



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

**TUESDAY 22 OCTOBER 2013  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

**1**

**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, Depute Chief Executive (Resources and People Services)  
Ms M Patterson, Depute Chief Executive (Partnership and Services for Communities) and Monitoring Officer  
Mr D Small, Director of East Lothian Health & Social Care Partnership  
Mr R Jennings, Head of Housing & Environment  
Mr J Lamond, Head of Council Resources  
Mr R Montgomery, Head of Infrastructure  
Mr T Shearer, Head of Policy & Partnerships  
Ms M Ferguson, Corporate Legal Adviser  
Mr K Dingwall, Principal Planner  
Mr I Glen, Policy & Projects Manager (Planning)  
Ms J Mackay, Media Manager  
Mr I McFarlane, Service Manager, Development Management  
Mr D Russell, Corporate Communications Manager  
Mr P Vestri, Corporate Policy & Improvement Manager

**Visitors Present:**

Chief Superintendent Jeanette McDiarmid, Police Scotland  
Mr S Reid, KPMG

**Clerk:**

Mrs L Gillingwater

**Apologies:**

None

## **Order of Business**

Prior to the commencement of business, the Clerk advised that Item 14 on the Agenda – Police Public Counter Service Review and Traffic Warden Review – would be considered immediately after Item 5 on the agenda.

### **1. DETERMINATION HEARING: PLANNING APPLICATION NO. 11/01109/PPM – PLANNING PERMISSION IN PRINCIPLE FOR EMPLOYMENT LAND, DRAINAGE WORKS AND ENABLING RESIDENTIAL DEVELOPMENT AT FENTON BARNES, NORTH BERWICK**

A report was submitted by the Depute Chief Executive (Partnership and Services for Communities) advising that as this application site was greater than 2 hectares and the principle of development was for more than 50 houses, the proposed development was, under the provisions of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development. Furthermore, the proposed development was significantly contrary to Policy DC1 of the adopted East Lothian Local Plan 2008.

The report advised that a Pre-determination Hearing for this application was held at the Planning Committee meeting of 1 October 2013, which is mandatory where a planning application is made for a major development that is significantly contrary to the development plan. The application was now brought before the Council for determination.

The Service Manager, Development Management, Iain McFarlane, presented the report in detail, advising Members of the background to the application, the consultation responses and public representation. He provided a summary of the main components of the application, the policies and other material considerations applicable.

Mr McFarlane advised that the report recommended refusal of the application on the grounds that the material considerations did not outweigh the Council's Local Plan policies.

Councillor Hampshire referred to recent decisions made by the Planning Committee in respect of land for business use in the North Berwick area, and argued that there was a demand for industrial land in this area. Mr McFarlane accepted there was such a demand, but indicated that the situation referred to was not comparable to the application under consideration.

Responding to a comment made by Councillor Berry as regards the drainage problems, Mr McFarlane confirmed that this was a historical problem and that no action had been taken to resolve it in the past.

Councillor Goodfellow asked questions in relation to the amount of employment land available in the North Berwick area and enabling development. Ian Glen, Policy & Projects Manager, advised that available employment land was very limited, with less than one hectare of such land available within the town itself. Mr McFarlane reiterated that there would be no new build development for employment, leisure or tourism use within the site.

Councillor Day questioned the suitability of the site for a housing development, commenting that this site was prime agricultural land in a countryside location, with poor transport links, and that there was no element of affordable housing included in the application. He also noted that the applicant had only considered one possible solution to the drainage problem and he suggested that improvements to the drainage system could be funded by other means. In addition, he felt that existing businesses were unlikely to relocate given the investment made by them in this site. He did not believe that the potential loss of jobs

should take precedence over the integrity of the planning system and therefore declared that he would support the report recommendations.

Councillor Berry made reference to the consultation process during the development of the 2008 Local Plan and the views of local people at that time that there should be no new settlement at Fenton Barns. He believed that it was the responsibility of the applicant to work with tenants to find a solution to the drainage issues. He supported the sentiments of Councillor Day and indicated that he would be supporting the officer recommendations.

Councillor Goodfellow stated that he would also be supporting the officer recommendations on the grounds that: this area was not suitable for more housing than that already planned; there would be additional strain on infrastructure; he was not convinced of the applicant's argument in relation to enabling development; and there were alternative solutions to the drainage problems that had not been explored.

Councillor Currie expressed concern at the additional traffic on that road should the application be approved. He viewed the applicant's warning in relation to the potential loss of jobs as unacceptable, but did not believe that businesses which had invested in the site would relocate. He shared the views of other Members as regards upholding planning policies and stated that granting planning permission would be the wrong decision for the Council to make.

In relation to the arguments made about the Local Plan, Councillor Hampshire made reference to a number of sites not included in the Local Plan which had recently been granted planning permission. He highlighted the need for additional employment land for industrial use in the North Berwick area and stated that the Council had a duty to make land available for business use, and that Fenton Barns was an appropriate location for such use. He accepted that the current infrastructure would not meet the potential demand, and suggested that the Council could work with the landowner to improve this. He also proposed the involvement of East Lothian Land Ltd in order to attract investment in this site. He urged Members to support the application, warning that the applicant would appeal if it was refused.

Councillor Innes commented that he had not been convinced by the arguments put forward by Local Members. He expressed concern that the sewage system was inadequate and was a risk to employment. He remarked that this site was not open countryside, that it was an established industrial site which contained some housing, and that the application was not a substantial departure from what already existed in that location. He also considered that approving the application would not set a precedent, due to the sewage issue. He therefore advised that he would be voting against the officer recommendations.

The Provost then moved to the vote on the officer recommendations:

For:	13
Against:	9
Abstentions:	1

### **Decision**

The Council agreed to refuse planning permission in principle for the following reasons:

- i. as enabling development for a new build infrastructure development in the countryside the proposed new build housing development was not supported by Part 1(a) of Policy DC1 of the adopted East Lothian Local Plan 2008;

- ii. as the proposed new build housing development was not to enable a form of new build development in the countryside of an employment, tourism or leisure use the proposed housing development was contrary to Part 1(c) of Policy DC1 of the adopted East Lothian Local Plan 2008;
- iii. in not being a direct operational requirement of an agricultural, horticultural, forestry or other employment use in the countryside the proposed new build housing development was contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008; and
- iv. in the absence of any justifiable need for additional employment land at Fenton Barns, as it would not be of an appropriate scale and character for its countryside location, as it would result in the loss of some 12.47 hectares of prime agricultural land, and as the site identified for employment use was not well located in terms of proximity to a range of modes of transport, the proposed employment land was contrary to Policies DC1, BUS9 and T1 of the adopted East Lothian Local Plan 2008.

## **2. COUNCIL AND COMMITTEE MINUTES FOR APPROVAL**

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

### **East Lothian Council – 27 August 2013**

## **3. COUNCIL AND COMMITTEE MINUTES FOR NOTING**

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

### **East Lothian Partnership – 21 August 2013**

### **Local Review Body (Planning) – 29 August 2013**

### **Petitions Committee – 12 September 2013**

*Matter arising:* Councillor Currie asked if the report on Fenton Barns Nursery would be presented to the Education Committee in November. The Chief Executive advised that discussions on this matter were ongoing and that she would keep Members informed.

## **4. ANNUAL REPORT TO MEMBERS OF EAST LOTHIAN COUNCIL AND THE CONTROLLER OF AUDIT**

The Provost welcomed Stephen Reid of KPMG to the meeting.

Mr Reid presented the Audit Report to Members, advising that the Council's financial statements had been signed on 27 September and that they had been given an unqualified opinion. He summarised the audit work undertaken during 2012/13, the challenges facing the Council and recommendations for action.

Responding to a number of questions from Councillor Berry, Mr Reid indicated that the use of reserves was lower than expected in 2012/13 due to effective management of resources; however, it was expected that the reserves would be spent by 2015/16. He also confirmed that there had been a transfer of £1m from the Housing Revenue Account (HRA) to the General Services budget in 2012/13. As regards borrowing, Mr Reid advised that Audit Scotland had undertaken a benchmarking exercise, but that this had not differentiated between borrowing from General Services and the HRA.

Councillor Hampshire asked for Mr Reid's opinion on the use of reserves. Mr Reid pointed out that the use of reserves to balance budgets was time-limited and that relying on the use of reserves in the longer term would lead to financial difficulties.

Councillor MacKenzie asked if it was expected that efficiency savings would be made through shared services/partnership working. The Chief Executive commented that the main focus of partnership working was to improve capacity and continue providing services.

In response to a question from Councillor Akhtar on how the 2012/13 report compared to that of the previous year, Mr Reid referred to the report on the financial strategy and financial management of Council services which was presented to the Council in October 2012, and that the changes to the governance and controls framework had resulted in improvements.

Councillor Veitch welcomed the report, in particular the reductions in capital spending and use of reserves.

Councillor McMillan commended the work of officers and the Council Leader in reinforcing the Council's commitments to making improvements and achieving sustainability.

Councillor Currie highlighted the challenges facing the Council in terms of borrowing, capital investment, demographic pressures and welfare changes. He also expressed concern about the shortage of affordable housing and rising repair costs in the Council's housing stock, and about the Administration's decision to halt a particular housing development. On the use of reserves, Councillor Currie spoke of the pressures that the Council would face in 2015/16 when there would be no reserves available to support frontline services.

Replying to a request from Councillor Currie for further information on the setting of capital budgets, the Head of Council Resources, Jim Lamond, confirmed that budgets were prepared in accordance with capital spending limits set by the Chief Finance Officer. He advised that, in recent years, details for individual projects had not always been provided but that the budget for the entire capital programme had been published.

Councillor Innes thanked Mr Reid for his positive report. He commended the decision of the Council to reduce borrowing limits and the progress made to control spending. He accepted that debt charges had increased, but that the increase was lower than it would have been had the Council not reduced the borrowing limits.

Councillor Berry welcomed the report, and explained that the previous Administration had set budgets within the financial limits, but that they had not foreseen the economic downturn. He also pointed out that reserves had been built up during that period, to be used to meet future financial challenges.

Councillor Hampshire concluded the debate by stating that using reserves to deliver services was not a solution to the financial challenges facing the Council.

The Provost thanked Mr Reid for his attendance and input to the meeting.

### **Decision**

The Council agreed to note the External Auditor's Annual Report to Members 2012/13.

**Sederunt:** Councillor Goodfellow left the meeting.

**5. EAST Lothian POLICE PERFORMANCE REPORT, 1 APRIL – 30 SEPTEMBER 2013**

The Provost welcomed Chief Superintendent Jeanette McDiarmid, Local Police Commander, to the meeting.

Chief Superintendent McDiarmid presented the East Lothian Police Performance Report to Members, reminding Members that under the new scrutiny arrangements police performance would be reported to the Safe and Vibrant Communities Partnership. She advised that work was underway to develop the Policing Plan for 2014/15 and also Ward Policing Plans, which would be subject to consultation. She highlighted the areas of priority for 2013/14, and provided a summary of the performance for each of those priorities. She mentioned that she would report on police complaints to the Safe and Vibrant Communities Partnership.

In response to questions from Councillor Day, Chief Superintendent McDiarmid reported that the consultation process for Ward Policing Plans was underway. She undertook to look into concerns that community officers were not attending Community Councils as regularly as they had done previously.

Councillor MacKenzie asked how priorities were identified. He was advised that the priorities were linked to the Single Outcome Agreement, but also took account of local issues. She also mentioned the benefits of partnership working in supporting communities and preventing crime.

Councillor Berry highlighted the positive partnership working arrangements that had been in place for some time and voiced his concern that this was not reflected in the 2013/14 Policing Plan. Chief Superintendent McDiarmid replied that this could be considered for inclusion in the 2014/15 Policing Plan. The Chief Executive added that the timescales for developing and approving the 2013/14 Policing Plan had been very tight and that more meaningful measures and targets to reflect the priorities of local communities would be included in future Policing Plans, which would be submitted to the Council for approval.

Councillor Currie suggested that a breakdown of figures at ward level would be useful for Members in order that specific issues could be discussed in more detail. Chief Superintendent McDiarmid undertook to take this suggestion forward.

Councillor Hampshire expressed concern that officers were being transferred out of East Lothian. Chief Superintendent McDiarmid advised that she could provide details as to when and why officers were transferred to other areas, but pointed out that this happened mainly to support large-scale events and that decisions were made based on demand and risk.

Councillor McNeill asked if it was possible to provide call handling information for East Lothian. Chief Superintendent McDiarmid offered to look into whether this was possible.

Responding to comments made by Councillor McMillan as regards priorities and the level of detail provided in the performance report, Chief Superintendent McDiarmid advised that the strategic policing priorities were national priorities that did not necessarily reflect partnership priorities.

Councillor Day requested the inclusion of figures rather than just percentages in future performance updates. This request was taken into account by Chief Superintendent McDiarmid.

## Decision

The Council agreed to note the contents of the report.

### **6. POLICE PUBLIC COUNTER SERVICE REVIEW AND TRAFFIC WARDEN REVIEW**

A report was submitted by the Chief Executive advising that Police Scotland had recently carried out and completed two reviews of local services – the public counter service and traffic wardens. The report provided Members with comments on the two reviews and their outcomes, and made recommendations on how the Council should respond.

The Corporate Policy & Improvement Manager presented the report, informing Members of how the review of public counter services had been carried out and of the various data recording methodologies that had been used by different Police areas for the purposes of the review. He also drew attention to a number of concerns about other aspects of the review, and of the outcomes affecting East Lothian. On the traffic wardens review, he highlighted the lack of consultation and implications for the Council should this service be withdrawn. He noted that the Council could take on responsibility for warden provision but that the legal process to implement this would take at least 6 months. It was noted that the Chief Executive would be meeting with the Depute Chief Constable to discuss the concerns raised in the report.

Councillor Berry voiced his concern at the withdrawal of the traffic warden service and at the manner in which the review had been conducted. The Chief Executive advised that she had received very little information about this review and that there had been no mention of the timescales for withdrawing this service.

Responding to a question from Councillor Akhtar, Mr Vestri noted that he was not aware of any consultation having taken place with other local authorities.

Councillor McNeill asked if CoSLA had expressed a view on this matter. The Chief Executive reported that CoSLA would be considering it, but at the most recent meeting the extent of the review had not been known. She suggested that the possibility of partnership working with the Police to alleviate the public counter service issues could be explored. The Chief Executive indicated that she would be happy to raise the issues through SOLACE.

The Provost asked if the proposers and seconders of the motions would agree to withdraw their Motions.

Councillor Currie indicated that he was satisfied that the terms of Item 14a – Motion on Police Public Counter Service in Tranent – had largely been met by the recommendations of the report, and that he was prepared to withdraw his Motion. However, he wished to propose an additional recommendation:

“[Council is recommended to] establish a specific cross-party Police and Fire Board for East Lothian in order that this proposal and future issues can be subject to full consultation, transparency and scrutiny by elected members and the community.”

Councillors MacKenzie and Akhtar agreed to withdraw their Motions on this issue (Items 14b and 14c).

Councillor Currie advised that he had consistently supported the establishment of a specific Police and Fire Board/Committee which, he believed, would allow for a greater level of scrutiny, more effective discussions and input from Members, even if they were not

members of that Board/Committee. He suggested that the discussion during the previous agenda item had demonstrated the benefits of such a committee. Councillor Currie also highlighted the importance of the police counter service to the public and to the additional policing resources funded by the Council. He expressed his disappointment at the lack of consultation on the changes to services and felt that a specific committee would be best placed to scrutinise the proposals. He also warned of the impact that the withdrawal of the traffic warden service would have on the public.

Councillor MacKenzie seconded the proposed additional recommendation, arguing that a specific Police and Fire Board/Committee would have been well placed to deal with the concerns outlined in the officer's report.

Councillor Innes echoed the concerns of other Members in relation to the proposals to close the public counter at Tranent Police Station and withdraw the traffic warden service. However, he did not support the proposal for a specific Police and Fire Committee, arguing that the former Police Board had been unable to protect the public counter at Prestonpans Police Station or the traffic warden service, which in East Lothian had been reduced from five to two wardens in recent years. He reminded Members that scrutiny of Police and Fire services would be carried out through the revised community planning arrangements. Councillor Innes called on Members to support the report recommendations but to reject the additional recommendation as proposed by Councillors Currie and MacKenzie.

Councillor Veitch paid tribute to the police officers in his own ward. However, he was critical of how the reviews had been carried out, in particular the lack of consultation on traffic warden services. He spoke of the need to retain this service until a new system could be put in place. He agreed with Councillor Innes that the creation of a Police and Fire Committee would not provide a solution to the problems. He added that East Lothian had been badly let down by Police Scotland and that the concerns raised should be communicated to the Justice Minister.

Councillor Akhtar pointed out that other local authorities were experiencing the same issues, regardless of their decision-making structures.

Councillor McAllister remarked that there was a need to regulate parking and that a number of Scottish local authorities had generated significant income from doing so.

Councillor Grant expressed his disappointment at the proposed closure of the public counter at Tranent Police Station, and at the loss of the traffic warden in the town. He agreed with other Members that it was unrealistic to expect uniformed police officers to deal with parking issues.

The Provost then moved to the vote on the inclusion of an additional recommendation, as proposed by Councillors Currie and MacKenzie. At the request of Councillor Currie, the vote was taken by roll call.

For: 9 (Councillors Berry, Brown, Currie, MacKenzie, McAllister, McLennan, McLeod, Trotter and Williamson)

Against: 11 (Councillors Akhtar, Caldwell, Forrest, Gillies, Grant, Hampshire, Innes, Libberton, McMillan, McNeil and Veitch)

Abstentions: 2 (Provost Broun-Lindsay and Councillor Day)

The proposed additional recommendation therefore fell.



## **Decision**

The Council agreed:

- i. to submit a response to Police Scotland's consultation on the review of police public counter services, highlighting concerns about the way the review had been conducted and the possible adverse impact on the local community in the Fa'side Ward arising from the proposal to close the Tranent police station public counter;
- ii. to submit a response to the Police Scotland review of the traffic warden service, highlighting concerns about the lack of consultation, the proposed timescale for the withdrawal of the service and seeking assurances that no further traffic warden provision would be withdrawn unless or until alternative arrangements were put in place;
- iii. that Council officers would prepare and report back on proposals for a Council-led alternative to the traffic warden provision; and
- iv. to request a meeting with the Chief Constable and the Chair of the Scottish Police Authority to discuss the reviews and seek effective engagement with the Council on the future of policing in East Lothian, including police public counter services, the possible development of integrated public counter services through shared facilities, the proposed withdrawal of traffic warden provision, and the reduction or withdrawal of support for prevention and early intervention initiatives.

## **7. EAST LOTHIAN COUNCIL ANNUAL PERFORMANCE REPORT 2012/13**

A report was submitted by the Depute Chief Executive (Resources and People Services) providing Members with the Council's Annual Performance Report for 2012/13.

Councillor Currie asked questions in relation to the maintenance of the road network and the allocation of funding to schools. The Chief Executive advised that the school budget entry had been taken from the Council Plan and that this issue was still under consideration, but that the funds would be allocated to schools. As regards the question on the road network, the Head of Infrastructure advised that the severity of the winter was an important factor in relation to road maintenance. He provided an explanation as to how the required maintenance was determined.

Councillor Veitch commented that the report demonstrated significant progress being made by the Council in delivering services, and underlined the Council's commitment to minimising waste, bureaucracy and unnecessary administrative costs.

Councillor Berry drew attention to the indicator on tenants owing more than 13 weeks' rent, warning that welfare reforms may have an impact in this area.

Councillor MacKenzie welcomed the partnership working with Queen Margaret University, the model for which was now being rolled out to other areas and other subjects.

## **Decision**

The Council agreed to approve the Annual Performance Report for 2012/13.

## **8. PARTNERSHIP WORKING UPDATE**

A report was submitted by the Chief Executive updating the Council on the progress of the partnership working activities/initiatives undertaken as part of the partnership working agenda across East Lothian and Midlothian Councils and presenting the revised Memorandum of Understanding, which had been amended following discussions to properly reflect the aspirations of the new Administrations.

The Chief Executive presented the report, drawing Members' attention to the revised Memorandum of Understanding (attached as Appendix 1 to the report). She advised that monthly meetings were taking place with officers from Midlothian Council on partnership working arrangements, and highlighted the current joint working activities. She noted that, following the Council's Voluntary Early Release Scheme (VERS), an opportunity had arisen to consider partnership working to deliver Environmental and Trading Standards Services. She advised of the proposed arrangements for these services.

