



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

**TUESDAY 26 JUNE 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

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

Council Officials Present:

Mrs A Leitch, Chief Executive
Mr A McCrorie, Executive Director (Support Services)
Ms M Patterson, Executive Director (Services for Communities) and Monitoring Officer
Mr J Lamond, Head of Council Resources
Mr R Montgomery, Head of Infrastructure
Mr D Nightingale, Head of Education
Mr T Shearer, Head of Policy & Partnerships
Ms M Ferguson, Corporate Legal Adviser
Mr I McFarlane, Service Manager, Development Management
Mr D Russell, Corporate Communications Manager
Mr P Vestri, Corporate Policy Manager

Visitors Present:

Mr P Denning, District Inspector, Local Area Network

Clerk:

Mrs L Gillingwater

Apologies:

None

Prior to the commencement of business, the Provost paid tribute to Sir Garth Morrison, East Lothian's Lord Lieutenant, who had died recently. He informed Members of Sir Garth's work, achievements and community contributions, describing him as a "great ambassador for East Lothian, who would be sorely missed". All those present at the meeting observed a minute's silence in honour of Sir Garth Morrison.

Order of business

The Provost announced that Item 8, as noted on the agenda, had been withdrawn and that a revised report on the Common Good Committees: Scheme of Administration would be presented to the Council at a later date.

1. ASSURANCE AND IMPROVEMENT PLAN UPDATE 2013-16

A report was submitted by the Chief Executive informing the Council of the Assurance and Improvement Plan (AIP) Update 2013-16, provided by Audit Scotland.

The Chief Executive reminded Members that the Local Area Network (LAN) produced an annual plan of scrutiny and inspection that the Council and its partners would be subject to. She indicated that, overall, she was pleased with the Council's progress and performance. She advised that the LAN was supporting the Council Management Team with the Council's continuous improvement programme. She drew attention to forthcoming inspections. The Chief Executive welcomed Phil Denning, the LAN area lead officer to the meeting.

Mr Denning advised that the Council was continuing to perform well in most areas and that the overall picture was positive. He highlighted a number of areas including: the Council's financial position; progress in implementing the change programme; progress as regards shared services; and the education service, where the LAN would work in conjunction with the Council in the forthcoming year. He outlined the planned scrutiny work, which would involve focused scrutiny on the education service, and on self-evaluation and improvement activity. He also advised that there would be an inspection of children's services.

Councillor Berry asked why this report had not been presented to the Policy & Performance Review Committee (PPRC). He also questioned the key performance indicators (KPIs) used in informing the LAN's assessment, given that KPIs were currently under review, and the assessment as regards the use of resources.

The Chief Executive advised that Members were not normally involved in this particular process. She mentioned that specific issues identified in the AIP would be referred to the PPRC and/or Audit & Governance Committee. She added that there were a number of areas where the CMT disagreed with the LAN's assessment of the Council's performance.

As regards the KPIs, Mr Denning noted that assessments had been based on the previous year's KPIs. He informed Members that following discussions with Council officers, a number of judgements had been amended. On the use of resources and competitiveness, Mr Denning advised that the LAN would be undertaking more focused and targeted work in the coming year.

In response to a question on shared services by Councillor McLennan, Mr Denning advised that there were two main areas of concern: the departure of key staff and attainment levels. He reported that there would be very focused and targeted scrutiny of these areas. He also noted that the Care Inspectorate would be scrutinising the Council's performance in relation to Looked After Children. He advised of the estimated timescales for publication of the various inspection reports.

The Chief Executive pointed out that the CMT disagreed with the LAN's assessment in relation to shared services, in that the Council had moved quickly to create certainty following the change in approach to a shared education services with Midlothian Council. She added that the Council continued to work with Midlothian Council in a number of other areas and that this demonstrated the Council's commitment to partnership working.

Councillor Hampshire welcomed the report, and asked if the LAN would take account of the changes currently underway within the Council following the outcome of the Voluntary Early Release Scheme. Mr Denning advised that the LAN was working towards a more structured model of engagement with councils and other agencies and that it would work closely with the Council through this period of change.

Councillor Akhtar spoke in favour of the approach taken by the LAN. She highlighted progress had been made since October 2012 as regards education and children's services and welcomed the opportunity to work more closely with the LAN.

Mr Denning noted that the targeted work on education services would be carried out on a cluster or ward basis, and that the Education Scotland report would provide a clear evaluation of the challenges and the type of support required.

