit a written response to the consultation no later than end January 2013.

5. INSTALLATION OF CAMERAS IN TAXI/PRIVATE HIRE VEHICLES

The Executive Director (Support Services) had submitted a report to advise the Licensing Sub-Committee on the installation of SVC 100 GPS front facing cameras in taxi/Private Hire vehicles.

Ms Catherine Molloy, Senior Solicitor, presented the report. She pointed out to Members that this issue was being driven by the insurance industry rather than the Council. The responsibility and cost for installation of cameras in a taxi/Private Hire vehicle would be a matter for each insurance company and operator/driver. The

Council was being asked to give its approval to installations where they were considered necessary by an insurance company.

The Chair invited comments from Members. In response to a question from Councillor Caldwell, Ms Molloy confirmed that the installation of cameras was not a legal requirement. This was simply an attempt by the Council to preempt any requests from individual insurance companies.

Mr Paxton, Co-Chair of the Taxi Association, indicated that his members had no objection to the installation of these cameras where the insurance company considered it necessary. However, he noted that his own insurance company, Aviva, preferred to fit their own cameras rather than use those provided by companies such as Smartwitness. Ms Molloy emphasised that the Council was not requesting that drivers or operators install cameras from Smartwitness; this was a matter for the insurance companies.

Decision

The Sub-Committee agreed to approve the installation of SVC 100 GPS front facing cameras in taxi/private hire vehicles in the instances where the insurance company advise the drivers of taxi/Private Hire vehicles as mandatory.

6. CRIMINAL JUSTICE & LICENSING (SCOTLAND) ACT 2010 – CHANGES TO CIVIC LICENSING REGIME

The Executive Director (Corporate Resources) had submitted a report to advise the Licensing Sub-Committee of further process in respect of changes being introduced to the Civic Government Licensing regime by the Criminal Justice & Licensing (Scotland) Act 2010.

Ms Catherine Molloy, Senior Solicitor, presented the report. She explained to Members that, as agreed at a previous meeting, the amended resolution relative to Late Hours Catering licences was advertised in the East Lothian Courier on 5 October 2012. The amendment to the resolution involved the words “meal or refreshment” where they occurred in section 42 of the 1982 Act being deleted and replaced with “food”. Any representations in respect of the proposed amendment were required to be made to the Council by 2 November 2012, however none was received.

Ms Molloy recommended that the Sub-Committee formally adopt the amended resolution and authorise officials to advertise the formal adoption, as required by section 8 of the 1982 Act.

Decision

The Sub-Committee agreed:

- (i) to formally adopt the resolution relative to Late Hours Catering licences as stated in the report; and
- (ii) to authorise the Corporate Legal Advisor or such other officers as she may nominate to proceed to advertise the formal adoption of the resolution relative to Late Hours Catering licences as referred to in the report, and as required by section 8 of the 1982 Act.

The Legal Advisor indicated that he had two further items which he required Members to note.

SCOTTISH GOVERNMENT CONSULTATION ON TAXI/PRIVATE HIRE LICENCES

The Legal Advisor advised Members that this consultation was currently underway and, as a licensing authority, the Council would wish to submit their views on this issue.

Decision

The Sub-Committee agreed to authorise the Legal Advisor and such staff as he may delegate to begin drafting a response to the consultation and to bring this forward for discussion at the February 2013 meeting.

JOINT SCOTTISH AND ENGLISH CONSULTATION ON ABOLITION OF STREETPEDLARS' LEGISLATION

The Legal Advisor indicated to members that this consultation was also currently underway and the proposed abolition of street pedlars' legislation would have implications for current legislation relating to street traders.

Decision

The Sub-Committee agreed to authorise the Legal Advisor and such staff as he may delegate to begin drafting a response to this consultation and to bring this forward for discussion at a future Sub-Committee meeting.

Lastly, the Chair advised Members that due to conflicting deadlines the January 2013 meeting of the Sub-Committee had been cancelled and any business for this meeting would be taken forward to the meeting on 14 February 2013.