Councillor MacKenzie asked for evidence that financial savings were being achieved through partnership working arrangements. The Chief Executive reported that the main focus was on ensuring that both councils had the capacity to deliver high quality services, rather than being driven by financial savings. She highlighted the benefits of having access to the skills and expertise of colleagues in Midlothian Council.

### **Decision**

The Council agreed:

- i. to note the current position regarding Partnership Working activities;
- ii. to note the revised Memorandum of Understanding; and
- iii. to approve the partnership arrangements for Environmental Health and Trading Standards.

## **9. LOCAL GOVERNMENT BOUNDARY COMMISSION FOR SCOTLAND: FIFTH GENERAL REVIEW OF ELECTORAL ARRANGEMENTS**

A report was submitted by the Chief Executive informing Members of the start of the Fifth General Review of Electoral Arrangements by the Local Government Boundary Commission for Scotland, who would make recommendations to Scottish Ministers in 2015/16, in sufficient time for implementation at the Local Government Elections in May 2017. The report also proposed the establishment of a Joint Officer/Member Working Group to consider the detail of the Review.

The Head of Council Resources, Jim Lamond, presented the report, seeking nominations from the political groups and independent Members for participation in the Working Group.

### **Decisions**

The Council agreed:

- i. to note the Commission's update on their approach to the first stage of the review; and

- ii. to approve a Joint Officer/Member Working Group, with Elected Member representation as follows: Councillor Berry, Councillor Currie, Councillor Veitch, and one Member of the Labour Group to be nominated.

**Post-meeting note:** following the meeting, Councillor Innes advised that Councillor Goodfellow would represent the Labour Group on the Joint Officer/Member Working Group.

## **10. COUNCILLOR ROLE DESCRIPTIONS**

A report was submitted by the Chief Executive presenting proposed Councillors' Role Descriptions for discussion, comment and approval.

The Corporate Policy & Improvement Manager, Paolo Vestri, presented the report, reminding Members of the background to the recommendation that role descriptions should be introduced for Elected Members. He drew attention to the proposed role descriptions, as set out in Appendix 1 to the report. He also advised of forthcoming training/briefing sessions for Members and of the roll-out of the Continuous Professional Development (CPD) programme.

Councillor Currie remarked that, whilst he viewed the role descriptions as helpful, it was for Elected Members themselves to determine how they represented their constituents.

### **Decision**

The Council agreed:

- i. to approve the Councillors' Role Descriptions, as set out in Appendix 1 to the report; and
- ii. to note the training and development opportunities provided for Elected Members and to provide suggestions for additional topics for Elected Members' training or briefing sessions.

## **11. SESPLAN SUPPLEMENTARY GUIDANCE ON HOUSING LAND**

A report was submitted by the Depute Chief Executive (Partnerships and Services for Communities) seeking ratification of the decision of the SESplan Joint Committee of 30 September 2013 to approve for consultation the Supplementary Guidance on Housing Land, a requirement of the approval of SESplan's Strategic Development Plan by Scottish Ministers in June 2013.

The Policy & Projects Manager (Planning), Ian Glen, presented the report, advising of the challenges facing the SESplan authorities in identifying sites and delivering 2500 houses in addition to those in the plan submitted to Scottish Ministers. He noted that, if ratified by the Council, the proposals would be subject to consultation before being reported back to SESplan and then to Scottish Ministers.

Councillor Hampshire commented on the difficulties in identifying additional sites and developing those sites already approved. He expressed concern that the credibility of the planning system was being damaged due to decisions being made that were beyond the Council's control.

Councillor Berry voiced concern that additional developments were being approved without improving the infrastructure and that the work carried out by officials, Members and the

public during the Local Plan process was being overlooked. He recorded his dissent and encouraged Members to reject the proposals.

Councillor Hampshire warned that if the Council didn't accept the report recommendations there would be more planning applications for sites that the Council would not wish to develop. He called on Members to support the recommendations in order that the Council would have the ability to select suitable sites for development.

### **Decision**

The Council, noting Councillor Berry's dissent, agreed to ratify the decision of the SESplan Joint Committee to approve for consultation the Supplementary Guidance on Housing Land.

## **12. AMENDED PROCEDURES FOR PRE-DETERMINATION HEARINGS**

A report was submitted by the Depute Chief Executive (Partnerships and Services for Communities) seeking approval for amendments to the current procedure for dealing with Pre-determination Hearings held as require by the Planning etc. (Scotland) Act 2006.

The Service Manager, Development Management, Iain McFarlane, presented the report, advising of the proposal to streamline the Determination Hearing process. He noted that a number of other local authorities were already holding Pre-determination Hearings immediately before the Determination Hearings and that there was evidence to suggest that this was a more efficient procedure.

### **Decision**

The Council agreed to approve the amended procedure for Pre-determination Hearings, as set out in Appendix 2 to the report, as a replacement for the existing procedure approved by Council at its meeting on 23 February 2010.

## **13. CHANGE TO THE SCHEME OF DELEGATION FOR PLANNING APPLICATIONS**

A report was submitted by the Depute Chief Executive (Partnerships and Services for Communities) seeking adoption by the Council of the proposed amended Scheme of Delegation for determination of planning applications, as approved by the Council on 25 June 2013, and by Scottish Ministers on 9 September 2013.

The Service Manager, Development Management, Iain McFarlane, presented the report, advising that the Scottish Government had now approved the proposed amendments and recommended that the Council should adopt the revised Scheme of Delegation.

### **Decision**

The Council agreed to adopt the proposed amended Scheme of Delegation for determination of planning applications, in terms set out in Appendix 2 to the report, following its approval by Scottish Ministers.

## **14. SUBMISSIONS TO THE MEMBERS' LIBRARY, 13 JUNE – 15 AUGUST 2013**

A report was submitted by the Depute Chief Executive (Resources and People 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.

Councillor Currie drew Members' attention to Ref: 202/13 – Response to Iain Gray MSP's consultation on proposed Bus Regulation (Scotland) Bill, and urged them to consider this report.

### **Decision**

The Council agreed to record the reports submitted to the Members' Library Service between 16 August and 9 October 2013, as listed in Appendix 1 to the report, into the Council's business.

## **15. PROPOSED CLOSURE OF THE SCOTTISH FIRE SERVICE COLLEGE IN GULLANE**

A report was submitted by the Chief Executive advising that the Scottish Fire and Rescue Service had recently carried out and completed a review of its property requirements in relation to support functions, including national training facilities. The report provided Council with comments on the outcome of the review and made recommendations on how the Council should respond.

The Corporate Policy & Improvement Manager, Paolo Vestri, presented the report, highlighting the lack of proper engagement with local authorities during the review. He indicated that the Council was not supportive of the proposal to close the training facility at Gullane due to the impact the closure would have on Gullane and the wider community.

Councillor Berry asked for an explanation in relation to the communication problems, as outlined in the report. The Chief Executive advised that due to technical issues, there had been a delay in the report and associated correspondence on this matter reaching her and the Local Members.

Councillors Currie and Day confirmed that they were prepared to withdraw their Motions on this issue.

Councillor Currie expressed concern as regards the lack of consultation and suggested that Local Members should be included in discussions with the Fire & Rescue Service on this matter.

Councillor Day conveyed his disappointment at the absence of communication, consultation and partnership working. He noted that the proposed closure of the training facility had not been discussed at a local level and that the proposals should have been subject to consultation.

Councillor Berry commented that the training facility integrated well with the Gullane community and its closure would be a great loss to the village.

Councillor Innes made a statement on behalf of Councillor Goodfellow, who had previously left the meeting. Councillor Goodfellow had expressed disappointment that the proposals had not been discussed with Local Members and that there was no democratic accountability for the decisions that had been taken. He urged the Council to lobby the relevant parties with a view to having the decision to close the training facility reconsidered.

**Decision**

The Council agreed:

- i. to note that the Chief Executive and Council Leader would be meeting with the Chair of the Scottish Fire and Rescue Board and the Scottish Fire and Rescue Service Chief Officer to press for reconsideration of the decision to close and dispose of the Scottish Fire and Rescue Service training centre at Gullane, and for full consultation with the Council and community on the future of the facility; and
- ii. to note that Council officials would engage with the Scottish Fire and Rescue Service to explore possible options for the use of the Gullane training centre site should the Service pursue its proposal to dispose of the buildings and the site.

Signed .....

Provost Ludovic Broun-Lindsay  
Convener of the Council



**MINUTES OF THE MEETING OF THE  
LOCAL REVIEW BODY**

**THURSDAY 26 SEPTEMBER 2013  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

**2a**

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**Committee Members Present:**

Councillor J Goodfellow (Chair)  
Councillor J McNeil  
Councillor T Day  
Councillor D Grant

**Advisers to the Local Review Body:**

Mr P McLean, Planning Adviser to the LRB  
Mrs M Ferguson, Legal Adviser/Clerk to the LRB

**Others Present:**

Mr C Miles, Agent (Item 1)

**Committee Clerk:**

Mrs F Stewart

**Declarations of Interest**

None

**Apologies**

Councillor S Currie

Councillor Goodfellow, who was elected to chair today's East Lothian Local Review Body (ELLRB) meeting, welcomed all present to the meeting.

The Legal Adviser advised that Councillor Currie had been unable to join the site visit party and had therefore tendered his apologies for today's meeting. All Members present had carried out site visits for the three applications being reviewed today.

The Legal Adviser introduced the Members of the Local Review Body and briefly outlined the procedure for today's meeting. She advised that, after hearing a statement from the Planning Adviser summarising the planning policy issues for each of the applications, Members would decide if they had sufficient information to reach a decision on each application today. If they did not, the matter would be adjourned for further written representations or for a hearing session. Should Members decide they had sufficient information before them, the matter would be discussed and a decision reached on whether to uphold or overturn the decision of the Appointed Officer in respect of each application. If any applications were granted, Members had the right to attach Conditions to the consent. Decision Notices would be issued within 21 days.

**1. REVIEW AGAINST DECISION (REFUSAL)  
PLANNING APPLICATION No: 11/00234/P – ERECTION OF ONE WIND  
TURBINE AT MARKLE MAINS FARM, EAST LINTON**

The Legal Adviser introduced the planning application and invited the Planning Adviser to present a summary of the planning policy issues relating to this application.

The Planning Adviser advised that the application site was in a countryside location around 1.5 miles to the west of East Linton and that the application was for a single 100kW wind turbine of three-bladed horizontal axis design, 36.7m to the hub, with a blade diameter of 20.9m, giving a total height to blade tip of 47.1m. He also stated that the Notice of Review was dated 6 December 2012 and had not come before the LRB sooner due to an initial dispute over whether new material could be accepted.

The Planning Adviser stated that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. He also pointed out that there had been a change to the development plan since the delegated decision had been taken on this application; the Edinburgh and the Lothians Structure Plan had been superseded by the Strategic Development Plan for South East Scotland (SESplan). He explained the relevance of the SESplan policies and stated that the broad policy context for development in the countryside was provided by Local Plan policy DC1 which seeks to restrict development in the countryside to protect its character, while allowing some limited forms of appropriate development. This policy contains a number of criteria to be satisfied relating to visual and landscape impact as well as impacts on nearby uses, and policy NRG3 on renewable energy development seeks to weigh the benefits of renewable energy against the impact on the local environment. The Planning Adviser also outlined a number of other development plan policies in relation to other issues potentially relevant to the application and cited other documents, including the Scottish Planning Policy and the Council's wind turbine planning guidance document and its 2011 supplementary landscape capacity study.



The Planning Adviser confirmed that the appointed Officer had refused the application for two reasons, both set out in full in the Case Officer's report, and he briefly summarised the Officer's assessment of the application. The applicant's agent had provided a statement to the review and supporting documents arguing that the proposals would not have a harmful impact on the landscape or views. The Planning Adviser summarised the arguments put forward and advised that the Case Officer had submitted a statement in response to this. In terms of noise, the Case Officer indicated that, following the submission of the new noise assessment, he had been advised by the Environmental Protection Manager that acceptable levels of residential amenity could be secured by use of a planning condition. In respect of Consultee comments, there were no objections from the Council's Head of Transportation or Biodiversity Officer, or from the Civil Aviation Authority, Ministry of Defence or Historic Scotland. The Planning Adviser clarified the position of Dunpender Community Council and advised that there were 145 objections to the original application, 29 letters of support and 2 representations neither supporting nor objecting. Further representations had been received from 16 parties in response to the Notice of Review and the agent had responded to the further representations. Members had had the opportunity to read all the correspondence.

The Chair advised that it was now for Members to decide if they had sufficient information to determine the application. After discussion, Members agreed unanimously that they had sufficient information to proceed with the application today.

Councillor Tim Day stated that after careful consideration of the submissions from both parties and with the benefit of the site visit, he was minded to refuse the application. He was disappointed that the Council's wind turbine planning guidance document and its 2011 supplementary landscape capacity study had been disregarded by the applicant. He was also disappointed that the applicant had not engaged with Council planning officers earlier in the process, particularly when the Council's Guidance states that a wind turbine of this height in this location would dominate and have a detrimental impact on the landscape. He did, however, accept that the noise could be controlled by a Condition attached to consent, if the application was granted.

Councillor Grant referred to the Council's Guidance on wind turbines which categorises wind turbines in term of height into four categories, Typology A, B, C and D. The Guidance then states that there were no development opportunities for Typology A and B wind turbines in this area of East Lothian and only limited development opportunity for Typology C wind turbines. As the proposed wind turbine (47m) fell into category B (>42m and <65m high), it was clearly in breach of the Guidance. He also disagreed with the applicant's assertion in his Appeal Statement that the proposed turbine would not '*be exposed and dominating in its landscape setting*'. Having carried out the site visit, he considered that from key viewpoints, the wind turbine would be harmful and intrusive, as stated in the Case Officer's report. He did, however, concur with Councillor Day that the noise impact could be controlled by a Condition to consent, if granted.

Councillor McNeil stated that the site visit had convinced him that the proposed wind turbine would dominate the landscape in this area of open countryside. While he understood the desire for energy generation from renewable sources, he firmly believed that this had to be weighed against the impact on the local environment. Commenting that the application need not have come before the LRB had the applicant complied with the Council's Guidelines or consulted planning officials

earlier in the process, he stated that he would not be overturning the original decision to refuse this application.

The Chair, Councillor Goodfellow, concurred with his colleagues. In his view, a wind turbine 47m in height was considerably outside the Council's wind turbine planning Guidance. He too, therefore, would vote to uphold the original decision of the Appointed Officer to refuse this application on the grounds that it would have a harmful impact on the environment and contravene the Council's policies and guidance relevant to this application. He also concurred that noise could be controlled by Condition.

### **Decision**

The ELLRB unanimously agreed to uphold the Appointed Officer's decision to refuse this application for the first reason stated in the original Decision Notice but to remove the second reason for refusal. The ELLRB's Decision would also reflect that the Strategic Development Plan for South East Scotland (SESplan) was approved on 27 June 2013, replacing the Edinburgh and the Lothians Structure Plan.

Reason for refusal:

1. Due to the harmful impact it would have on the landscape the proposed wind turbine is contrary to Policies DC1 (Part 5) and NRG3 and of the adopted East Lothian Local Plan 2008, Policies 1B and 10 of the approved Strategic Development Plan for South East Scotland (SESplan), the key considerations of landscape impact and impact on public views to and from landmark features of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 and the terms of the East Lothian Supplementary Landscape Capacity Study for smaller Wind Turbines.

### **2. REVIEW AGAINST DECISION (REFUSAL) PLANNING APPLICATION No: 13/00124/P - REPLACEMENT OF 8 WINDOWS AT 18 HOPETOUN TERRACE, GULLANE**

The Legal Adviser introduced the planning application and invited the Planning Adviser to present a summary of the planning issues relating to this application.

The Planning Adviser advised that the application site was a two-storey mid-terraced house and that the application was for the replacement of 8 windows; 7 on the front and 1 to the rear. The existing windows were timber sash and case while the proposed replacements would be PVC sliding sash windows. The proposals would also alter the glazing pattern of three of the existing windows.

The Planning Adviser stated that the Planning Act required decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. He pointed out that there had been a change to the development plan since the delegated decision was taken on this application: the Strategic Development Plan for South East Scotland (SESplan) had replaced the Edinburgh and the Lothians Structure Plan. He advised that there were no policies within the Strategic Development Plan of direct relevance to this application, although policy 1B states that Local Development Plans should have regard to conserving and enhancing the built environment. The site was within a predominantly residential area, designated under Local Plan policy ENV1 and within the Gullane conservation area, although the building was not listed.

The Planning Adviser stated that the main policy considerations were design and impacts on the Conservation Area. Local Plan policy ENV4 seeks to preserve or enhance the character of Conservation Areas and policy DP8 relates specifically to replacement windows. Also relevant to the application were Scottish Planning Policy (SPP) and the Scottish Historic Environment Policy. The application had been refused by the Appointed Officer on the basis that the use of PVC as a window material on the front elevation would adversely affect the building and conservation area, and that the change in glazing pattern proposed for some of the windows would also be harmful. These harmful impacts were considered contrary to relevant development plan policy and SPP. The reasoning for the decision was set out in full in the Case Officer's report.

Finally, the Planning Adviser advised that the applicant's request for a review had stated that the existing windows were inefficient and had a poor visual appearance, and that permission had been given for PVC windows at 12 Hopetoun Terrace. It also argued that timber windows were more expensive than PVC, not draught proof and had low thermal performance, and claimed that the proposals did not compromise the character of the building or the conservation area.

No consultations were carried out on the application by the Case Officer and one representation had been received from the Architectural Heritage Society of Scotland, which was summarised by the Planning Adviser.

The Chair advised that it was now for Members to decide if they had sufficient information to determine the application. After discussion, Members agreed unanimously that they had sufficient information to proceed with the application today.

Councillor McNeil described Hopetoun Terrace as a very attractive early Victorian Street and stated that, on the site visit, he had observed replacement UPVC windows had been installed in other properties in the street. He therefore sympathised with the applicant, who was correctly seeking planning permission for changes while others appeared to have disregarded planning regulations. However, the Appointed Officer had decided that the proposals for the seven replacement windows for the front of the house would be harmful to the character and appearance of the house in its Conservation Area setting and were contrary to the Council's planning policies. He would therefore be upholding the decision of the Appointed Officer.

Councillor Grant stated that he had found the site visit helpful, and had noted that the majority of houses on both sides of Hopetoun Terrace had white painted timber framed sash and case windows. He therefore upheld the view of the Appointed Officer and would vote to uphold his original decision. He had no objection to a replacement UPVC window to the rear of the house which was not in public view.

Councillor Day stated that he had found this a difficult appeal as he understood the applicant's motivation to fit UPVC windows given the cost savings and performance benefits. The key issue for him was whether, under Policy DP8 of the 2008 Local Plan, the building contributed positively to the Conservation Area and whether or not a change to the design of the windows would have an impact on the character of the Conservation Area. Having considered the matter, he had concluded that the use of UPVC would have an impact on the Conservation Area and would set an unwelcome precedent. He would therefore be upholding the decision of the Appointed Officer. Breaches of planning control on other properties nearby would not justify supporting this proposal.

The Chair concurred with his colleagues, stating that, in his view, the proposed replacement windows would not preserve the positive contribution the existing windows made to the character and appearance of the building. He agreed that the proposed replacement window to the rear of the house was acceptable as it was not in public view. He also noted that photos supplied by applicants of other properties were not helpful if their addresses were not provided.

### **Decision**

The ELLRB unanimously agreed to uphold the Decision of the Appointed Officer for the reasons set out in the original Decision Notice, subject to the following amendments:

- The Strategic Development Plan for South East Scotland (SESplan) replaced the Edinburgh and the Lothians Structure Plan on 27 June 2013; and
- The change to the glazing pattern affects three of the windows and not four as stated in the original Decision Notice.

### **3. REVIEW AGAINST DECISION (REFUSAL) PLANNING APPLICATION No: 13/00327/P – REPLACEMENT WINDOWS AND DOORS AT 6 THE VENNEL, DUNBAR**

The Legal Adviser introduced the planning application and invited the Planning Adviser to present a summary of the planning issues relating to this application.

The Planning Adviser stated that the application site was a ground floor flat in a two storey building and that the application was seeking permission for the replacement of five windows – two to the front, two to the rear and one to the side - and two doors, one to the front and one to the rear. The existing windows have timber sash and case frames while proposed replacements would be PVC sliding sash windows to the front and PVC casement windows to the side and rear elevation. Existing timber doors would be replaced with a timber door to the front and a PVC door to the rear.