Councillor MacKenzie expressed concern at the increase in the number of areas of uncertainty since the 2012-15 LAN. He also highlighted the need to address inequalities in society and voiced his disappointment in relation to the Administration's decision not to continue with a shared education service with Midlothian Council.

Councillor Currie also welcomed the targeted approach to the scrutiny of the education service. He shared Councillor MacKenzie's concerns about the lack of progress in sharing this service with Midlothian Council, and the potential impact on the education service and vulnerable groups. He also warned that local authority funding in Scotland may be reduced further in the coming years and of the consequences to the Council of rejecting opportunities to make efficiency savings.

Councillor Innes welcomed the support of the LAN in addressing the challenges faced by the Council. He spoke of the Administration's commitment to support vulnerable people, making reference to the additional funding allocated to the Children's Services budget in 2013/14. He also pointed out that Cabinet Members were focused on the priorities for their individual areas with a view to meeting the Council's financial challenges whilst protecting vulnerable groups.

Decision

The Council agreed:

- i. to note the Assurance and Improvement Plan Update 2013-16; and
- ii. to note that the Chief Executive would keep the Council updated on any inspections and focused work by the Auditor and Local Area Network.

2. COUNCIL AND COMMITTEE MINUTES FOR APPROVAL

The Minutes of the Council and Committee meetings specified below were submitted and approved, subject to amendments noted:

Policy & Performance Review Committee – 19 March 2013

Planning Committee – 9 April 2013

Special East Lothian Council – 9 April 2013

Cabinet – 9 April 2013

Special Cabinet – 16 April 2013

East Lothian Council – 23 April 2013

Matter arising: Item 13 – Councillor Currie requested a progress report on the review of charges and use of facilities at The Brunton. The Head of Policy & Partnerships, Tom Shearer, advised that work was ongoing in this regard, with a number of options being considered. Councillor Day reported that, in relation to catering, agreement on a deal was imminent and that he would report back to Members in due course.

Councillor Currie also referred to comments made at the meeting by Councillor Innes (in relation to Item 12 – Motion on Bedroom Tax in East Lothian), and asked if Councillor Innes was prepared to retract those comments. Councillor Innes maintained his position on this matter.

Audit & Governance Committee – 30 April 2013

Policy & Performance Review Committee – 30 April 2013

Item 1 – Councillor Berry asked for clarification as to whether a further report on transport would cover all transport or just transit minibuses, as noted in the minute. The Head of Infrastructure confirmed that the report would cover all Council transport services. The Council agreed to this amendment.

Planning Committee – 7 May 2013

Cabinet – 14 May 2013

3. COUNCIL AND COMMITTEE MINUTES FOR NOTING

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

Local Review Body (Planning) – 18 April 2013

Local Review Body (Planning) – 21 May 2013

4. 2013/14 COUNCIL IMPROVEMENT PLAN

A report was submitted by the Chief Executive presenting the 2013/14 Council Improvement Plan to the Council for approval.

The Corporate Policy & Improvement Manager, Paolo Vestri, presented the report, informing Members of the sources used to inform the Improvement Plan and drawing attention to the proposed actions.

Responding to a question from Councillor Berry as to ensuring that improvements are achieved, the Chief Executive advised that there would be a greater emphasis on the 'One Council' approach, with input from all service areas, as required.

Councillor Berry also asked about the possibility of organising training/information sessions for members of the public. Mr Vestri advised that such a programme had been arranged for candidates in advance of the 2012 Local Government Election and suggested that similar events could be organised in the future for interested members of the public.

Decision

The Council agreed to approve the 2013/14 Council Improvement Plan.

5. REVISION TO CHIEF OFFICER STRUCTURE

A report was submitted by the Chief Executive recommending to the Council a revision to the chief officer structure.

Declarations of Interest: *Alex McCrorie and Monica Patterson declared interests as Executive Directors and left the Chamber for the duration of this item.*

Prior to the discussion on this item, the Provost paid tribute to the contribution made to the Council by Don Ledingham (Executive Director – Services to People), who would be leaving his post in July 2013. The Provost was joined by other Members and officers in wishing Mr Ledingham well in his new position with Drummond International and the Scottish Leadership Trust.