The Planning Adviser stated that the site was within a predominantly residential area, designated under Local Plan policy ENV1, and within the Dunbar Conservation Area, although the building was not listed. The legal and policy context were the same as for item 2 on the agenda.

The Planning Adviser stated that the application had been refused by the Appointed Officer on the basis that four of the five proposed replacement windows and the proposed replacement rear door would be harmful to the character and appearance of the building and the Conservation Area, and would therefore be contrary to relevant development plan policies. The Case Officer considered that one of the five windows, located on the rear of the property, was not in public view and therefore its replacement, as proposed, would accord with relevant policies. The Case Officer also considered that the proposed replacement timber front door was acceptable.

The Planning Adviser stated that the applicant's request for a review stated that the existing windows were inefficient and had a poor visual appearance. It also stated that windows in the adjacent building and many other properties in the area contained PVC in a variety of styles. The effect of the proposals on the Conservation Area was therefore argued to be neutral at worst, with the only change of note stated

to be the material itself. It also argued that timber windows were more expensive than PVC, not draught proof, and achieved lower thermal performance. Furthermore, it stated that the rear parking court was private, there were no objections from local residents and the one objection received was argued to be based on a general dislike of PVC rather than detailed knowledge of the area.

No consultations had been carried out on the application by the Case Officer. One representation had been received from the Architectural Heritage Society of Scotland, which objected on the basis that the proposals would appear noticeably different to the existing windows, would contrast with the remaining windows on the first floor of the building, and would appear out of place in the Conservation Area.

The Chair advised that it was now for Members to decide if they had sufficient information to determine the application. After discussion, Members agreed unanimously that they had sufficient information to proceed with the application today.

Councillor Grant stated that he had had difficulty with this appeal for a number of reasons, particularly since he observed on the site visit that there were other houses in the vicinity with UPVC windows and newer houses nearby with UPVC windows. He had also noted that, at the rear of the site, the adjacent house had a UPVC conservatory. However, having carefully considered all the information provided, he would have to agree with the reasoning and decision of the Appointed Officer.

Councillor Day also sympathised with the applicant. As with the previous application, he understood his motivation to fit UPVC given the cost savings and performance benefits. The key question for him had been whether, under Policy DP8 of the 2008 Local Plan, the building contributed positively to the Conservation Area and whether or not a change in the window design would have an impact on the character of the area. He had concluded that, in this case, the use of UPVC would not have a harmful impact on the Conservation Area, given the number of new buildings around the applicant's property that already have UPVC windows. He would therefore vote to overturn the decision of the Appointed Officer and to grant this application.

Councillor McNeil considered that the use of UPVC as a material was the issue in this case. The Local Plan policy is clear on this matter and he could see no reason to depart from it. Accordingly, he would vote to uphold the original decision to refuse planning permission in this case.

Councillor Goodfellow considered that the proposed replacement windows to the front of the building would be harmful to the character and appearance of the building and would therefore vote to uphold the decision of the Appointed Officer. He would, however, have found the proposed use of UPVC to the rear of the building acceptable.

Members discussed the matter further and considered a number of options open to them including the possibility of a split decision.

### **Decision**

The ELLRB agreed by a majority of 3:1 to uphold the decision of the Appointed Officer for the reasons set out in the original Decision Notice, with the following amendment:

- The Strategic Development Plan for South East Scotland (SESplan) has replaced the Edinburgh and the Lothians Structure Plan.





**MINUTES OF THE MEETING OF THE  
LOCAL REVIEW BODY**

**THURSDAY 24 OCTOBER 2013  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

**2b**

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**Committee Members Present:**

Councillor T Day (Chair)  
Councillor J Gillies  
Councillor J McMillan  
Councillor P MacKenzie

**Advisers to the Local Review Body:**

Mr P McLean, Planning Adviser to the LRB  
Mrs M Ferguson, Legal Adviser/Clerk to the LRB

**Others Present:**

Mr Middlemass, (Item 1)  
Mr C Miles (Item 1)  
Mrs S Dodds (Item 2)

**Committee Clerk:**

Mrs F Stewart

**Declarations of Interest**

None

**Apologies**

None

Councillor Day, who had been elected to chair today's East Lothian Local Review Body (ELLRB) meeting, welcomed all present to the meeting. He then proceeded to introduce the LRB Members, Legal Adviser and Planning Adviser.

The Legal Adviser stated that the LRB would be considering two planning applications and briefly outlined the procedure for today's meeting. She advised that Members had received written papers, including a submission from the Case Officer and review documents from the applicant, and had carried out a site visit for both applications. After hearing a statement from the Planning Adviser summarising the planning policy issues for each of the applications, Members would decide if they had sufficient information to reach a decision on each application today. If they did not, the matter would be adjourned for further written representations or for a hearing session. Should Members decide they had sufficient information before them, the matter would be discussed and a decision reached on whether to uphold or overturn the decision of the Appointed Officer in respect of each application. If any applications were granted, Members had the right to attach Conditions to the consent. Decision Notices would be issued within 21 days.

**1. REVIEW AGAINST DECISION (REFUSAL) PLANNING APPLICATION No: 12/00278/P – ERECTION OF ONE WIND TURBINE AT ABBEY MAINS, HADDINGTON**

The Legal Adviser introduced the planning application and invited the Planning Adviser to present a summary of the planning policy issues relating to this application.

The Planning Adviser stated that the application site was in a countryside location around 1.5 miles to the east of Haddington and the application was for a single 50kW wind turbine of three-bladed horizontal axis design, 24.6m to the hub, with a blade radius of 9.6m, giving a total height to blade tip of 34.2m. He advised that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. He also pointed out to Members that there had been a change to the development plan since the delegated decision had been taken on this application; the Strategic Development Plan for South East Scotland (SESplan) had replaced the Edinburgh and the Lothians Structure Plan. He advised there were no SESplan policies of direct relevance to this proposal but briefly outlined policies 1B and 10, which were of some limited relevance.

The Planning Adviser advised that the broad policy context for development in the countryside was provided by Local Plan policy DC1 which seeks to restrict development in the countryside to protect its character, while allowing some limited forms of appropriate development. Local Plan policy on renewable energy development weighed the benefits of renewable energy generation against the impact on the local environment and features of interest and sought to protect valued landscape features. The key policy was NRG3, which requires proposals to be assessed in terms of landscape character, visual impact, noise, shadow flicker and cumulative impacts. A number of other development plan policies which were potentially relevant to the application were outlined. Other relevant documents included the Scottish Planning Policy, the Government's onshore wind turbines guidance and the Council's wind turbine planning guidance document.



The Planning Adviser stated that the Council's planning guidance document on lowland wind turbines provided detailed guidance on relevant planning policies and their implications, expanding on the provisions of the development plan. This revised document incorporates the findings of the 2011 Supplementary Landscape Capacity Study which identifies the site as being within the 'Agricultural Plain – sub area 1: East' landscape character area, where it advises there are very limited opportunities to accommodate typology C turbines, but these should be below 30m.

The Planning Adviser advised that the Appointed Officer had refused the application for two reasons, as set out in the Case Officer's assessment of the application. He had considered that the proposals were contrary to the recommendations of the Council's Supplementary Landscape Capacity Study and that the turbine would appear as a highly exposed and obtrusive skyline feature that would have a harmful landscape impact. The Case Officer considered this latter impact would be contrary to relevant local and national policies and planning guidance, and he did not consider the benefits of the turbine as a renewable source of energy would outweigh this impact. The applicant's agent had provided a statement to the review which argued that the turbine would not be detrimental to the area and maintained that its visual impact was reduced by the proposed siting behind the farm buildings.

In respect of Consultee comments, the Planning Adviser stated that no objections had been received from the Council's Environmental Protection Manager, Head of Transportation or Biodiversity Officer, or from the Civil Aviation Authority or National Air Traffic Services. The Council's Archaeology Officer recommended a planning condition. The Council's Landscape Officer had advised that the proposals did not comply with the Supplementary Landscape Capacity Study and that there might be impacts on the Garleton Hills Area of Great Landscape Value and views of the Hopetoun Monument, as well as cumulative visual impacts. No Landscape and Visual Impact Assessment had been submitted by the applicant.

Finally, the Planning Adviser stated that 28 objections were received to the original application. Members had had the opportunity of reading these and the points raised were also summarised in the Case Officer's report.

The Chair advised that it was now for Members to decide if they had sufficient information to determine the application. After discussion, Members agreed unanimously that they had sufficient information to proceed with the application today.

Councillor MacKenzie noted that the Council's Guidance document had identified the area as Agricultural Plain. On the evidence before him and having attended the site visit, he considered that the proposed wind turbine would, in this exposed area, appear intrusive. He therefore supported the Case Officer's findings and would vote to uphold the decision to refuse this application.

Councillor McMillan agreed with his colleague. His own main concern was the impact of the proposed wind turbine on the landscape, particularly in the views between the Garletons in the west and Traprain Law. Having also considered the Council's Guidance on wind turbines and the Landscape Officer's comments, he advised that he would vote to uphold the Case Officer's decision.

Councillor Gillies was similarly minded. He considered that the proposals were contrary to Scottish Government Guidelines and the Council's Guidance on wind turbines and therefore he too would be upholding the original decision.

The Chair, Councillor Day, stated that the Council had put considerable resources into preparing and publishing detailed guidance on the siting of wind turbines and this proposal was contrary to that guidance. In his view, a wind turbine 34m in height, in this location, would dominate the landscape and clearly have a detrimental impact. He therefore agreed that the application should be refused.

### **Decision**

The ELLRB unanimously upheld the decision of the Appointed Officer to refuse this application for the reasons set out in the original Decision Notice dated 24 May 2013.

## **2. REVIEW AGAINST DECISION (REFUSAL) PLANNING APPLICATION No: 13/00299/P – DELETION OF CONDITION 5 OF PLANNING PERMISSION 07/01161/FUL**

The Legal Adviser introduced the planning application and invited the Planning Adviser to present a summary of the planning issues relating to this application.

The Planning Adviser stated that the application seeks the deletion of a condition of a previous planning application. This condition restricts the use of the flat roof of a single storey extension to emergency use only and the current application seeks to delete this condition so that the balcony area can be used as an outdoor space for the nursery. No physical works were proposed in the application.

The Planning Adviser advised that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. There were no policies within the Strategic Development Plan of direct relevance to this application. In terms of the Local Plan, the site was within a predominantly residential area, designated under policy ENV1, and was also within the Haddington Conservation Area. The main policy consideration was impact on the amenity of neighbouring uses. Policy ENV1 states that residential character and amenity will be safeguarded from the adverse impacts of other uses and the full text of this policy was provided within the papers.

The Planning Adviser stated that the application was refused by the Appointed Officer on the basis that deletion of the relevant condition to allow use of the balcony by the nursery would generate noise that would be harmful to the amenity of neighbouring residential properties. The application was therefore considered contrary to Local Plan policy ENV1 and the reasoning for this decision was set out in full in the officer's report. The applicant's request for a review states that a sound-proof fence had recently been installed at considerable expense and the number of children using the nursery's outdoor space would not be increased; the only change would be that under 2s would use the balcony instead of being taken to the garden. A petition with 52 signatories was submitted with the request for review, in support of the request. One consultation had been carried out on the application by the Case Officer, with the Council's Environmental Protection Manager who had advised that the application had the potential to generate noise outwith the site that could adversely affect residential amenity. He further advised that the noise barrier that had been erected would not attenuate noise from the balcony.

Finally, the Planning Adviser advised that one objection was received to the original application from a neighbouring resident, raising issues of residential amenity and privacy and one letter of support was also received. In response to the Notice of Review, one further objection had been received, again objecting on the basis of noise nuisance. The applicant had responded to this objection, refuting the points made.

The Chair advised that it was now for Members to decide if they had sufficient information to determine the application. After discussion, Members agreed unanimously that they had sufficient information to proceed with the application today.

Councillor McMillan, after seeking clarification on a number of matters from the Planning Adviser, stated that he did not anticipate noise from children on the balcony was likely to reach unacceptable levels. However, out of respect to neighbours, he proposed that the time spent on the balcony could be limited by a means of a condition.

Councillor MacKenzie did not agree that use of the balcony might have an adverse effect on the amenity of the neighbouring residential properties, as stated in the Officer's report. In his view, a residential area should be able to sit alongside educational establishments; such arrangements existed throughout East Lothian and across Scotland. He had also observed on the site visit that the nursery was enclosed by a fence and screened by trees and bushes. He was therefore in favour of allowing the balcony to be used but was willing to discuss limits for use.

Councillor Gillies had no objection to children being allowed outside on the balcony and he too was willing to discuss limits on the time the balcony could be in use.

The Chair, Councillor Day, stated that he had found the site visit very helpful. He had sympathy with the objector, but, in his view, children on the balcony did not constitute a noise nuisance. He also considered that there was a need to balance residential amenity with the needs of the nursery.

Having established that all Members were in favour of the nursery having limited use of the balcony, the Chair considered proposals for hours of use and the LRB agreed to limit the use of the balcony to 90 minutes in the morning and 90 minutes in the afternoon by children under 2 years of age.

### **Decision**

The ELLRB unanimously agreed that the original decision to refuse planning permission for refusal of condition 5 of Planning Permission 07/01161/FUL should be overturned and that this condition should be removed and replaced with the following condition:

5. The doors to be installed in the flat roofed wall head dormer positioned on the east elevation roof slope of the western part of the extension hereby approved and the roof terrace, gate and staircase of the extension shall be used for emergency access/escape purposes and for the use of children under 2 years of age only for a maximum period of 90 minutes each morning that the nursery is open, from 10.00am to 11.30am, and for a maximum period of 90 minutes each afternoon that the nursery is open, between 2.00pm and 5.00pm.





**SCOTTISH**  
**FIRE AND RESCUE SERVICE**  
Working together for a safer Scotland

## **Report to East Lothian Council Performance Update 1 April – 30 September 2013**

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### **1. Purpose**

This report provides an update to Elected Members on the performance of the Scottish Fire and Rescue Service within East Lothian for the period 1 April to 30 September 2013.

**3**

### **2. Background**

2.1 Quarterly performance reporting of the Scottish Fire and Rescue Service takes place at the East Lothian, Safe and Vibrant Communities Meetings under the Community Planning Partnership arrangements. The reports are presented by the Local Senior Officer (LSO) and the local East Lothian Group Manager.

2.2 There is currently, a local fire and rescue service plan in place for East Lothian covering the Period 2013/14. The current local plan includes the following headline priorities.

- Objective 1: To reduce the occurrence of accidental fires in the home resulting in deaths and injury;
- Objective 2: To reduce the occurrence of road traffic collisions and the resulting in death and injury;
- Objective 3: To reduce the occurrence of special service incidents and resulting death and injury;
- Objective 4: To reduce the occurrence of other primary fires and resulting death and injury;
- Objective 5: To reduce the occurrence of unwanted fire signals and the associated disruption;
- Objective 6: To reduce the occurrence of deliberate secondary fires and associated anti-social behaviour.

The specific performance indicators contained within the headline priorities are reported on in the attached report for the first six months of 2013/14.

### **3. Recommendations**

Members are invited to comment or otherwise note the update.

### **4. Look forward**

4.1 The local East Lothian fire and rescue service plan for 2014/17 has been drafted and will be out for consultation from December 2013 until February 2014. This will set out the Scottish Fire and Rescue Service priorities for the East Lothian Area.

**Peter Heath**

**Local Senior Officer, East Lothian, Midlothian and Scottish Borders**





**SCOTTISH**  
**FIRE AND RESCUE SERVICE**

Working together for a safer Scotland

## Local Authority - East Lothian

Reporting Period - 1st April to 30th September 2013

Population (based on GROS mid-year estimates 2011) = 98170
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Dwellings (based on GROS mid-year estimates 2011) = 45138
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Land mass = 70094 Hectares
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GROS - General Register Office for Scotland



ID	Key Performance Indicator (KPI)	Pg	Target	Q2	
				Perf.%(+/-)	% Targets
2bi	All accidental dwelling fires	3	DWELLING	29%	-10%
1bi	All deliberate dwelling fires	4	AVE.	-100%	
3ai	All fatal fire casualties	5	CASUALTY		-5%
3aii	Non-fatal fire casualties (excl. precautionary checkups)	6	CASUALTY	-100%	-5%
3aiii	Non-fatal fire casualties (incl. precautionary checkups)	7	AVE.	-100%	
5a	Special Service - RTCs	8	AVE.	118%	
5c	Special Service - Extrication	9	AVE.	67%	
5b	Special Service - Flooding	10	AVE.	-77%	
5d	Special Service - Others	11	AVE.	63%	
2b	All accidental primary fires	12	AVE.	-10%	
1b	All deliberate primary fires	13	AVE.	-37%	
10d	False Alarm - Equipment failure	14	AVE.	18%	
10c	False Alarm - Malicious	15	AVE.	-50%	
10b	False Alarm - Good Intent	16	AVE.	5%	
1c	All deliberate secondary fires	17	AVE.	76%	

### Commentary

The above table summarises the key performance indicators that are reported to the Safe and Vibrant communities meeting on a quarterly basis. This report provides statistics for the first six months of 2013/14, the period 1 April to 30 September 2013.

They are rolled up into the following headline priorities.

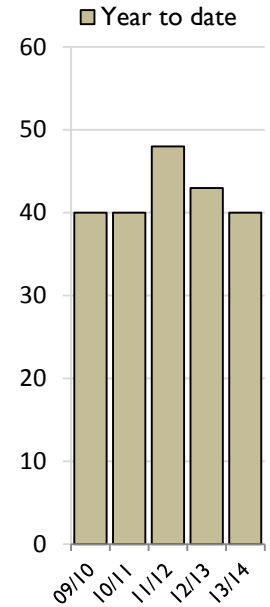
- Accidental Dwelling Fires
- Fire Fatalities
- Fire Casualties
- Road Traffic Collisions
- Other Special Services
- Other Primary Fires
- Deliberate Secondary Fires
- Unwanted Fire Signals

Where a target is shown this reflects a Scottish government set target.



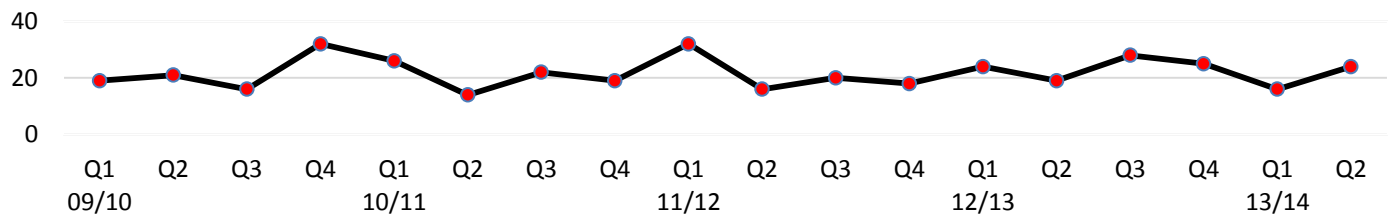
## All accidental dwelling fires

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	10	12	8	8	6
May	4	9	14	10	7
June	5	5	10	6	3
July	7	6	5	5	11
August	8	6	3	6	8
September	6	2	8	8	5
October	5	2	6	13	0
November	4	9	5	6	0
December	7	11	9	9	0
January	11	6	9	11	0
February	8	10	3	6	0
March	13	3	6	8	0
<b>Fiscal Yr</b>	<b>88</b>	<b>81</b>	<b>86</b>	<b>96</b>	<b>40</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	40	40	48	43	40

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	19	26	32	24	16
Quarter 2	21	14	16	19	24
Quarter 3	16	22	20	28	0
Quarter 4	32	19	18	25	0



### Commentary

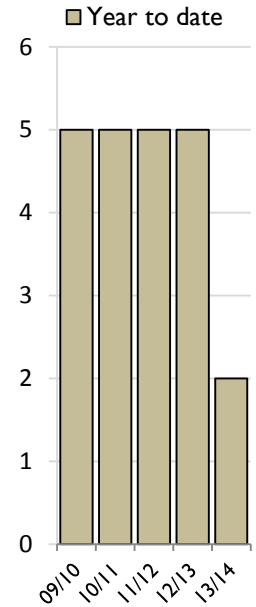
Each dwelling fire represents a tragedy for the individuals concerned, however within East Lothian the number of occurrences of accidental fires in the home is relatively low.

The number has remained stubbornly consistent for the previous years and hence this will continue to be a priority for our local plans moving forward.

We are engaging with local authority partners to work towards better data sharing to enable us to target resources to the most at risk or vulnerable to activity reduce the number of accidental fires in the home.

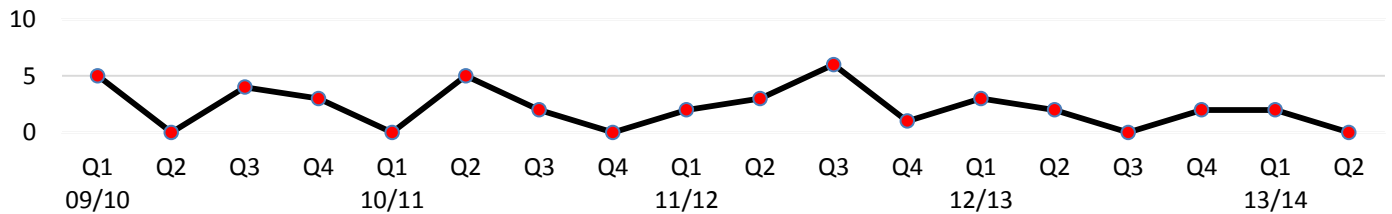
## All deliberate dwelling fires

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	2	0	1	1	0
May	1	0	1	0	2
June	2	0	0	2	0
July	0	2	1	1	0
August	0	3	2	0	0
September	0	0	0	1	0
October	3	0	1	0	0
November	1	1	3	0	0
December	0	1	2	0	0
January	2	0	0	2	0
February	1	0	0	0	0
March	0	0	1	0	0
<b>Fiscal Yr</b>	<b>12</b>	<b>7</b>	<b>12</b>	<b>7</b>	<b>2</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	5	5	5	5	2

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	5	0	2	3	2
Quarter 2	0	5	3	2	0
Quarter 3	4	2	6	0	0
Quarter 4	3	0	1	2	0

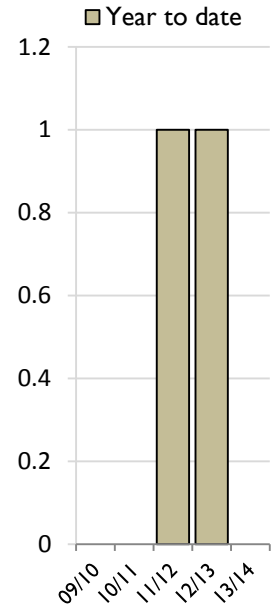


### Commentary

Deliberately set fires in the home are fortunately low across East Lothian . As part of the ongoing work on home safety we will continue to focus attention on fires in the home and the causes. We are and will work with Community planning partners to improve this outcome.

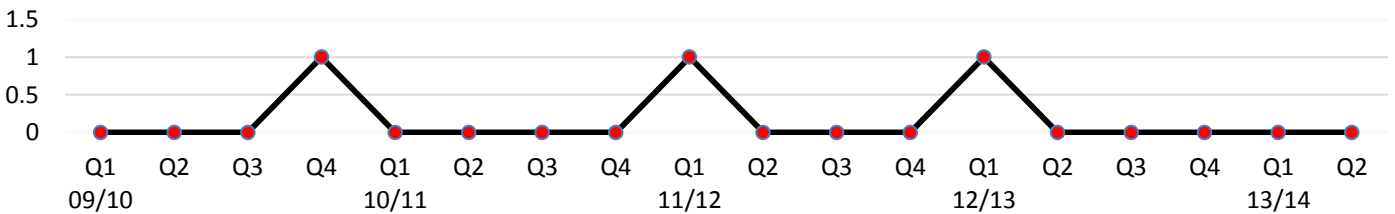
## All fatal fire casualties

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	0	0	0	0	0
May	0	0	1	0	0
June	0	0	0	1	0
July	0	0	0	0	0
August	0	0	0	0	0
September	0	0	0	0	0
October	0	0	0	0	0
November	0	0	0	0	0
December	0	0	0	0	0
January	1	0	0	0	0
February	0	0	0	0	0
March	0	0	0	0	0
<b>Fiscal Yr</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	0	0	1	1	0

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	0	0	1	1	0
Quarter 2	0	0	0	0	0
Quarter 3	0	0	0	0	0
Quarter 4	1	0	0	0	0



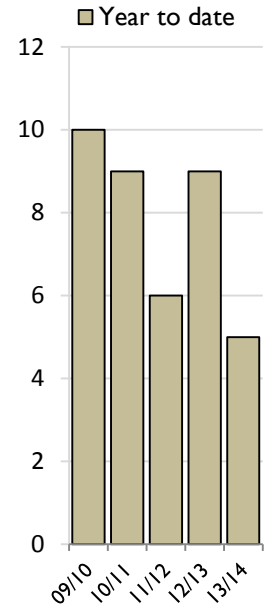
### Commentary

There were no fire fatalities during the first six months of the year in East Lothian. Although the number of dwelling fires has remained stubbornly consistent it is pleasing that the number of fatalities and casualties has been going down.

It is with sadness that I advise that in the previous few weeks (Quarter 3) a person has died in a house in East Lothian where there was a fire. This remains under investigation at this time.

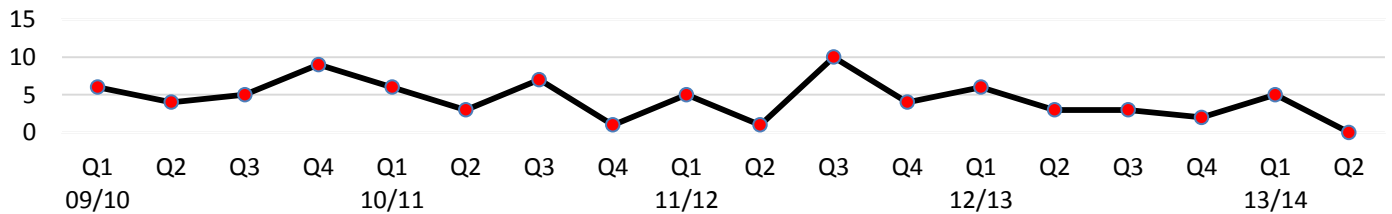
## Non-fatal fire casualties (excl. precautionary checkups)

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	1	2	1	2	3
May	4	0	1	1	2
June	1	4	3	3	0
July	3	0	0	1	0
August	1	0	1	0	0
September	0	3	0	2	0
October	0	0	4	2	0
November	2	2	3	1	0
December	3	5	3	0	0
January	3	1	3	1	0
February	1	0	1	1	0
March	5	0	0	0	0
<b>Fiscal Yr</b>	<b>24</b>	<b>17</b>	<b>20</b>	<b>14</b>	<b>5</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	10	9	6	9	5

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	6	6	5	6	5
Quarter 2	4	3	1	3	0
Quarter 3	5	7	10	3	0
Quarter 4	9	1	4	2	0

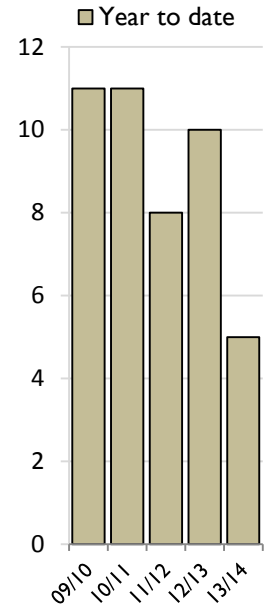


### Commentary

The number of casualties has been reducing over recent years even although the number of fires in the home has remained stable. This may be indicative of house occupiers getting an earlier alert to a potential fire through their smoke alarms resulting in less damage to people and property.

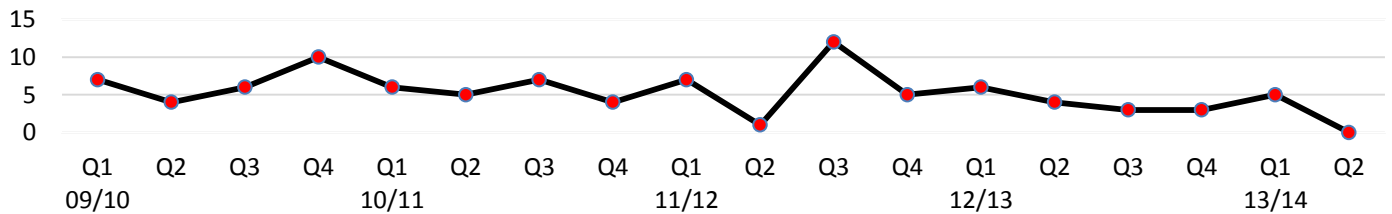
## Non-fatal fire casualties (incl. precautionary checkups)

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	1	2	3	2	3
May	5	0	1	1	2
June	1	4	3	3	0
July	3	1	0	1	0
August	1	1	1	0	0
September	0	3	0	3	0
October	0	0	4	2	0
November	2	2	4	1	0
December	4	5	4	0	0
January	3	1	4	2	0
February	1	3	1	1	0
March	6	0	0	0	0
<b>Fiscal Yr</b>	<b>27</b>	<b>22</b>	<b>25</b>	<b>16</b>	<b>5</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	<b>11</b>	<b>11</b>	<b>8</b>	<b>10</b>	<b>5</b>

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	7	6	7	6	5
Quarter 2	4	5	1	4	0
Quarter 3	6	7	12	3	0
Quarter 4	10	4	5	3	0

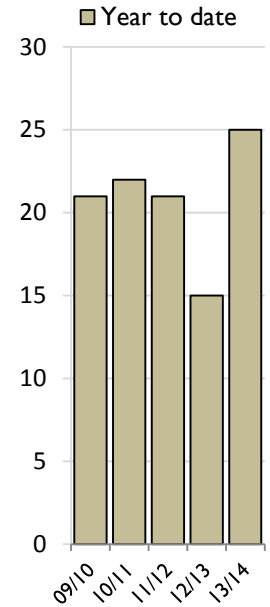


### Commentary

The number of casualties has been reducing over recent years even although the number of fires in the home has remained stable. This may be indicative of house occupiers getting an earlier alert to a potential fire through their smoke alarms resulting in less damage to people and property.

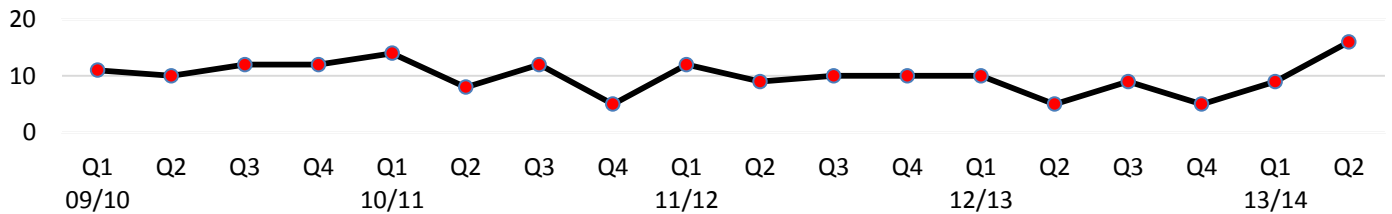
## Special Service - RTCs

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	4	2	6	2	3
May	5	5	3	5	3
June	2	7	3	3	3
July	5	3	2	1	8
August	4	4	4	2	4
September	1	1	3	2	4
October	4	5	4	1	0
November	2	4	2	6	0
December	6	3	4	2	0
January	3	2	6	1	0
February	3	2	1	2	0
March	6	1	3	2	0
<b>Fiscal Yr</b>	<b>45</b>	<b>39</b>	<b>41</b>	<b>29</b>	<b>25</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	21	22	21	15	25

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	11	14	12	10	9
Quarter 2	10	8	9	5	16
Quarter 3	12	12	10	9	0
Quarter 4	12	5	10	5	0



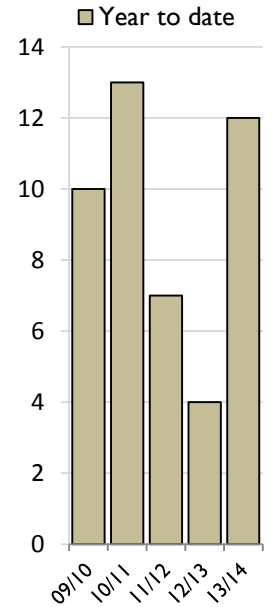
### Commentary

This outcome only reports on those road traffic collisions that the Fire and Rescue Services is called out to and does not represent the total number that occur across the area. Road traffic collisions is an issue we will continue to focus on along with our community planning partners to work to make our roads safer. Our young drivers initiatives and focus on young drivers will continue. For this reason, road traffic collisions will be a specific priority in our local plan moving forward.

It is with sadness that at the beginning of Quarter 3 a terrible tragedy occurred in which a number of young people from East Lothian were killed.

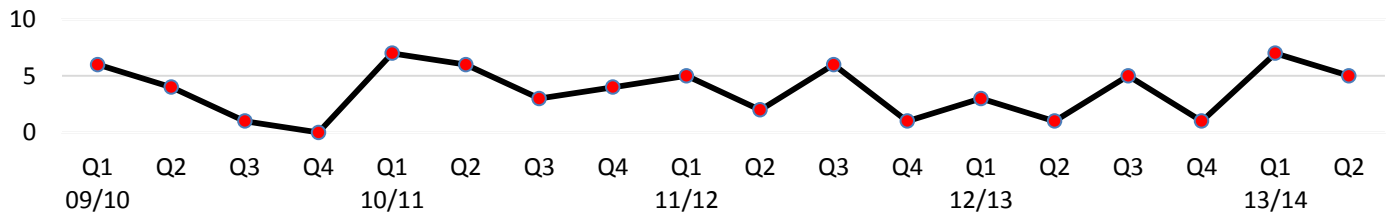
# Special Service - Extrication

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	2	3	2	2	1
May	3	1	2	0	3
June	1	3	1	1	3
July	1	2	0	0	2
August	2	3	0	1	2
September	1	1	2	0	1
October	0	2	2	1	0
November	0	1	0	3	0
December	1	0	4	1	0
January	0	2	0	1	0
February	0	2	0	0	0
March	0	0	1	0	0
<b>Fiscal Yr</b>	<b>11</b>	<b>20</b>	<b>14</b>	<b>10</b>	<b>12</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	10	13	7	4	12

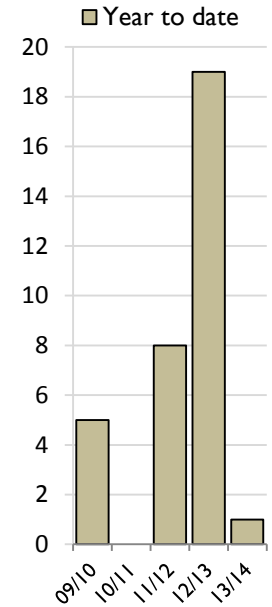
Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	6	7	5	3	7
Quarter 2	4	6	2	1	5
Quarter 3	1	3	6	5	0
Quarter 4	0	4	1	1	0



## Commentary

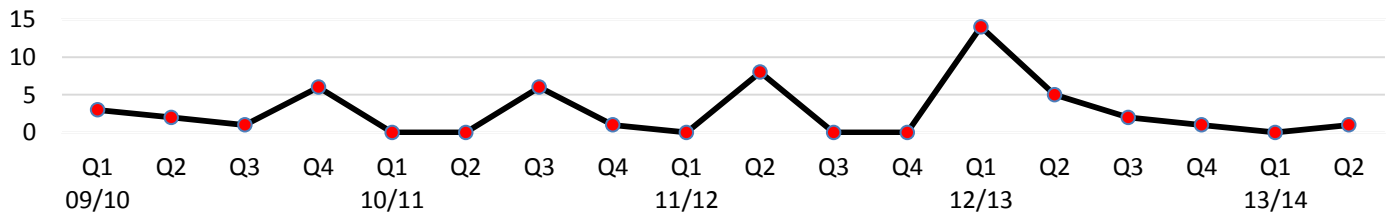
## Special Service - Flooding

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	0	0	0	1	0
May	0	0	0	1	0
June	3	0	0	12	0
July	0	0	0	3	1
August	0	0	8	1	0
September	2	0	0	1	0
October	0	1	0	0	0
November	1	0	0	1	0
December	0	5	0	1	0
January	0	1	0	1	0
February	0	0	0	0	0
March	6	0	0	0	0
<b>Fiscal Yr</b>	<b>12</b>	<b>7</b>	<b>8</b>	<b>22</b>	<b>1</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	<b>5</b>	<b>0</b>	<b>8</b>	<b>19</b>	<b>1</b>

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	3	0	0	14	0
Quarter 2	2	0	8	5	1
Quarter 3	1	6	0	2	0
Quarter 4	6	1	0	1	0



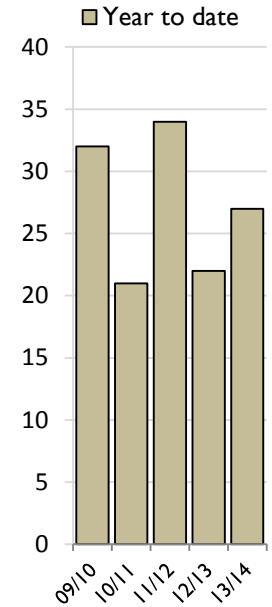
### Commentary

The instances of flooding across East Lothian have, to date this year been very infrequent. This may be partly attributable to the very dry summer. During 2012/13 East Lothian, like many other areas experienced a higher than normal number of flooding events due in part to the very wet year.



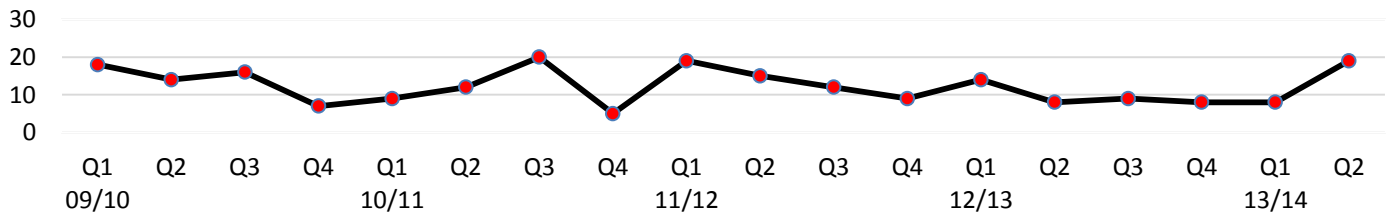
## Special Service - Others

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	7	5	7	1	1
May	4	4	8	9	3
June	7	0	4	4	4
July	5	3	4	0	10
August	4	5	6	5	5
September	5	4	5	3	4
October	4	5	4	3	0
November	8	8	4	1	0
December	4	7	4	5	0
January	2	4	5	1	0
February	5	1	1	5	0
March	0	0	3	2	0
<b>Fiscal Yr</b>	<b>55</b>	<b>46</b>	<b>55</b>	<b>39</b>	<b>27</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	32	21	34	22	27

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	18	9	19	14	8
Quarter 2	14	12	15	8	19
Quarter 3	16	20	12	9	0
Quarter 4	7	5	9	8	0

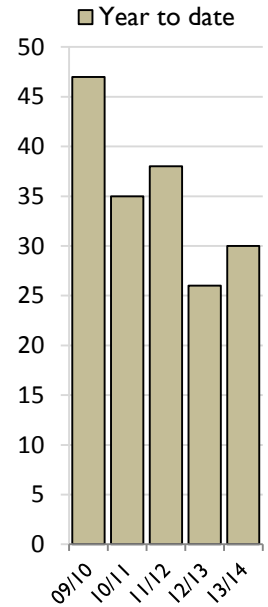


### Commentary

These incidents included releasing trapped people from machinery, effecting entry to people in distress trapped in property, rescue of people trapped at height, medical response as co responder, trapped animals and incidents involving hazardous materials.