The Chief Executive explained that the resignation of Mr Ledingham had provided an opportunity to look again at the Council's chief officer structure, especially in view of the Voluntary Early Release Scheme (VERS), and that she was recommending that this post should not be filled. She proposed that the remaining Executive Directors, Monica Patterson and Alex McCrorie, should be re-designated as Deputy Chief Executives, and that they would take on enhanced roles in respect of performance and integration of services within the Council and with external partners. The Chief Executive also asked the Council to approve the appointment of Mr David Small to the post of Director of East Lothian Health and Social Care Partnership, noting that Mr Small would take up his new post in August 2013 and that he would report to herself and to the Chief Executive of NHS Lothian. The Chief Executive concluded her presentation by advising that she had discussed the report with the Trades Unions, who had expressed an opinion that they would have preferred to have an individual with an education background within the chief officer structure, and that she had undertaken to keep this position under review.

Councillor Veitch welcomed the report and believed that the new structures would help deliver better outcomes for the Council. He congratulated Mrs Patterson and Mr McCrorie on their new roles and also Mr Small on his appointment.

Councillor MacKenzie expressed concern that there would be no one within the Council's senior management structure with an education background, particularly as a significant proportion of the Council's budget was allocated to education and children's services. He noted that the number of Quality Improvement Officers had been reduced from 6 to 3, and spoke of the importance of head teachers having the support of a chief officer who understood their concerns. On these grounds, he stated that he would not be supporting the report recommendations.

Whilst accepting the points raised by Councillor MacKenzie, Councillor Berry believed that Mr Ledingham's departure had provided the Council with an opportunity to restructure services. He praised the contribution made by the Head of Education. However, he did voice concern that, as a result of recent retirements and VERS, there would be no chief

planning officer in the Council. He also urged caution in relation to the partnership arrangements with the NHS.

Councillor Akhtar welcomed the proposed new structure and stated that head teachers would still be supported by senior officers. She questioned Councillor MacKenzie's comments, given that it was the previous Administration which had introduced a generic senior management structure.

Councillor Currie spoke of the positive contribution that Mr Ledingham had made to the Council. He highlighted the importance of having a chief officer with an education background, and declared that he would be voting against Recommendation 2.1. Councillor Currie welcomed the appointment of Mr Small and the opportunity to provide health and social care services in an integrated way.

The Chief Executive pointed out that the proposals as regards the chief officer structure had been made in the context of VERS and reducing budgets and that there was extensive education experience in schools as well as in John Muir House.

Responding to comments made by Councillors Currie and MacKenzie in relation to the need for the Council to have an Executive Director of Education, the Provost reminded Members that Mr Ledingham's post had had a wider remit than education. He also noted that the Trades Unions had expressed an opinion on the matter, as opposed to a concern.

Councillor Innes added that the job outline for the Executive Director – Services for People post had not required the postholder to have an education background, and that creating a new post of Executive Director of Education would have a significant financial impact on the Council.

Councillor McLennan remarked that the savings realised by not replacing Mr Ledingham's post had not been included in the Administration's budget.

The Provost then moved to the vote on the recommendations, as set out in the report:

For: 14
Against: 8
Abstentions: 1

Decision

The Council agreed:

- i. to approve the proposal not to appoint to the post of Executive Director (Services for People);
- ii. to approve the proposed revised roles of the remaining currently Executive Directors;
- iii. to redesignate the remaining Executive Directors as Depute Chief Executives; and
- iv. to approve the appointment of David Small as Director of East Lothian Health and Social Care Partnership, jointly accountable to the Council and to NHS Lothian, reporting to the Chief Executive of the Council and to the Chief Executive of NHS Lothian.

6. REVIEW OF EAST LoTHIAN COUNCIL STANDING ORDERS

A report was submitted by the Executive Director (Support Services) seeking approval of the revised Scheme of Delegation (Appendix 2 to Standing Orders) and of the inclusion of the Council's Procurement Procedures as an appendix to Standing Orders.

The Head of Council Resources, Jim Lamond, presented the report, advising that there was an outstanding commitment in the Council Improvement Plan to review the Standing Orders to reflect changes to the Council's management and decision-making structures and to make the documents more accessible. He reported that further refinements to the main text of Standing Orders and the Scheme of Administration were required and expected that these documents would be presented to the Council for approval in August.

In response to a question from Councillor Berry as regards the Scheme of Delegation for Planning Applications the Service Manager, Development Management, Iain McFarlane, advised that the legislation required a statement of reasons. He referred to the form to be used for this purpose, which could be submitted electronically by Members. He added that an email communication would also be acceptable provided that it clearly stated the reasons and was appropriate for public consumption. Councillor Berry also asked if consideration could be given to making the Scheme of Delegation List more accessible to Members.