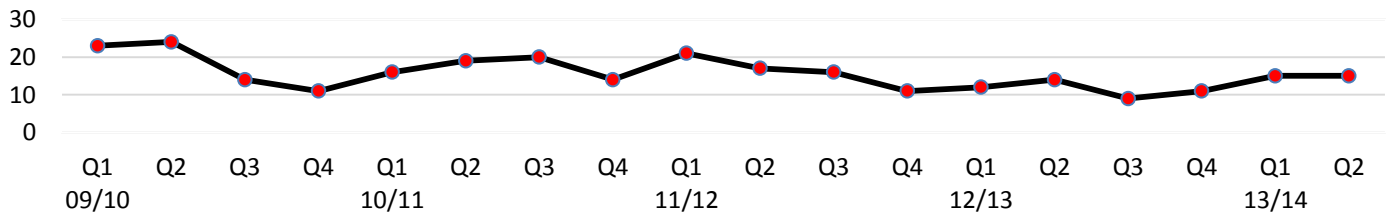
## All accidental primary fires (excluding dwelling fires)

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	10	7	7	5	6
May	4	3	7	2	2
June	9	6	7	5	7
July	8	4	4	3	5
August	7	6	5	5	5
September	9	9	8	6	5
October	7	7	5	4	0
November	4	5	3	3	0
December	3	8	8	2	0
January	0	0	4	4	0
February	5	1	5	4	0
March	6	13	2	3	0
<b>Fiscal Yr</b>	<b>72</b>	<b>69</b>	<b>65</b>	<b>46</b>	<b>30</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	<b>47</b>	<b>35</b>	<b>38</b>	<b>26</b>	<b>30</b>

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	23	16	21	12	15
Quarter 2	24	19	17	14	15
Quarter 3	14	20	16	9	0
Quarter 4	11	14	11	11	0

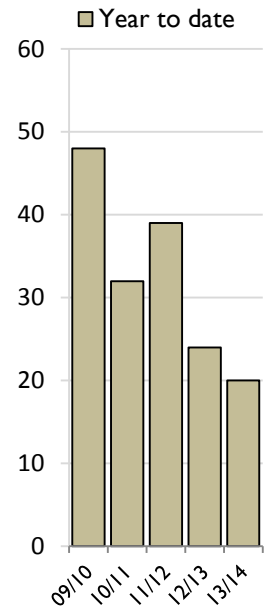


### Commentary

These are fires in Buildings, Caravans, Vehicles, Outdoor storage, Agricultural premises or post boxes, amongst other property types, or any fire involving casualties, rescues, or fires attended by five or more appliances. Excludes accidental dwelling fires.

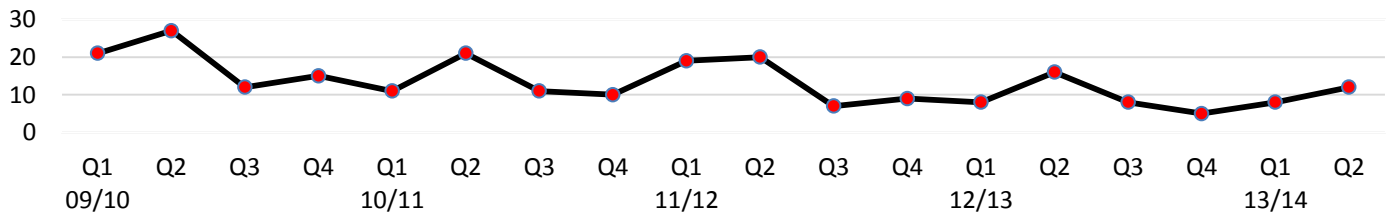
## All deliberate primary fires (excluding dwelling fires)

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	7	3	4	4	2
May	5	4	10	1	4
June	9	4	5	3	2
July	7	7	7	7	1
August	6	4	2	4	5
September	14	10	11	5	6
October	9	6	4	1	0
November	2	1	3	2	0
December	1	4	0	5	0
January	7	3	5	2	0
February	6	2	0	1	0
March	2	5	4	2	0
<b>Fiscal Yr</b>	<b>75</b>	<b>53</b>	<b>55</b>	<b>37</b>	<b>20</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	<b>48</b>	<b>32</b>	<b>39</b>	<b>24</b>	<b>20</b>

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	21	11	19	8	8
Quarter 2	27	21	20	16	12
Quarter 3	12	11	7	8	0
Quarter 4	15	10	9	5	0



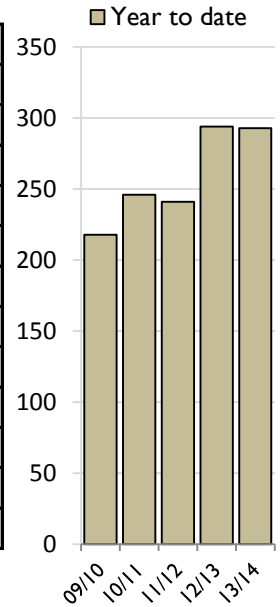
### Commentary

These are fires in Buildings, Caravans, Vehicles, Outdoor storage, Agricultural premises or post boxes, amongst other property types, or any fire involving casualties, rescues, or fires attended by five or more appliances. Excludes deliberate dwelling fires.

Fires within this category can be, on occasion associated with anti-social behaviour. We will continue to work with community planning partners to reduce instances of these fires through local community safety teams.

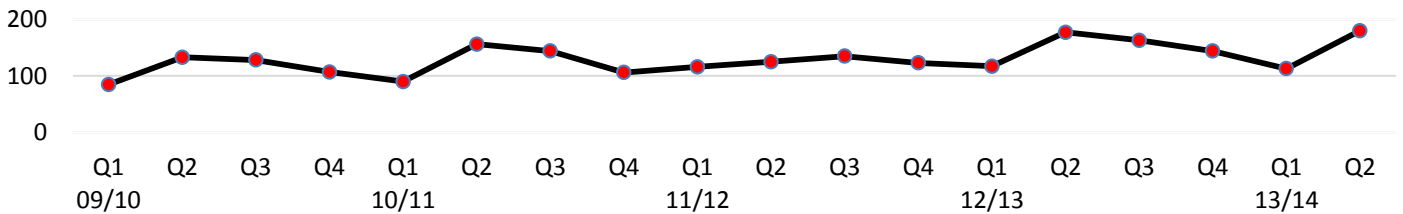
## False Alarm - Equipment failure

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	24	41	44	33	49
May	29	30	30	41	32
June	32	19	42	43	32
July	44	60	31	56	74
August	50	50	54	68	48
September	39	46	40	53	58
October	60	46	53	52	0
November	38	54	37	53	0
December	30	44	45	58	0
January	23	29	51	43	0
February	43	35	37	43	0
March	41	42	35	58	0
<b>Fiscal Yr</b>	<b>453</b>	<b>496</b>	<b>499</b>	<b>601</b>	<b>293</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	<b>218</b>	<b>246</b>	<b>241</b>	<b>294</b>	<b>293</b>

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	85	90	116	117	113
Quarter 2	133	156	125	177	180
Quarter 3	128	144	135	163	0
Quarter 4	107	106	123	144	0



### Commentary

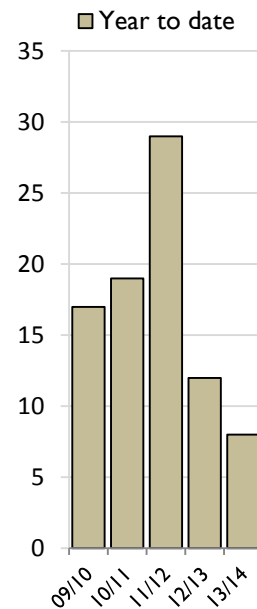
These are instances where the Fire & Rescue Service attends a location believing there to be a fire incident, but on arrival discovers that no such incident exists, or existed. These incidents remain stubbornly high and account for a significant amount of operational response time.

A specific initiative has been established in the last few weeks to actively follow up on repeat calls to a premise with a view to reducing and eliminating unwanted calls.

Our fire safety enforcement officers play a key role in supporting local business and where necessary enforcing the legislation relating to fire in business, public or commercial premises.

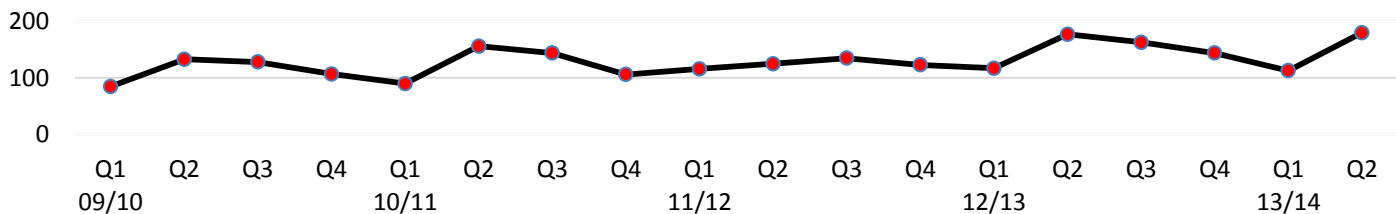
## False Alarm - Malicious

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	4	5	6	3	1
May	6	5	15	4	2
June	0	2	2	0	2
July	3	1	1	1	0
August	1	2	2	1	0
September	3	4	3	3	3
October	5	4	3	5	0
November	1	4	2	1	0
December	2	0	0	0	0
January	5	0	1	3	0
February	2	0	3	3	0
March	5	2	0	4	0
<b>Fiscal Yr</b>	<b>37</b>	<b>29</b>	<b>38</b>	<b>28</b>	<b>8</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	17	19	29	12	8

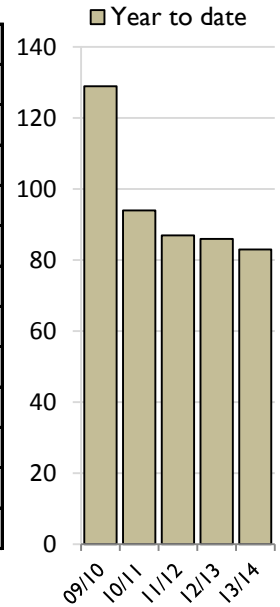
Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	10	12	23	7	5
Quarter 2	7	7	6	5	3
Quarter 3	8	8	5	6	0
Quarter 4	12	2	4	10	0



### Commentary

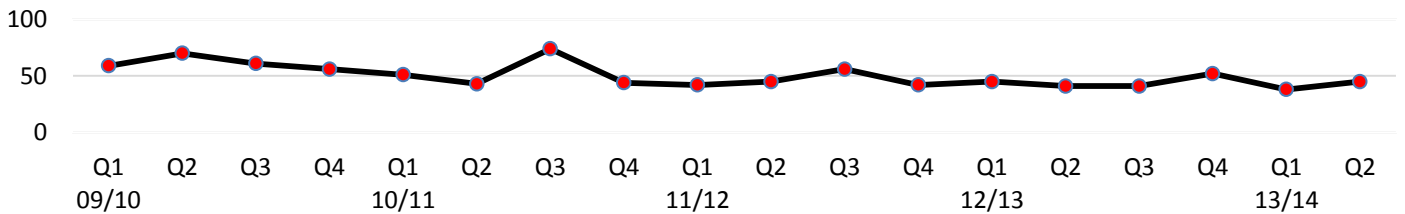
## False Alarm - Good Intent

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	23	17	16	15	11
May	10	22	12	20	10
June	26	12	14	10	17
July	20	18	22	9	20
August	33	13	10	17	17
September	17	12	13	15	8
October	21	28	19	11	0
November	20	20	19	16	0
December	20	26	18	14	0
January	19	17	14	11	0
February	17	16	15	15	0
March	20	11	13	26	0
<b>Fiscal Yr</b>	<b>246</b>	<b>212</b>	<b>185</b>	<b>179</b>	<b>83</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	129	94	87	86	83

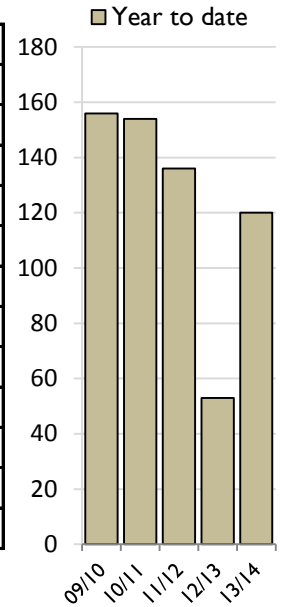
Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	59	51	42	45	38
Quarter 2	70	43	45	41	45
Quarter 3	61	74	56	41	0
Quarter 4	56	44	42	52	0



### Commentary

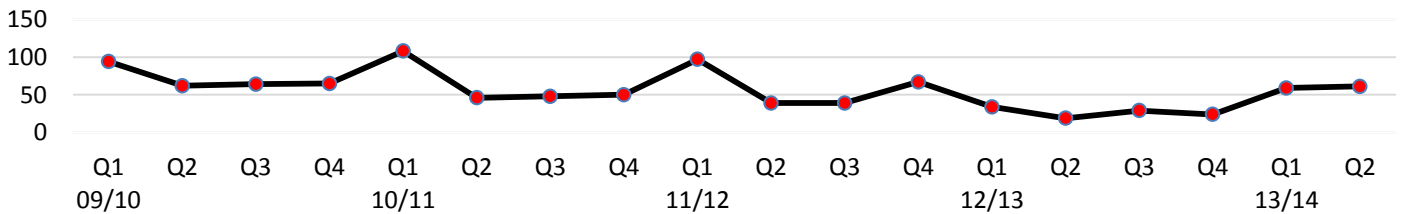
## All deliberate secondary fires

Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
April	41	57	46	19	31
May	23	27	28	11	17
June	30	24	23	4	11
July	18	8	13	6	26
August	16	17	11	6	17
September	28	21	15	7	18
October	39	28	9	14	0
November	19	14	24	10	0
December	6	6	6	5	0
January	9	12	22	2	0
February	8	10	17	4	0
March	48	28	28	18	0
<b>Fiscal Yr</b>	<b>285</b>	<b>252</b>	<b>242</b>	<b>106</b>	<b>120</b>



Month/Year	2009/10	2010/11	2011/12	2012/13	2013/14
<b>Year to date</b>	<b>156</b>	<b>154</b>	<b>136</b>	<b>53</b>	<b>120</b>

Qtr/Year	2009/10	2010/11	2011/12	2012/13	2013/14
Quarter 1	94	108	97	34	59
Quarter 2	62	46	39	19	61
Quarter 3	64	48	39	29	0
Quarter 4	65	50	67	24	0



### Commentary

Definition: Fires that were not in primary fire locations, not chimney fires and did not involve casualties or rescues and where the cause/motive was determined to be deliberate.

Although there is a general decline in these types of events, we will continue to focus on this area as it is often associated with anti-social behaviour. Last year's very low number of events may be in part due to very wet weather.





**REPORT TO:** East Lothian Council

**MEETING DATE:** 17 December 2013

**BY:** Chief Executive

**SUBJECT:** Scottish Parliament Justice Sub-Committee on Policing:  
Call for Evidence on Police Reform

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**4**

## **1 PURPOSE**

- 1.1 To formulate a response to a call for written evidence from the Scottish Parliament Justice Sub-Committee on Policing, on the Impact of Police Reform on Local Policing.

## **2 RECOMMENDATIONS**

- 2.1 That Council approves the attached draft response for submission.

## **3 BACKGROUND**

- 3.1 The Justice Sub-Committee made its call for evidence on 4 November. Its original deadline was 29 November but this has been extended to 10 January, which gives the Council the opportunity to consider and discuss the draft response which otherwise would have been submitted as an officer response.

## **4 POLICY IMPLICATIONS**

- 4.1 During its meeting on 22 October 2013, Council discussed Police Scotland proposals to change the opening hours of public counters and to withdraw traffic wardens. The attached draft draws on the terms of the recommendations agreed by Council at that time. It also takes into account comments from Criminal Justice Social work colleagues. Taken all together, the suggestion is that Police Scotland's engagement in partnership working is not yet all that the Council might desire.

- 4.2 Council will note the suggestion that an increase in arrests in the Lothians has been associated with recent apparent delays in the court system, which calls further into question the Scottish Government's decision to close Haddington Sheriff Court in January 2015.

## **5 EQUALITIES IMPACT ASSESSMENT**

- 5.1 This report has no impact on the wellbeing of equalities groups.

## **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – none arising from this report.  
6.2 Personnel - none arising from this report.  
6.3 Other – none arising from this report.

## **7 BACKGROUND PAPERS**

- 7.1 [http://www.eastlothian.gov.uk/download/meetings/id/14894/14\\_police\\_public\\_counter\\_service\\_and\\_traffic\\_warden\\_review](http://www.eastlothian.gov.uk/download/meetings/id/14894/14_police_public_counter_service_and_traffic_warden_review) (paper discussed at Council on 22 Oct 2013).  
7.2 <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/69420.aspx> (Call for evidence).

<b>AUTHOR'S NAME</b>	Christine Dora
<b>DESIGNATION</b>	Executive Assistant
<b>CONTACT INFO</b>	Ext 7104
<b>DATE</b>	6 December 2013

Date:

**By email:**

Scottish Parliament Justice Sub-Committee on Policing  
Scottish Parliament  
EDINBURGH  
EH99 1SP

Dear Sub Committee members

**IMPACT OF POLICE REFORM**

1. I am writing on behalf of East Lothian Council in response to the Justice Sub-Committee on Policing's Call for Written Evidence on the Impact of Police Reform. This response has been agreed by the Council at its meeting on 17 December 2013.
2. East Lothian Council recognises the financial background to police reform. We have welcomed the commitment and engagement of local police colleagues and the creation of a Local Policing Plan.
3. However, there have been several instances where, in the Council's view, activity in practice has fallen short of reasonable aspirations to work in partnership.

**Consultation and working together**

4. Police Scotland recently announced proposed changes to the opening hours of police public counters in East Lothian. It also announced a withdrawal of traffic warden services in such a short timescale as to leave no realistic opportunity for the Council to introduce suitable alternative arrangements. In both these instances, Police Scotland has caused the Council and local communities concern over:
  - a lack of consultation;
  - a lack of sharing of information about how their proposals were arrived at; and
  - the fact that these changes were proposed without reference to the Local Policing Plan.
5. I attach a link to the report that was considered by Council on this subject in October 2013, and the recommendations of which were approved. That report forms part of the Council's evidence:

[http://www.eastlothian.gov.uk/download/meetings/id/14894/14\\_police\\_public\\_counter\\_service\\_and\\_traffic\\_warden\\_review](http://www.eastlothian.gov.uk/download/meetings/id/14894/14_police_public_counter_service_and_traffic_warden_review)

6. It also appears that there has been a subsequent rethink on public counter opening times in other areas, for example in West Lothian. There does not seem to be any real transparency over the basis on which these decisions have been taken.

### **Centralisation**

7. The reviews of the public counter service and traffic warden provision have highlighted and added to growing concerns that the creation of the national police service has led to centralisation of police service priorities and policies.
8. This centralising direction necessitates changes at local level which have consequences for local communities. Council officers value their positive relationship with the local commander, but would argue that some decisions made at central level have taken insufficient account of local matters.
9. There is also concern at a possible trend to divert resources away from preventative and early intervention work. For example, the withdrawal of the road safety (education) officer from East Lothian schools, and the possible reduction in support for the Risk Factory, will significantly reduce the work being done to educate and inform children and young people about safety. This goes against the national policy direction which has been embedded within the East Lothian Single Outcome Agreement to develop a prevention and early intervention model of public service.

### **Criminal Justice**

10. Criminal Justice social work colleagues feel that altered policing priorities are having perhaps unintended consequences for other agencies involved, in respect of the management of offenders and alleged offenders. Evidence suggests that there has been a recent increase in summary criminal business in courts in Livingston and in Edinburgh. According to evidence presented by the Scottish Court Service in October to the Strategic Officers Group, on which East Lothian Council is represented:
  - 10.1. for Edinburgh's Justice of the Peace Court, in the three months ending August 2013 compared to the same period the previous year:
    - there had been an increase of around 50% in summary complaints registered;
    - summary complaints outstanding had increased by 139%;
    - the time taken to bring a case to court (waiting period and trial diet) had increased by 17 weeks;
  - 10.2. in Edinburgh Sheriff Court for the same period:
    - there had been an increase of around 42% in summary complaints registered;
    - summary complaints outstanding had risen by around 49%;
    - time taken to bring a case to court had increased by 2 weeks.
11. This suggests that the system is becoming overburdened (i.e. more cases coming to court and longer waiting times for matters to be heard in court)

which in turn arguably reduces the opportunity to make positive inroads into people's behaviour and attitudes.

12. Working closely with the Police is central to addressing offending behaviour. We would emphasise the need to tackle issues in a shared approach.
13. Edinburgh is due to become the receiving court for East Lothian business when Haddington Sheriff Court closes in January 2015. East Lothian Council presented evidence to the Justice Committee that an adequate business case had not been made for closure of Haddington Sheriff Court, and that little regard had been taken of the likely impact on local communities. To hear of current increases in summary criminal business in Edinburgh raises further concerns in that regard.