Decision

The Council agreed:

- i. to approve, in principle, the revised Scheme of Delegation (Appendix 2 to Standing Orders), with delegation to the Chief Executive to incorporate any amendments which arise as a result of changes to Council structures; and
- ii. to approve the inclusion of the Council's Procurement Procedures as an appendix to Standing Orders.

7. CHANGE TO THE SCHEME OF DELEGATION FOR PLANNING APPLICATIONS

A report was submitted by the Executive Director (Services for Communities) seeking approval of a proposed amended Scheme of Delegation for determination of planning applications, to be submitted to Scottish Ministers for their approval.

The Service Manager, Development Management, Iain McFarlane, presented the report, advising of a recent amendment to the Town and Country Planning (Schemes of Delegation and Local Review Body Procedures) (Scotland) Regulations 2013, which removed the prohibition on the delegation of planning applications where the Council or an Elected Member had an interest. Any such 'Local Applications' could now be determined under delegated powers. He noted that, if approved, the amended Scheme of Delegation would be submitted to Scottish Ministers for approval.

Responding to questions by Councillor Goodfellow, Mr McFarlane explained that planning applications from Elected Members would now be dealt with in the same way as other planning applications.

Councillor Innes remarked that the current system provided protection to Elected Members and was also more transparent. His view was shared by Councillor Currie, who called on Members to keep their Registers of Interest up-to-date.

Councillor Hampshire welcomed the proposal, which would speed up the planning process. He added that controversial applications from Members would still be submitted to the Planning Committee.

Decision

The Council agreed to approve the proposed amended Scheme of Delegation for determination of planning applications, in terms set out in Appendix 2 to the report, with authority to officers to submit this proposed Scheme to Scottish Ministers for approval.

8. SUMMER RECESS ARRANGEMENTS 2013

A report was submitted by the Executive Director (Support Services) advising Members of the arrangements for dealing with Council business during the summer recess 2013.

Decision

The Council agreed:

- i. to approve the application of the summer recess arrangements outlined in Rule 43 of the Council's Standing Orders, effective from the close of this meeting until the Council meeting of 27 August 2013, attached as Appendix 1 to the report; and
- ii. to note that a summary of business carried out during the recess period would be brought to the Council meeting of 27 August 2013, and that copies of all reports approved during the recess period would be lodged in the Members' Library.

9. NOTICE OF MOTION: HADDINGTON COURT CLOSURE

A Notice of Motion was submitted to the Council by Councillors McMillan and Veitch

"East Lothian Council expresses its deep disappointment at the Justice Minister's complete disregard for the clear and substantial evidence submitted by many individuals and organisations against the closure of Haddington Court.

Council notes this important decision should have been debated in Parliament and every Member should have had the opportunity to vote on the issues.

Council agrees:

To write to the Justice Minister and demand that he reconsiders this decision before they remove our provision of local and accessible justice for East Lothian's people and communities."

Councillor McMillan presented the motion, referring to the Cabinet meeting of 14 May where the Chief Executive had set out the argument for retaining court services in Haddington. He referred to the demonstration at the Scottish Parliament and expressed his disappointment that the views of the Council, legal professionals and members of the public had not been taken into account by the Justice Secretary and Justice Committee. He called on all Members to support the motion.

Councillor Veitch seconded the motion, declaring that the closure of Haddington Sheriff Court would "leave a gaping hole in the heart of East Lothian". He advised that the closure would result in significant inconvenience for legal professionals and would have a significant

economic impact on Haddington. He thanked all those who had campaigned to retain the Court and hoped that the Scottish Government and the Scottish Courts Service would reconsider their decision.

Councillor Currie stated that the SNP had consistently supported the retention of Haddington Sheriff Court. However, now that the decision to close the court had been confirmed, he called on the Council to take action as regards the Court building and to work with the community to ensure that the building remains at the heart of the community. He declared that the SNP Group would not be supporting the motion as it was negative and backward-looking.

Councillor Akhtar argued that the motion should be supported by all Members because the reasons put forward for retaining the Court had been disregarded. She called on all Members to put aside their political views and to defend East Lothian.

Councillor Berry regretted that this matter had become politicised. He reported that he had written to the Justice Secretary and the Chair of the Justice Committee setting out the reasons for retaining a Sheriff Court in Haddington. He provided examples of how differently the Sheriff Courts in Haddington and Edinburgh operated and of the importance of local knowledge in administering justice.