### **Resourcing**

14. The Council has for a number of years provided resources to support local Police Initiative Teams, via a Service Level Agreement - in effect, purchasing extra policing cover. The Council currently provides around £0.5m each year for this purpose. The Service Level Agreement is due to be reviewed.

### **Conclusion**

15. As mentioned above, the Council recognises the financial background to police reform and to some of the decisions of Police Scotland. However this arguably makes it all the more important that changes to priorities and procedures should be considered as part of the development of the Local Policing Plan, so that relevant parties can be consulted and the impact on communities taken into account.
16. The Council appreciates that this is the first year of the new arrangements and acknowledges that time is needed to let new processes settle. The Council looks forward to a continuing good relationship with Police Scotland.
17. Thank you for the opportunity to contribute to your thinking on policing in Scotland.

Yours sincerely

**ANGELA LEITCH**  
Chief Executive



**REPORT TO:** East Lothian Council  
**MEETING DATE:** 17 December 2013  
**BY:** Chief Executive  
**SUBJECT:** Response to the Commission on Strengthening Local  
Democracy

---

**5**

## **1 PURPOSE**

- 1.1 To seek Council approval for the response to the Commission on Strengthening Local Democracy.

## **2 RECOMMENDATIONS**

- 2.1 It is recommended that Council approves the response to the Commission of Strengthening Local Democracy (Appendix 1).

## **3 BACKGROUND**

- 3.1 The Convention of Scottish Local Authorities (COSLA) has established an independent Commission on Strengthening Local Democracy “*to identify a route map to deliver the full benefits of a shift in power towards local democracy for people in Scotland.*”

- 3.2 The Commission aims to address three objectives

- Investigate a local approach to services and accountability that will improve outcomes in Scotland’s communities
- Consider the current landscape of democracy in Scotland and how this could be strengthened and enriched to benefit local people most
- Make recommendations that set a course for putting stronger local democracy at the heart of Scotland’s constitutional future.

- 3.3 The first phase of the work being carried out by the Commission involves seeking views on some key issues. The Commission issued an invitation to submit evidence. The original deadline for responses was 29<sup>th</sup> November but this has been extended to 20<sup>th</sup> December.

- 3.4 Officials have prepared a draft response from the Council (Appendix 1) which sets out a strong case for Local Government based on the key role that councils have in bringing government closer to people and putting place at the centre of policy making. The response highlights the tendency for central government to favour centralisation rather than decentralisation as evidenced by the range of services that have been taken out of local government control over the last two decades and the loss of fiscal autonomy. It argues for the principle of subsidiarity to be put into practice and also make the case for a fundamental review of the governance of all public services in Scotland.

#### **4 POLICY IMPLICATIONS**

- 4.1 The Council's response will contribute to the Commission on Strengthening Local Democracy deliberations on the future of local democracy in Scotland.

#### **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 – none.  
 6.2 Personnel – none.  
 6.3 Other – none.

#### **7 BACKGROUND PAPERS**

- 7.1 Appendix 1: Response to the Commission on Strengthening Local Democracy  
 7.2 Commission on Strengthening Local Democracy call for evidence and other background information: <http://www.localdemocracy.info/>

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<b>DATE</b>	5 <sup>th</sup> December 2013



## **Appendix 1: Response to the Commission on Strengthening Local Democracy consultation**

### **General Statement**

This response is based on the fact that Local Democracy as delivered through Local Government has served Scotland very well over the last 150 years.

The value of local democracy stems from the fact that it provides for the dispersal of power and brings the reality of government closer to the people. The term 'local government' is used rather than local administration for a number of positive reasons:

- The members of a local authority are democratically elected and are accountable to their electorate, not to central government
- Local government has tax raising powers; powers which are shared only with central government
- Councils are responsible for the provision of a wide range of services which are delivered in ways which meet the needs of the locality
- Councillors are seen to be leaders in their communities.

Local Government has been at the centre of delivering the services that have provided significant improvements in the quality of life of our citizens since the Victorian era including free universal education, removal of slums from our cities and creation of public social housing, water and sewerage facilities and vast improvements in public health, libraries, public parks, museums, social services for the elderly and most vulnerable in society and police and fire and rescue services. Local Government has been instrumental in protecting communities against the worst excesses of economic downturns including the Great Depression of the 1930's and the current recession.

That is not to say that everything that local government does, or has attempted to do, has been successful and that mistakes have not been made. However, if there was an exercise in evaluating the impact of Scottish local government over the last 150 years then the positives would far outweigh the negatives.

Diversity is the key to local democracy. Government should be grounded in a sense of people and place which recognises and builds on the strengths of our different communities.

In the same way that the Scottish Parliament embodies the principle that there should be Scottish solutions to Scottish problems then local authorities encapsulate that principle at a more local level. Each area has different problems, different priorities and different ways of addressing and tackling those problems and priorities. Local priorities and local outcomes reflecting local needs. There cannot and should not be a unified approach to meeting the needs of our diverse communities. In short, 'no one size fits all'.

It is clear that, while some aspects of the relationship between local and central government have improved since the establishment of the Scottish Parliament,

local government has deep-seated problems that will not be solved merely by being relations with central government. The introduction of the duty of Best Value, the legislative framework behind Community Planning and the power of general competence have not provided the level of local government autonomy that the MacIntosh Commission suggested they would. Institutionalised under-funding and the loss of fiscal autonomy, increasing interference from the centre and the growth of nationally imposed policy initiatives are just some of the factors that erode the autonomy of local government.

**1. Local Decision Making: Do you think that decisions about local issues and services are made locally enough in Scotland at the moment?**

Local democracy has been weakened by the tendency of central government to favour centralisation rather than decentralisation. Central government views local government as its agent to fulfil its aims and objectives and carry out its policies.

Examples of the centralising tendency include:

- the transfer of water and sewerage services to a national organisation
- the loss of control over colleges which has been followed more recently by the amalgamation of colleges into regional or super colleges
- the loss of control over setting the Business Rate
- the creation of a national police force and a national fire and rescue service governed by a national Boards appointed by Scottish Ministers
- the proposal in the Public Bodies (Joint Working) (Scotland) Bill to give Scottish Ministers the power (by regulation) to prescribe local authority functions to be included in Health and Social Care integration.

All these changes have been imposed, or at least driven, by the centre rather than coming from below.

The nationalisation of important decisions about local services goes against the desire to develop a more holistic and unified approach to meeting the challenges faced by our communities

There are several recent very clear examples of how centralisation can lead to national considerations over-riding local interests. The recent flawed consultation on the police counter service and the decision to stop police traffic warden services show that the nationalised services can act against the wishes of democratically elected local authorities and local communities.

The decision by the Scottish Fire and Rescue Board to close the national training college in Gullane without any prior consultation with East Lothian Council or the local community shows that major decisions affecting local communities can be taken without any local consultation or input.

The rationalisation of property assets by the Scottish Government, Police Scotland and the Scottish Fire and Rescue services can take important

community assets from our towns, contributing to weakening local economies and undermining attempts to regenerate town centres.

East Lothian Council has not received adequate answers to questions it has raised about the decision to close Haddington Court by the Scottish Courts Service. The decision to close the Court was driven by the imperative to make financial savings for the Scottish Government and would not have been made if local interests and partnerships had been fully taken into account.

The court closure and closure and removal of traffic wardens are also examples of cost shunting from the centre to local government.

## **2. Local Accountability: How important do you think it is for locally elected people to be responsible for decisions about local issues and services?**

Local accountability should sit at the heart of our democracy. Two issues need to be considered – fiscal accountability and subsidiarity.

Local accountability has been weakened over the last three decades by the continuing erosion of local government's fiscal autonomy which has significantly reduced the ability of Councils to raise income to meet local needs.

The Council Tax freeze has only been partly financed by subvention from the Scottish Government as it has not been increased to take account of inflation or the increase in the Council Tax roll. East Lothian Council has lost over £300,000 due to the Council Tax freeze compensation not being updated.

The Audit Scotland report, '*Charging for Services: are you getting it right?*' (October 2013) showed that local authorities now only have control over around 7% of their total income – the income they raise from fees, charges and rents.

Local accountability will only be restored if local government regains control over a greater proportion of its income and expenditure. Unless local government regains control over how much of its income it can raise it will become an administrative tool of central government

However, the debate around local government finance has to be more radical or imaginative than merely arguing for or against increasing Council Tax.

Schemes such as the Business Rates Incentivisation and the proposals being developed by Glasgow City Council and others around the City Deal (a welfare expenditure reduction incentivisation scheme) are worthy of exploring further. Incentivising councils to achieve key outcomes – supporting business growth and reducing the cost of welfare benefits – by using the income or savings generated rather than passing them on to central government.

Subsidiarity – a matter ought to be handled by the smallest, lowest, or least centralised authority capable of addressing that matter effectively – is the

principle that sits behind the devolution of power to the Scottish Parliament and also is central to the argument in favour of Scottish independence.

However, as was outlined above (section 1) the creation of the Scottish Parliament has exacerbated rather than reduced the tendency of central government to nationalise services and powers. Ministers are taking more powers to the centre rather than allowing decisions to be made at the lowest and most level. The principle of subsidiarity is key to the relationship between central and local government irrespective of the outcome of the referendum. This principle could be written into Scottish legislation now and need not wait until/ if there is a new Scottish constitutional settlement following the referendum.

Following the principle of subsidiarity local authorities should consider how to devolve power further to local communities. East Lothian Council has a good record of supporting and encouraging Community Councils, including devolving some funding for community priorities. The Council has recently adopted a framework for establishing six Area Partnerships with the intention of devolving decision-making and budgets to them (see report on Area Partnerships at: <http://www.eastlothian.gov.uk/meetings/meeting/5372/cabinet>)

### **3. Local Priorities: How well do you think that national and local government take account of communities' local priorities at the moment?**

The Scottish Government set out the National Objectives and national performance framework without prior consultation with local authorities or local communities. The national objectives are broad enough to accommodate local priorities that are determined through the Community Planning process but the lack of consultation and engagement reflected a 'top down' centralist approach which does not necessarily take account of local priorities.

As was outlined above (section 1) the centralisation of key services such as police and fire and rescue can lead to national priorities over-riding local priorities and needs.

Another example of where national priorities can act against local interests is in relation to procurement. Procurement is an important tool that can allow local authorities to support local businesses, local jobs and the local economy. However, the trend towards national procurement, which has been extended further through the creation of the national police force and national fire and rescue service has weakened councils' ability to use procurement to support local priorities.

The evidence from East Lothian Council's most recent residents' survey (2011) is that by and large the Council does respond to and take account of the community's priorities. For example, the survey showed:

- 71% of respondents agreed that the Council gives residents good value for money and 77% agreed that the Council does the best with the money available
- 79% of respondents agreed that the Council provides high quality services
- Over 9 out of 10 respondents said they were very (57%) or fairly (36%) satisfied with the way the Council is running the area.

#### **4. Strengthening Local Democracy: What do you think should be done to strengthen local democratic decision making in Scotland?**

Restore a greater measure of financial autonomy to local government and adhere to the principle of subsidiarity.

Beyond that simple answer lies a whole range of difficult issues that need to be addressed.

Principle amongst these is the issues of what type of local governance system do we want.

It is worth reflecting on the fact that Scotland has fewer local authorities and fewer locally elected representatives than just about any other country in Europe.

If we accept that people and place should be at the centre of any system of government and that subsidiarity is a key principle then we should accept that diversity in structures and processes should overcome the innate desire of central governments for symmetry. Any changes in structure and governance arrangements will need to take account of the differences in the demography and communities of Scotland. A 'one size fits all' approach is not appropriate or desirable.

We are aware that there is increasing pressure on local authorities to develop shared services with neighbouring local authorities. This pressure will inevitably lead to calls for another review of the structure of local government and the number of local authorities.

East Lothian Council was successful in the early 1990's in arguing against merging East Lothian with parts of a neighbouring authority area and we are confident that there continues to be a strong case for a stand alone East Lothian Council.

However, there has been no fundamental study of local governance structures in Scotland since the Wheatley Royal Commission (1969) that led to the local government reorganisation that created the Regional and District Councils in 1975. Every reorganisation or change that has taken place since then has been piecemeal and has not looked at the public sector as a whole. This has led to a fragmented, fragmenting and fractured governance structure. The vast effort that is being put into developing an effective Community Planning framework

and creating an integrated health and social care service is a result of this piecemeal approach.

The recent Agreement and Guidance on Joint Resourcing is the latest attempt to make sense of the confused and confusing public sector landscape; imposing piecemeal solutions to the fundamental problem caused by the lack of a coherent local governance structure.

Therefore there is a strong case for a fundamental review of the governance of all public services. The debate should not be about the number of local authorities but about the responsibilities and structure of all public services and public bodies to ensure that people and place are at the heart of local governance and local democracy.

The review should consider the balance of service provision and accountability between local, regional and national levels and between democratically elected local government, non-elected public bodies and national government.

Who controls education is a key issue that needs to be considered as part of the comprehensive review of governance. There has been an increasingly centralised approach to education from the setting of pupil-teacher ratios and the number of school teachers, pay and conditions for teachers through to the national curriculum and how it is delivered. What role should councils play in education?

Any review of the governance of education would need to consider not only the role of councils in school based education but also the role of the further education sector and the relationship between schools and colleges. How can the transition between school based education and vocational training and preparing young people for employment be better managed? Which level of government is best placed to provide leadership and meet local priorities?

#### **5. Scotland's Future: Has there been enough discussion about local democracy in the debate about Scotland's future?**

The responses to the four questions above are not predicated on the debate around the Independence Referendum. Concerns about the erosion of fiscal accountability, the requirement to put the principle of subsidiarity into practice and the need for a comprehensive and fundamental review of governance structures are current and immediate. They need to be acted on irrespective of the result of the referendum.

**6. Obstacles and Challenges: Do you have any concerns about strengthening local democratic decision making in Scotland?**

No. The value of local democracy stems from the fact that it provides for the dispersal of power and brings the reality of government closer to the people. The term 'local government' is used rather than local administration for a number of positive reasons:

- The members of a local authority are democratically elected and are accountable to their electorate, not to central government
- Local government has tax raising powers; powers which are shared only with central government
- Councils are responsible for the provision of a wide range of services which are delivered in ways which meet the needs of the locality
- Councillors are seen to be leaders in their communities.

Diversity is the key to local democracy. Government should be grounded in a sense of people and place which recognises and builds on the strengths of our different communities.

In the same way that the Scottish Parliament embodies the principle that there should be Scottish solutions to Scottish problems then local authorities encapsulate that principle at a more local level. Each area has different problems, different priorities and different ways of addressing and tackling those problems and priorities. Local priorities and local outcomes reflecting local needs. There cannot and should not be a unified approach to meeting the needs of our diverse communities. In short, 'no one size fits all'.

**7. We would like to keep the conversation going with you. Can you tell us about any events, networks or other ways in which we could help achieve this? Is there anything that we can do to support you?**

N/A





**REPORT TO:** East Lothian Council

**MEETING DATE:** 17 December 2013

**BY:** Chief Executive

**SUBJECT:** Report of the Local Area Network's Focused Scrutiny of the Education Service

**6**

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## **1 PURPOSE**

- 1.1 To present to Council the report of the Local Area Network's focused scrutiny of the education service to review the implications of the Council's decision to amend the proposal to develop shared service arrangements for strategic management and operational support services for Education services with Midlothian Council.

## **2 RECOMMENDATIONS**

- 2.1 It is recommended that Council notes the report from the Local Area Network and welcomes the opportunity to continue working with the Local Area Network to support self-evaluation and continuous improvement.

## **3 BACKGROUND**

- 3.1 The Local Area Network Assurance and Improvement Plan Update 2013-2016 included a proposal to for scrutiny activity led by Education Scotland with assistance from Audit Scotland and the external auditor on the impact of shared services on Education and Children's Services. The Chief Executive agreed to keep the Council updated on the inspection and focused scrutiny work by the Local Area Network.
- 3.2 This work was undertaken as a focused scrutiny of the education service in November 2013. This scrutiny examined documentary evidence and involved focus groups with members of the Council Management team, senior councillors from the Administration and the Opposition and key staff involved in the education service.
- 3.3 The Council has now received the report from the Local Area Network on this focused scrutiny – see Appendix 1.

- 3.4 Phil Denning, Chair of the Local Area Network will attend the Council meeting to present the report.

#### **4 POLICY IMPLICATIONS**

- 4.1 The report of the Local Area Network's focused scrutiny of the Education Service supports the Council's self-evaluation and continuous improvement.

#### **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 – none.  
6.2 Personnel – none.  
6.3 Other – none.

#### **7 BACKGROUND PAPERS**

- 7.1 Appendix 1: Report of the Local Area Network's Focused Scrutiny of the Education Service

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<b>CONTACT INFO</b>	<a href="mailto:pvestri@eastlothian.gov.uk">pvestri@eastlothian.gov.uk</a> 01620 827320
<b>DATE</b>	6th December 2013

## **Appendix 1: Report of the Local Area Network's Focused Scrutiny of the Education Service**

### **Background**

In 2010, Midlothian Council and East Lothian Council approved a proposal to develop a shared Education and Children's Service. The rationale for the proposal was that this could provide benefits in terms of management capacity, increased educational attainment, further improve the quality of specialist services and deliver financial savings. The councils established a shared services project team that comprised senior officers of each authority's education services. Both councils held a number of joint staff focus groups and events with key stakeholders such as unions, head teachers, parents, carers and young people. In June 2011, the councils agreed to develop shared service arrangements for strategic management and operational support services for Education and Children's Services. They made progress in developing operational workstreams that brought together staff from both councils. In November 2011, elected members from both councils approved the work undertaken up to that date. The councils appointed a new director of Education and Children's Services for the shared service early in 2012. However, following the change in administration in May 2012, the original proposal to share a head of education was rescinded.

In its Assurance and Improvement Plan of 2013, the Local Area Network (LAN) of inspection and scrutiny agencies considered that there was a need for them to review the amendment to this major shared services proposal. The purpose of this review was not to challenge the decision, but to examine and consider the reasons for the proposal's amendment and the implications for the quality of education services, financial planning and future partnership working. Accordingly, the education service was the subject of focused scrutiny activity from LAN members in November 2013. This scrutiny examined documentary evidence and held focus groups with key personnel involved in the shared services process.

The scrutiny team, on behalf of the LAN, wish to publicly thank all those involved for their input, time and co-operation with this process.

## **The view of the scrutiny team:**

### **Positive benefits and areas for reflection and consideration**

#### **The positive benefits**

The view of the scrutiny team was that while the aim of developing shared services in education had not met its original aims, there were a number of positive benefits for East Lothian Council. These were:

- Improved innovative capacity
- Staff commitment and sharing practice
- Ongoing impacts

#### **Improved innovative capacity**

The Council should be given credit for being ambitious and imaginative. This is particularly the case in attempting shared services in a major service such as education where there is not an established 'road-map' to direct the work. The proposal to share services did generate innovative thinking to meet unexpected issues in relation to governance, staffing and developing educational practice. The distance travelled in developing this proposal was notable. This is particularly important given other councils' experiences in being able to discuss shared service delivery but being unable to provide examples of concrete work to deliver proposals beyond initial planning stages.

#### **Staff commitment and sharing practice**

This was an ambitious proposal and there was clear staff commitment to discuss and develop the process and a notable lack of resistance to the initial proposal. This took the form of high levels of attendance at a range of working groups, visioning events, and through sharing practice and partnership work between schools. This latter work has continued.

#### **Ongoing impacts from the proposal in evaluating partnership and sharing practice**

Despite the amendments to the original proposal, there is still an appetite for shared services (or, 'partnering') within both Councils. Examples recently put in place include health & safety and trading standards. Other areas such as internal audit are presently being explored. Senior staff who work in schools in both authorities continue to develop and learn from each other's practice. These may be smaller projects compared with the original proposal for sharing services in education but they are valuable. At the same time, there are now also proposals for 'partnering' in other areas. These examples provide clear evidence of both councils learning from their involvement in an ambitious and innovative proposal.

## **Areas for reflection and consideration**

The view of the scrutiny team was that while the aim of developing shared services had not met its original aims, there were a number of areas for reflection and consideration for East Lothian Council. The scrutiny team are of the view that the Council has a valuable opportunity to learn from an experience that few other councils have explored in such depth. These were:

- The need for a clear narrative of improvement
- The importance of achieving and sustaining consensus
- Multiple innovations and cultural complexity
- Potential to learn from other Council services
- Costs

### **The need for a clear narrative of improvement**

The work involved in delivering the proposal made considerable headway, but in the view of the scrutiny team there needed to be more clarity about the service improvements sought and the expected benefits that shared educational services would make to children, young people, families and communities in the two council areas, particularly in the areas of attainment and achievement.

### **The importance of achieving and sustaining consensus**

One of the reasons the proposal was amended was a lack of policy consensus across a range of key stakeholders. Whilst 'shared services' was seen as a good concept in principle, significant questions about particular aspects, particularly with regard to governance arrangements, remained unanswered. Both councils should have been more alert to this gap in consensus.

### **Multiple innovations and cultural complexity**

The ambitious proposal to create a new entity to oversee Education in both councils was unnecessary and was a key factor in the project's amendment. The proposal was essentially about sharing specialist services, management capacity and support services. The proposals to create this new entity gave rise to significant and understandable concerns about governance arrangements and staff terms and conditions. Councillors were not clear how the Council could delegate its statutory responsibilities for education to this new entity. It also became clear that there were significant differences in the operational management and culture of the two education services. While these differences were not insurmountable, they added to the considerable complexity of the process. The view of the scrutiny team is that more consideration should have been given to the attempt to deliver such a major change at a time when there were other significant changes affecting the Education Service such as the implementation of Curriculum for Excellence, and the appointment of several new headteachers.

### **Potential to learn from other Council services**

The scrutiny team's view is that there was a need to learn from other council services which have changed their governance and delivery form. An example would be arms length organisations in sports and leisure services. Many of the challenges faced in sharing services in education have been faced in sports and

leisure trusts (such as governance and accountability) and many of the unanswered questions relating to this proposal continue to present challenges in the leisure trusts which are more mature in terms of development. The view of the scrutiny team is that there were valuable lessons to be learned in other areas of council activity, but these were not sufficiently explored.

### **Costs**

There have been costs to the Council, financial and non-financial, as a result of the attempt to share education services. There was a considerable input in terms of staff time. Key members of staff have left since May 2012. At present the Council has a senior management structure which has clear strengths in finance and human resources but there is a need to consider the staff capacity required to deliver a long term educational strategy in line with the new Single Outcome Agreement.

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## **Looking ahead**

### **Scrutiny and self-evaluation**

There are ongoing considerations about the role of the Education Committee in now providing scrutiny. The involvement of headteachers and pupils in Education Committee meetings is admirable, but consideration is presently being given to how the Education Committee operates. Whatever form of scrutiny the Council chooses to develop, the view of the scrutiny team is that this should provide the same degree of public accountability as the Education Committee.

Whilst front line staff, Quality Improvement Officers and specialist support services now regularly and usefully share practice, there may be a case to re-examine some of the elements of the shared services proposal in terms of enhancing and building capacity. As part of its processes to support continuous improvement, the Council should consider evaluating the impacts of this work within schools. The Council may wish to consider how it now takes this agenda forward following the How Good is Our Council self-evaluation in Education undertaken in early 2013. The LAN has worked closely with senior officers and a number of departments to support self-evaluation and the LAN is happy to offer its support with regard to Education.

**REPORT TO:** East Lothian Council

**MEETING DATE:** 17 December 2013

**BY:** Depute Chief Executive (Resources and People Services)

**SUBJECT:** Universal Credit and Entitlement Criteria for Services and Concessions

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**7**

## **1 PURPOSE**

- 1.1 To recommend to Council amendments to the entitlement criteria for services and concessions to take account of the phased introduction of Universal Credit.

## **2 RECOMMENDATIONS**

- 2.1 It is recommended that Council approves the revisions to eligibility criteria for services and concessions as detailed in paragraph 3.10 and in Appendix 1.
- 2.2 Further, that the Chief Executive be given delegated powers to make any further adjustments to any entitlement criteria not dealt with in this report that may be required to take account of Universal Credit or Personal Independence Allowance.

## **3 BACKGROUND**

- 3.1 As has been reported to Council on several occasions over the last 18 months the UK Government has embarked on a root and branch reform of the welfare benefits system. A key part of the reform is the introduction of Universal Credit as a single benefit payment that will replace the six main means tested benefits: income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Child Tax Credits, Working Tax Credits and Housing Benefit.
- 3.2 Another key change is the replacement of Disability Living Allowance by Personal Independence Payment from 8 April 2013 for people aged 16 to 64.

- 3.3 The introduction of Universal Credit is being piloted in the Greater Manchester area and then phased in across the UK. Whilst there has been some delay in the roll out of Universal Credit the Government has begun introducing it in a managed way, progressively rolling it out nationally from October 2013. The Inverness area is part of the first phase of the roll out. The transition from the current system of benefits and tax credits to Universal Credit will be gradual and it is expected to be completed by the end of 2017.
- 3.4 The Council's Welfare Reform Task Group has been meeting regularly to review the impact of the welfare reforms including the introduction of Universal Credit. Whilst Universal Credit is not scheduled to be introduced in East Lothian until sometime in 2015 or 2016 the Council needs to ensure that its policies and procedures take account of the new benefit. Someone who moves to East Lothian from an area in which Universal Credit has been introduced may already be in receipt of Universal Credit and will continue to receive the new benefit.
- 3.5 A sub-group of the Task Group has considered the impact of the replacement of means tested benefits by Universal Credit on the various benefits and concessions provided by the Council (passporting benefits).
- 3.6 Many of the entitlement criteria for services or concessions provided by the Council use means tested benefits to 'passport' recipients into entitlement. That is, rather than carry out a new means test to judge whether someone's income is below the threshold to receive a service, or concession the Council uses receipt of national means tested benefits to 'passport' recipients into their entitlement. For example, entitlement to a Clothing Grant is determined by whether the family is in receipt of Income Support, Income Based Job Seeker's Allowance or Employment Support Allowance.
- 3.7 Once Universal Credit is fully introduced across the whole of the UK the means tested benefits it replaces will no longer exist. At that stage it will be necessary to carry out a full review of all entitlement criteria for services and concessions. During the transition period whilst Universal Credit is being phased in it will be necessary to run systems that take account of both existing means tested benefits and Universal Credit.
- 3.8 The Scottish Government has carried out a review of passported benefits operated at the Scottish level including free school meals and Education Maintenance Allowance. It has passed several Statutory Instruments to make allowance for the introduction of Universal Credit and Personal Independence Payments; essentially, adding Universal Credit or where relevant the Personal Independence Payment to the list of passporting benefits.
- 3.9 The Welfare Reform Task Group sub-group on passporting benefits has carried out a review of all Council services and concessions which include means tested benefits in their entitlement criteria. The results of this review are shown in Appendix 1.



- 3.10 For those services and concessions that use any of the means tested benefits that are being replaced by Universal Credit (see para 3.1) as a 'passport' for entitlement it will be necessary to add Universal Credit to the entitlement criteria. Similarly Personal Independence payment will need to be added to entitlement criteria based on the Disability Living Allowance.
- 3.11 The various entitlement criteria detailed in Appendix 1 have been approved by different means – Council report, Cabinet report or delegated powers. Rather than go through these various approval routes for each service or concession it is recommended that Council gives a single approval for amending relevant entitlement criteria as recommended in 3.10 above and in Appendix 1. Further, the Chief Executive should be given delegated powers to make any further adjustments to any entitlement criteria not dealt with in this report that may be required to take account of Universal Credit.
- 3.12 Council should note that officers will continue to monitor the introduction of Universal Credit and will report back in due course with a further report and recommendations to take account of the full introduction of Universal Credit.

#### **4 POLICY IMPLICATIONS**

- 4.1 The report takes account of the implications of the introduction of Universal Credit on the use of means tested benefits as a 'passport' into entitlement for a service or concession.

#### **5 EQUALITIES IMPACT ASSESSMENT**

- 5.1 This report is applicable to the well being of equalities groups. However, an Equalities Impact Assessment has not been carried out since the recommendation in this report will protect the position of vulnerable people, including equalities groups who receive services or concessions based on means tested benefits or the Disability Allowance.

#### **6 RESOURCE IMPLICATIONS**

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

## 7 BACKGROUND PAPERS

### 7.1 Appendix 1: Passporting Benefits Mapping Exercise

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<b>DATE</b>	5 <sup>th</sup> December 2013

## Appendix 1: Passporting Benefits Mapping Exercise

### Service: Education

Benefit / Concession	Discretionary/ Statutory – Entitlement Criteria	Proposal
Free School meals	Statutory; criteria set by Scottish Government using means tested benefits	Entitlement criteria have been amended by Scottish Government
Clothing Grants	Discretionary; based on means tested benefits	Add Universal Credit to the entitlement criteria
Education Maintenance Allowance	Statutory; criteria set by Scottish Government using means tested benefits	Entitlement criteria have been amended by Scottish Government

### Service: Healthy Living

Benefit / Concession	Discretionary/ Statutory – Entitlement Criteria	Proposal
Leisure Pass Plus Scheme which will become Access to Leisure from 1 <sup>st</sup> Oct 2013. A concessionary scheme that provides significantly reduced rates to East Lothian Sports Centres	Discretionary; East Lothian Council approved scheme facilitated by enjoyleisure partners – various criteria apply including means tested benefits	Add Universal Credit to the entitlement criteria

### Service: Community Learning and Development

Benefit / Concession	Discretionary/ Statutory – Entitlement Criteria	Proposal
Adult learning advertised classes	Discretionary; based on means tested benefits	Add Universal Credit to the entitlement criteria

**Service: Arts and Cultural Services**

<b>Benefit / Concession</b>	<b>Discretionary/ Statutory – Entitlement Criteria</b>	<b>Proposal</b>
Concessions for performance and activities	Discretionary; based on means tested benefits and the enjoyleisure pass criteria	Add Universal Credit to the entitlement criteria

**Service: Transportation**

<b>Benefit / Concession</b>	<b>Discretionary/ Statutory – Entitlement Criteria</b>	<b>Proposal</b>
National Concessionary Card	Statutory; criteria set by Scottish Government using means tested benefits	Entitlement criteria have been amended by Scottish Government
Taxi Card	Discretionary; based on age or medical criteria	No action required
Blue Badge	Statutory; criteria set by Scottish Government using means tested benefits	Entitlement criteria have been amended by Scottish Government

**Service: Housing**

<b>Benefit / Concession</b>	<b>Discretionary/ Statutory – Entitlement Criteria</b>	<b>Proposal</b>
Charge to homelessness clients in Bed and Breakfast accommodation	Discretionary; based on means tested benefits	Add Universal Credit to the entitlement criteria
A reduced charge to homelessness clients for furniture storage	Discretionary; based on means tested benefits	Add Universal Credit to the entitlement criteria
Grant contribution to provision of additional living space to meet the	Discretionary; based on means tested benefits	Add Universal Credit and Personal Independence Payment to the

need of a disable person		entitlement criteria
Grant contribution to provision of disabled adaptations in private sector (excluding extension to living space)	Statutory element (80% of cost) is universal.  Discretionary top up between 80% - 100% based on means tested benefits	Add Universal Credit and Personal Independence Payment to the entitlement criteria

**Service: Children's Wellbeing**

<b>Benefit / Concession</b>	<b>Discretionary/ Statutory – Entitlement Criteria</b>	<b>Proposal</b>
Basic Living Allowance – benefit equivalent for young people aged 16-18 who have been looked after away from home prior to their 16 <sup>th</sup> birthday	Statutory – Young person requires to have been looked after away from home for over 13 weeks since the age of 14 and ceased to be looked after over school age	No action required
Accommodation costs for young people	As above	No action required
Leaving Care Grant – to help a previously looked after away from home young person set up in their own accommodation	As above	No action required
Previously looked after young person moving on to full time further education	As above	No action required
Help towards costs in first year in own accommodation to previously looked after away from home	Discretionary - Young person requires to have been looked after away from home for over 13 weeks since the age of 14 and ceased to be looked after over school	No action required

young person	age	
Kincare allowance – financial help to those who look after the child of another member of their extended family in their own home	Discretionary; Scottish Government guidance with Council criteria. Need to be looking after the child of another member of their extended family within your own home. Existing income is taken into account when being assessed	No action required
Foster Carers who receive Income Support	Statutory; criteria set by UK Government using means tested benefits	No action required

**Service: Revenues and Benefits**

<b>Benefit / Concession</b>	<b>Discretionary/ Statutory – Entitlement Criteria</b>	<b>Proposal</b>
Housing Benefits and Council Tax Reduction	Statutory scheme administered by the Council on behalf of the DWP	No action required – criteria set by UK Government
Scottish Welfare Fund = Crisis Grants and Community Care Grants	Statutory scheme administered by the Council on behalf of the Scottish Government	No action required – criteria set by Scottish Government
Adult Wellbeing (Community Care) Financial Assessment; financial assistance for those in residential care or receiving care at home	Statutory scheme administered by the Council on behalf of the Scottish Government	No action required – criteria set by Scottish Government

**REPORT TO:** East Lothian Council

**MEETING DATE:** 17 December 2013

**BY:** Depute Chief Executive (Resources and People Services)

**SUBJECT:** Council Tax Discount on Long Term Empty Homes 2014/15

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**8**

## **1 PURPOSE**

- 1.1 To recommend removal of the Council Tax discount on domestic properties empty for 12 months or more and to increase the amount of Council Tax payable on certain long term empty properties.

## **2 RECOMMENDATIONS**

- 2.1 Council is recommended to approve removing the 10% Council Tax discount on certain long term empty homes from 1 April 2014.
- 2.2 Council is recommended to apply additional council tax charges on certain long term empty homes in stages as follows:
- 50% after 24 months (applicable from 1 April 2015)
  - 100% after 36 months (applicable from 1 April 2016)

## **3 BACKGROUND**

### **Empty Homes in East Lothian**

- 3.1 Empty homes represent a wasted resource. The Local Housing Strategy 2012-17 identified making best use of the existing housing stock as a priority for increasing the availability of housing in East Lothian. This includes encouraging owners to bring empty homes back into use. There are currently approximately 346 properties in East Lothian which have been empty for six months or more.
- 3.2 The Council is participating in a shared services project with West Lothian, Fife, Scottish Borders and Dumfries and Galloway Council's which aims to bring empty homes back into use. Through the Homes

Again Project, owners are encouraged and supported to sell, rent or occupy empty homes.

- 3.3 A range of supportive measures have been put in place to encourage owners to make best use of their properties. This includes a proactive approach to contacting owners to offer information and advice, a matchmaker scheme to help owners identify potential buyers and supporting owners to reclaim VAT when renovating properties which have been empty for certain periods.
- 3.4 The Council has also developed an Empty Homes Loan Fund Scheme which provides interest free loans of up to £15,000 to enable owners of properties empty for six months or more to bring the property up to a lettable standard. Owners will be required to make their properties available for rent for a minimum of five years at a mid market rent.
- 3.5 The Loan Scheme is supported by funding of £150,000 from the Scottish Government. This funding must be repaid to the Scottish Government; 60% of the funding in 2019/20 and the remaining 40% in 2023/24. It is anticipated that between five and ten loans will be made available each year, however this figure will vary depending on the availability of funding within the recyclable loan fund pot and the identification of suitable applicants.

#### **Proposed Changes to Council Tax on Empty Homes**

- 3.6 In 2005 the Council reduced the discount awarded to empty dwellings and second homes to 10%, which, up to this point, is the minimum discount allowed under the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2004. The additional revenue raised (above the maximum 50% discount) is ring fenced for the provision of affordable housing.
- 3.7 The Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012, passed in October 2012, enables local authorities to remove the discount on certain types of unoccupied homes and to increase the level of Council Tax payable on these properties by up to 100%. Regulations came into effect in February 2013. There are no amendments to charges applicable to second homes.
- 3.8 In February 2013, Council agreed to retain the 10% discount for long term empty homes for 2013/14 to enable officers to consider the implications of the new regulations.
- 3.9 It is proposed that from 1 April 2014, the Council should remove the current 10% discount on properties which have been empty for 12 months or more.
- 3.10 It is considered that removing the discount after 12 months would act as a further disincentive to owners not addressing issues which may be contributing to properties remaining empty. It is also anticipated that bringing in the change at 12 months will offer an opportunity for officers to engage with owners facing an increase in Council Tax liability and



encourage them to bring properties back into use as soon as possible, particularly as evidence suggests that the longer a property is empty the more difficult it may be to return it to use. Owners would continue to receive advice and assistance from the Homes Again Project regardless of the length of time the property has been empty.

3.11 The legislation states that owners of properties which are being actively marketed for sale or rent should not be affected by any removal of discount until the property had been empty for at least 24 months. During this time owners would be offered support to achieve a realistic outcome prior to the discount being removed.

3.12 It is also possible to increase the level of Council Tax payable on certain properties that have been empty for 12 months or more. This can be applied variably, for example:

- Apply an increase of up to 100% to relevant properties after 12 months
- Apply staged increases over a period of time

3.13 It is proposed that the level of Council Tax payable be increased beyond 100% in a staged way as follows:

- Additional 50% after 24 months (applicable from 1 April 2015)
- Additional 100% after 36 months (applicable from 1 April 2016)

By adopting this staged and incremental approach, owners of long term empty properties will be provided with a clear signal of the Council's intent but afforded reasonable time to consider the implications of the Council's decision.

3.14 In 2013/14 approximately £270K in Council Tax liability was raised against homes empty for 12 months or more, with a discount of £27K provided. Based on similar figures it is estimated that in 2014/15, around £25K could be raised as a result of removing the current 10% discount.

3.15 Applying additional council tax charges to long-term empty properties would provide an additional income stream to the Council which is not ring-fenced for any specific use, albeit this income stream would be very difficult to estimate with any certainty. If every current property which is currently empty were to remain empty, an additional £212,556 would be charged at 1 April 2015; however this scenario is both undesirable and unlikely. If, say, 25% of these properties were to be exempt because they were being marketed for sale or rent and 50% were to be re-occupied during that period, an additional £79,708 would be charged at 1 April 2015. If these same properties were to remain empty at 1 April 2016, an additional £79,708 would be charged at this point.

#### **4 POLICY IMPLICATIONS**

- 4.1 The proposals contained within this report will require a change to the Council's existing policy in relation to Council Tax discounts on empty homes and the proposed introduction of additional Council Tax charges on empty homes.
- 4.2 The proposals contained within this report will support delivery of the Local Housing Strategy 2012-17.

#### **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 It is estimated that the Council could raise an additional £25K in 2014-15 as a result of the removal of the 10% discount for long term empty properties. The position in respect of future years is much more difficult to estimate but this could be as much as an additional £80K in each of the financial years 2015-16 and 2016-17 but this will be gross of the resource requirement referred to in Section 6.2.
- 6.2 There will be an additional resource requirement for the Revenues Council Tax Team in implementing this change.

#### **7 BACKGROUND PAPERS**

- 7.1 Member's Library Report on Empty Home Loan Fund Scheme [Members' Library Service - Report 209/13](#)
- 7.2 Council 12 February 2013 – Council Tax 13/14  
[http://www.eastlothian.gov.uk/download/meetings/id/14254/02\\_council\\_tax\\_2013-14](http://www.eastlothian.gov.uk/download/meetings/id/14254/02_council_tax_2013-14)

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**REPORT TO:** East Lothian Council

**MEETING DATE:** 17 December 2013

**BY:** Depute Chief Executive (Resources and People Services)

**SUBJECT:** Statutory Review of Polling Districts and Polling Places  
2013

9

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## **1 PURPOSE**

- 1.1 To inform Members of the outcome of the statutory review of polling districts and polling places, as required by the Electoral Registration and Administration Act 2013, Part 2, Section 17.

## **2 RECOMMENDATIONS**

- 2.1 Members are asked to approve the proposed polling scheme for East Lothian Constituency attached as an appendix to this report.

## **3 BACKGROUND**

- 3.1 The Electoral Registration and Administration Act 2013 requires a compulsory review of parliamentary polling districts and places to commence on 1 October 2013 (to be completed within a sixteen month period) and 1 October every following fifth year.
- 3.2 It is a requirement of this legislation that the proposals contained within any review of Polling Places must be exposed to a statutory public consultation process. Accordingly, stage 1 public notification of the review commenced on 1 October, with representations being invited by 29 October. Documents were placed on East Lothian Council's website via the consultation hub and were available at John Muir House Reception. Twitter and face book were also used, with the site receiving a good level of interest.
- 3.3 The polling places used in support of the Local Government Elections in May 2012 have been the basis for this consultation. Capability Scotland guidelines have been used to assess access at polling places and stations in East Lothian since 1997 and, together with advice from the Electoral Commission, these provide a helpful and practical means of

ensuring that proposed locations are fit for purpose. In addition, Fire Risk Assessments have also been carried out at all polling places this year.