Councillor Hampshire welcomed the comments made by Councillor Berry and asked the SNP Group to reconsider their position.

Councillor Trotter stated that he would not be supporting the motion on the grounds that the issue had become a political one.

Summing up, Councillor McMillan called on the support of all Members in this final effort to keep Haddington Sheriff Court open.

The Provost then moved to the vote on the motion, as proposed by Councillor McMillan and seconded by Councillor Veitch.

For: 14
Against: 8
Abstentions: 1

The motion was therefore carried.

10. NOTICE OF MOTION: REVIEW OF ARRESTS AND CONVICTIONS MADE DURING THE 1984/85 MINERS' STRIKE

A Notice of Motion was submitted to the Council by Councillors Grant and McNeil.

- “1) Council notes the widespread concerns expressed about the safety of arrests and convictions made during the 1984/85 miners’ strike, including those of several East Lothian residents and the strong suspicion that miscarriages of justice took place at that time.
- 2) Council believes that a significant amount of evidence has now emerged to support the campaign for a review of arrests and convictions made in Scotland.
- 3) Council notes the disappointment of many former miners in East Lothian’s coalfield communities at the Scottish Government’s refusal to order such a review and express its concern about the Justice Secretary’s failure to act on this issue.

- 4) Council agreed:
- a) to continue to support the campaign for a full and independent review of all cases of miners arrested and convicted in Scotland during the strike
 - b) to write again to the Cabinet Secretary for Justice to reiterate the Council's support for the campaign and urge him to rethink his position on the issue."

Councillor Grant presented the motion, informing Members of a debate held on this issue at the Scottish Parliament on 14 March 2013 and of the response of the Justice Secretary as regards calls to review the convictions. He noted that the Scottish Criminal Cases Review Commission had been cited as the recommended route to consider the matter; however, he noted that the process involved was lengthy. Councillor Grant proposed that the Justice Secretary should instigate an independent review to ascertain whether or not convictions made during the strike were safe, and called on Members to support the motion.

Councillor McNeil seconded the motion, pointing out that there had been 1400 arrests made in connection with the miners' strike in Scotland. He advised that approximately 900 people had contacted the Justice Secretary, but that he had refused to carry out a review. Councillor McNeil believed that it was right that the Scottish Government should lead a review into this matter and urged all Members to support the motion.

Councillor Currie asked if the Council had written to the Justice Secretary following the original motion to the Council in February 2013 on this matter. The Chief Executive confirmed that a letter had not been issued.

Referring to the original motion, Councillor Currie noted that the motion had been amended at the meeting to "back the call ... for an independent review" and that there had been no instruction to write to the Justice Secretary. He declared he would abstain from voting on this motion on the grounds that it was superfluous. He stated that such reviews should be carried out in accordance with the proper processes, in this case through the Scottish Criminal Cases Review Commission.

On the grounds that he lived abroad during the miners' strike, Councillor Berry stated that he would also abstain from voting on the motion.

Councillor Innes criticised the SNP Group for not supporting the motion for political reasons.

Councillor Veitch remarked that the Council may not be the most appropriate forum to discuss this issue, but believed that the motion should be supported.

Summing up, Councillor Grant accepted the views of those who had contributed to the debate, but maintained his belief that the Justice Secretary had a responsibility to instigate an inquiry into the arrests and convictions made in connection with the miners' strike.

The Provost then moved to the vote on the motion, as proposed by Councillor Grant and seconded by Councillor McNeil.

For: 13
Against: 0
Abstentions: 10

The motion was therefore carried.

11. SUBMISSIONS TO THE MEMBERS' LIBRARY, 11 APRIL – 12 JUNE 2013

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

At the request of Councillor Grant, the Head of Council Resources, Jim Lamond, provided an update on the Voluntary Early Release Scheme (Ref: 133/13 of the bulletin). He advised that 96 people had been granted early release, with those individuals leaving the Council between June 2013 and March 2014. He advised that the cost of releasing these staff would amount to c. £3.1m which would be funded from the Cost Reduction Fund and that there would be a 1.1-year pay-back period, which was well within Audit Scotland's guideline requirement of 2 years.

Decision

The Council agreed to record the reports submitted to the Members' Library Service between 11 April and 12 June 2013, as listed in Appendix 1, to the report, into the Council's business.

Signed

Provost Ludovic Broun-Lindsay
Convener of the Council