- 3.4 A full accessibility assessment is carried out for every polling place prior to each election. This includes consideration of layout and all voter signage. Every polling station is supplied with wheelchair accessible booths, a visual impairment aid and a Braille copy of the ballot paper. Hearing loops are available where required. Polling staff are trained to ensure that the needs of all voters are carefully considered.
- 3.5 Although there was good interest in the review, only two specific representations were received during the consultation and these were considered as Stage 2 of the review. One of these was from a wheelchair voter who had a problem with the journey to their designated polling place but through dialogue with the voter, an alternative access route was identified. The other representation called for consideration that Queen Margaret University be used as a polling place with the stated objective being to encourage/increase the number of students who vote. The current polling place for this polling district is Stoneyhill Community Centre. Background analysis has shown that the number of students who voted in 2010 and 2012 appears to be relatively low although it must also be considered that students can elect to vote at their university address or their home address, which could be the case and this would go some way to explaining the low turnout figures. The feasibility of splitting the polling district in two, or changing it completely to Queen Margaret University was explored. However, the potential benefit for the smaller part of the polling district was outweighed by the detrimental impact upon the majority of voters. Although there have been no complaints or direct representations from voters who go to Stoneyhill Community Centre, some further work will be undertaken to promote greater electoral awareness and participation for those who attend and reside within the University.
- 3.6 Stage 3 of the review was a further consultation period, after taking initial representations into account. This began on 8 November, with representations being requested by 29 November. No further representations were received and it is now considered appropriate to finalise the Polling Scheme as proposed.

## **4 POLICY IMPLICATIONS**

- 4.1 There are no direct policy obligations associated with this report.

## **5 EQUALITIES IMPACT ASSESSMENT**

- 5.1 An Equality Impact Assessment has been carried out and no negative impacts have been found.

## **6 RESOURCE IMPLICATIONS**

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

## **7 BACKGROUND PAPERS**

7.1 Access to background papers can be made available to elected members on request.

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<b>DATE</b>	2 December 2013



**Schedule to the East Lothian Parliamentary Constituency Polling Districts and Designation of Polling Places Scheme**

The location of each Polling District by reference to Parliamentary Constituency and Local Government Ward and Polling Place is as follows: -

Parliamentary Constituency: East Lothian

Local Government Ward 1: Musselburgh West

Polling District: ELM1A  
**Polling Place:** Stoneyhill Community Centre  
 No. of Stations: 5  
 Address: 5 Stoneyhill Farm Road, Musselburgh

Polling District: ELM1B  
**Polling Place:** North Esk Parish Church Hall  
 No. of Stations: 3  
 Address: Bridge Street, Musselburgh

Parliamentary Constituency: East Lothian

Local Government Ward 2: Musselburgh East and Carberry

Polling District: ELM2B  
**Polling Place:** Our Lady of Loretto Church Hall  
 No. of Stations: 3  
 Address: 17 Newbigging, Musselburgh

Polling District: EL2A  
**Polling Place:** Whitecraig Community Centre  
 No. of Stations: 1  
 Address: 44a Whitecraig Crescent, Whitecraig

Polling District: EL2C  
**Polling Place:** Musselburgh East Community Learning Centre  
 No. of Stations: 3  
 Address: Haddington Road, Musselburgh

Polling District: EL2D  
**Polling Place:** Wallyford Community Centre  
 No. of Stations: 2  
 Address: Albert Place, Wallyford

Parliamentary Constituency: East Lothian  
Local Government Ward 3: Preston/Seton/Gosford

Polling District: EL3A  
**Polling Place:** Pennypit Centre  
No. of Stations: 3  
Address: Double Dykes, Rope Walk, Prestonpans

Polling District: EL3B  
**Polling Place:** Prestonpans Community Centre  
No. of Stations: 3  
Address: Preston Road, Prestonpans

Polling District: EL3C  
**Polling Place:** Port Seton Community Centre  
No. of Stations: 4  
Address: South Seton Park, Port Seton

Polling District: EL3D  
**Polling Place:** Longniddry Community Centre  
No. of Stations: 2  
Address: Seton Road, Longniddry

Parliamentary Constituency: East Lothian  
Local Government Ward 4: Fa'side

Polling District: EL4A  
**Polling Place:** Tranent Day Centre  
No. of Stations: 3  
Address: 3 Church Street, Tranent

Polling District: EL4B  
**Polling Place:** Loch Centre  
No. of Stations: 5  
Address: off Blawearie Road, Tranent

Polling District: EL4C  
**Polling Place:** Elphinstone Community Centre  
No. of Stations: 1  
Address: Main Street, Elphinstone

Polling District: EL4D  
**Polling Place:** Ormiston Community Centre  
No. of Stations: 2  
Address: George Street, Ormiston

Polling District: EL4E  
**Polling Place:** Trevelyan Hall  
No. of Stations: 2  
Address: 9 Wester Pencaitland, Pencaitland

Polling District: EL4F  
**Polling Place:** Macmerry Village Hall  
No. of Stations: 1  
Address: Westbank Road, Macmerry



Parliamentary Constituency: East Lothian  
Local Government Ward 5: North Berwick Coastal

Polling District: EL5A  
**Polling Place:** **The Stables**  
No. of Stations: 1  
Address: Main Street, Aberlady

Polling District: EL5B  
**Polling Place:** **Gullane Community Association Hall**  
No. of Stations: 2  
Address: Hall Crescent, Gullane

Polling District: EL5C  
**Polling Place:** **Dirleton Church Hall**  
No. of Stations: 1  
Address: 5d Manse Road, Dirleton

Polling District: EL5D  
**Polling Place:** **Fenton Barns**  
No. of Stations: 1  
Address: Fenton Barns

Polling District: EL5E  
**Polling Place:** **North Berwick Sports Centre**  
No. of Stations: 5  
Address: Grange Road, North Berwick

Polling District: EL5F  
**Polling Place:** **St Mary's Parish Church Hall**  
No. of Stations: 1  
Address: Whitekirk

Parliamentary Constituency: East Lothian  
Local Government Ward 6: Haddington and Lammermuir

Polling District: EL6A  
**Polling Place:** **Humbie Village Hall**  
No. of Stations: 1  
Address: Humbie

Polling District: EL6B  
**Polling Place:** **Fletcher Hall**  
No. of Stations: 1  
Address: East Saltoun

Polling District: EL6C  
**Polling Place:** **Bolton Village Hall**  
No. of Stations: 1  
Address: Under Bolton

Polling District: EL6D  
**Polling Place:** **Aubigny Sports Centre**  
No. of Stations: 7  
Address: Mill Wynd, Haddington

Polling District: EL6E  
**Polling Place:** **Athelstaneford Village Hall**  
No. of Stations: 1  
Address: Main Street, Athelstaneford

Polling District: EL6F  
**Polling Place:** **Morham Village Hall**  
No. of Stations: 1  
Address: Morham

Polling District: EL6G  
**Polling Place:** **Gifford Village Hall**  
No. of Stations: 1  
Address: Gifford

Polling District: EL6H  
**Polling Place:** **Garvald Village Hall**  
No. of Stations: 1  
Address: Garvald

Parliamentary Constituency: East Lothian  
Local Government Ward 7: Dunbar and East Linton

Polling District:	EL7A
<b>Polling Place:</b>	<b>Allison Cargill House</b>
No. of Stations:	1
Address:	Whittingehame
Polling District:	EL7B
<b>Polling Place:</b>	<b>East Linton Community Association Hall</b>
No. of Stations:	2
Address:	73 High Street, East Linton
Polling District:	EL7C
<b>Polling Place:</b>	<b>Tynninghame Village Hall</b>
No. of Stations:	1
Address:	Tynninghame
Polling District:	EL7D
<b>Polling Place:</b>	<b>Stenton Village Hall</b>
No. of Stations:	1
Address:	Stenton
Polling District:	EL7E
<b>Polling Place:</b>	<b>West Barns Bowling Club</b>
No. of Stations:	1
Address:	Edinburgh Road, West Barns
Polling District:	EL7F
<b>Polling Place:</b>	<b>Bleachingfield Centre</b>
No. of Stations:	6
Address:	Countess Crescent, Dunbar
Polling District:	EL7G
<b>Polling Place:</b>	<b>Spott Community Centre</b>
No. of Stations:	1
Address:	Spott
Polling District:	EL7H
<b>Polling Place:</b>	<b>Innerwick Village Hall</b>
No. of Stations:	1
Address:	Innerwick
Polling District:	EL7I
<b>Polling Place:</b>	<b>Oldhamstocks Village Hall</b>
No. of Stations:	1
Address:	Oldhamstocks



**REPORT TO:** East Lothian Council  
**MEETING DATE:** 17 December 2013  
**BY:** Chief Social Work Officer  
**SUBJECT:** Annual Report of the Chief Social Work Officer 2012/2013

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**10**

## **1 PURPOSE**

- 1.1 To provide Council with the Annual Report of the Chief Social Work Officer (CSWO) on the statutory work undertaken on the Council's behalf. The report also provides Council with an overview of regulation and inspection, and significant social policy themes current over the past year.

## **2 RECOMMENDATIONS**

- 2.1 Council is asked to note the Annual Report of the CSWO.

## **3 BACKGROUND**

- 3.1 The requirement that every local authority should have a professionally qualified CSWO is contained within Section 45 of the Local Government (Scotland) Act, 1994. The particular qualifications are set down in regulations. This is one of a number of officers, roles or duties with which local authorities have to comply. The role replaced the requirement in Section 3 of the Social Work (Scotland) Act, 1968 for each local authority to appoint a Director of Social Work.
- 3.2 This report is prepared in line with the guidance on the role of the CSWO published by the Scottish Government in 2011 – "prepare an annual report to the local authority on all of the statutory, governance and leadership functions of the role."

### **3.3 Statutory Duties and Decisions**

#### **3.3.1 Fostering and Adoption**

As at 30 November 2013, there were 95 children in Foster Care Placements in East Lothian and a further 24 children in Formal Kinship Care. Between the dates of 01 April 2012 and 30 November 2013, there

were 142 children were placed with registered foster carers or prospective adopters.

Between the dates of 01 April 2012 and 30 November 2013 there was 1 child in Foster Care, whose placement was out with East Lothian.

It is the Agency Decision Maker's responsibility to make decisions based on the recommendations by the Fostering Panel, the Adoption and Permanent Care Panels, two Kinship Care Panels, and two Adoption and Permanent Care Panel groupings. The Fostering and Adoption and Permanent Care Panel groupings are each scheduled to meet on a four-weekly basis and consider the following:-

#### Fostering Panels:-

- Foster Carer Approvals
- Foster Carer Reviews
- Share the Carer Approvals
- Share the Carer Reviews
- Day Carer Approvals

#### Adoption and Permanent Care Panels:-

- Approval of Prospective Adopters.
- Registration of children or young people for Adoption or long-term Fostering.
- Matching children with prospective adopter(s) or long-term Foster Carers.
- Advice on complex situations that are being considered for Adoption or Permanent Care.

The Kinship Care Panel groupings are scheduled to meet on an eight-weekly rota.

#### Kinship Care Panels:-

- Approval of Kinship Carers of Looked After Children.
- Registration of Private Foster Carers

The Agency Decision Maker receives Minutes of the meetings, meets with the Chair of the Panel, if required, and makes decisions based on the recommendations. For many of these tasks there are specific legal timescales.

All Foster Carer, Prospective Adopter and Kinship Carer applicants and Foster Carers, Prospective Adopters and Kinship Carers can request a

review of the decision not to approve them; the detail of their approval or decision to terminate their approval. A different Panel grouping and Chair must undertake the Review and a different Agency Decision Maker must make a decision based on the recommendation of the Panel.

### Volume of Business:-

#### Adoption Panel Business January 2012 – 31 December 2012

Registration for Permanency	Panels Deferred	Permanency decisions revisited	Matchings	Adopter/Long-term foster approvals	Permanence Orders	
					P.O.	P.O.A.
25	1	4	7	6 + 2 kin care	15	10

#### Adoption Panel Business January 2013 – 30 November 2013

Registration for Permanency	Panels Deferred	Permanency decisions revisited	Matchings	Adopter/Long-term foster approvals	Permanence Orders	
					P.O.	P.O.A.
14	4	0	18	13	7	7

#### Fostering Panel Business January 2012 – 31 December 2012

Foster Care Approval	Foster Care Review	Foster Care De-Reg	Level 2/3 application	STC Approval	STC Review	L/T foster approval
7	31	3	4	12	4	1

#### Internal Carer Reviews 2012

Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
0	2	3	1	3	1	4	2	5	3	5	0

#### Fostering Panel Business January 2013 – 30 November 2013

Foster Care Approval	Foster Care Review	Foster Care De-Reg	Level 2/3 application	STC Approval	STC Review	STC De-reg
3	29	3	4	5	5	2

#### Internal Panel Reviews 2013

Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov
0	1	1	3	2	1	2	1	4	0	0

### 3.3.2 Child Protection

As at 30 November 2013, there were 54 children on the Child Protection Register, a rate of 2.5 per 1,000 0-15 population GRO(S) significantly below the national rate of 3.0. However, the average for the previous 12 months was 53 children, which was the same as the national average. The national average between the dates of 01 April 2012 and 30 November 2013 was 57 children.

The majority of registrations were due to emotional abuse and parental drug misuse and there were 16 children who had appeared on a Child Protection Register previously. 10 children on the Register were also Looked After.

The introduction of the "Signs of Safety" approach to case conferences is beginning to have had an effect on the number Registrations; last year there were 44 families represented on the Register but at the end of August this had dropped to 33 families. Patterns of registration vary considerably across Scotland.

There are close working relationships between agencies in East Lothian (Getting It Right For Every Child) which ensure that concerns are reported and there is intolerance of neglect and abuse.

### 3.3.3 Secure Orders: Secure Accommodation Authorisations

Historically the use of secure accommodation is rare in East Lothian. Decisions are made by the CSWO with advice from Children's Wellbeing senior managers. In the absence of the CSWO this will be delegated to senior Children's Services Managers, and any decisions with regard to secure accommodation will be reported to the CSWO as soon as reasonably possible following the decision. Authorisations will be noted in the CSWO report to the Council.

Last year, at different times, a total of five young people were in secure accommodation from East Lothian, but never more than two at a time. As at 30 November 2013, there were no young people in secure accommodation.

### 3.3.4 Private Fostering

At 30 November 2013, there were no children known to ELC placed with registered private foster carers. A private fostering action plan is in place.

### 3.3.5 Major Achievements

- One of our Looked After Children has secured a job with "Who Cares Scotland."



- The Signs of Safety model has been implemented in East Lothian. Signs of Safety is a guide to working in high-risk, child protection cases in a solution-focused, safety oriented way, according to clear underpinning practice principles and elements.
- There was a First Steps pilot of Self Directed Support over the summer. Sixteen families came forward to participate in the pilot. A workshop was arranged for families to give feedback on their experiences of SDS and the feedback was extremely positive.

### 3.4 Mental Health (Care & Treatment) Act 2003

The Mental Health (Scotland) Act, 1984 introduced the requirement for local authorities to appoint experienced, trained and accredited personnel to be involved in the compulsory detention of people with mental disorders. Under the terms of the Act, it is the responsibility of the MHO (Mental Health Officer) to "satisfy himself that detention in a hospital is in all circumstances of the case the most appropriate way of providing the care and medical treatment the patient needs."

In the course of their assessment MHOs draw on a wide range of evidence, from interviews with the individual, carers and professionals (social work/care and medical) to referring to police, medical and social work records, emphasising the complexity of the task.

#### 3.4.1 Mental Health (Care & Treatment) Act Certificates and Orders 2011

East Lothian use of the Mental Health (Care & Treatment) Act has remained relatively consistent over recent years, with the number of Short Term Detentions per 100k population remaining lower than the Scottish average. The number of Compulsory Treatment Orders granted remains equitable with the average across Scotland.

#### **Mental Health (Care & Treatment) Act Orders 2012/13**

	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Total
CTO1	0	1	0	1	2	0	1	1	0	1	0	0	0	0	0	1	0	0	1	0	9
Emergency Detention	1	1	1	0	2	1	1	0	2	3	1	0	0	6	0	2	2	1	1	2	27
Short Term Detention	3	3	3	3	7	3	5	4	7	3	9	3	4	5	6	2	10	6	0	5	93

**Guardianship Orders granted by Local Authority 01 April 2012 to 30 November 2013**

Local Authority Guardianships Granted 2012-13	Private Guardianships granted 2012-13	All applications granted 2012-13	LA Rate per 100k Over 16 pop	Private Rate per 100k over 16 pop	Total Rate per 100k over 16 pop
22	38	60	28	48	76

Local Authority Guardianships Granted Apr-Nov 2013	Private Guardianships granted 2012-13	All applications granted 2012-13	LA Rate per 100k Over 16 pop	Private Rate per 100k over 16 pop	Total Rate per 100k over 16 pop
9	18	27	11	23	34

**Duration of Orders granted to Local Authority 01 April 2012 to 30 November 2013**

Up to and including 3 years	Greater than 3 but including 5 years	Greater than 5 years	Indefinite	Total Orders	% of total orders granted which are indefinite
29	2	0	0	31	0

**Duration of Orders granted to private individuals 01 April 2012 to 30 November 2013**

Up to and including 3 years	Greater than 3 but including 5 years	Greater than 5 years	Indefinite	Total Orders	% of total orders granted which are indefinite
21	25	9	1	56	3

3.4.2 The increase in the number of applications being made for Guardianship Orders under the Adults with Incapacity legislation is significant. The number of Orders being granted has increased in relation to both private and local authority applications. Considering both, the rate per 100k population increased from 48 in 2011-12 to 76 in 2012-13. The Scottish average for the latter year is 44. The increased work load for the Mental Health Officers is significant – in relation to the number of reports having to be made with new applications and reviewing successful applications thereafter.

3.4.3 Acknowledging East Lothian's growing older population, a higher than Scottish average in relation to guardianships might be expected for this population. However just over 2/3 of the total number of Guardianship

Orders granted are for adults with learning disabilities. East Lothian has developed its transition work, and part of this is to ensure that families are informed about the individual's rights and the protections available under this legislation.

3.4.4 Considering the duration of the orders granted, the shorter in duration is considered to be good practice as it ensures reviewing in relation to ongoing need, whether the order continue to be of benefit to the individual, and is the least restrictive option.

### 3.5 Criminal Justice Services

April 2012 – March 2013

ACTIVITY	MEASURES	COMMENTS
COMMUNITY REPORTS	<b>Total = 662</b> CJ Social Work : 392 Progress Review = 240 Diversion = 30	27% increase on previous year
THROUGH-CARE	<b>Total = 28</b> Licencees released = 13 New orders from court = 14 Orders transferred in = 1	No change
THROUGH-CARE REPORTS	<b>Total = 77</b> Home Detention Curfew assessments completed = 57 Home Background Report reports completed = 20	No change
COMMUNITY ORDERS	<b>Total = 297</b> Probation/Community Payback (CPO) = 112 Community Service (CSO)/CPO/Supervised Attendance Orders (SAO) = 185	10.4% increase on previous year
DTTO (Drug Treatment and Testing Orders)	<b>Total number on orders = 19</b> Assessments completed = 19 New DTTOs made = 14	No change
<b>SUCCESSFUL COMPLETIONS</b>		
Percentage of successful completions (all orders)	88% average	Lothian and Borders average as a whole = 65.3%

Throughout 2012/13, East Lothian Criminal Justice Service continued to face an increase in work demand. Core tasks of providing reports for the Courts, the Parole Board and the Scottish Prison Service added to the supervision of community orders, ensured a very busy year for the team.

Managing serious offenders through multi-agency meetings are ongoing. Multi Agency Public Protection Arrangements (MAPPA) meetings are held monthly with these meetings being chaired nominated on an alternate basis by the Criminal Justice Service Manager and Police Scotland Detective Inspector. Risk Management Case Conferences (RMCCs) are focussing on both sexual and high risk violent offenders. These are chaired by the Sex Offender Liaison Officer (Criminal Justice Team Leader).

The Caledonian programme (a multi agency integrated approach to tackling domestic abuse) continues to be run in Edinburgh. In 2012/13, East Lothian had 10 perpetrators on this programme. The introduction of the Marac process (multi agency risk assessment conference for domestic abuse) in 2013, should only enhance the good practice that is currently being done within this area in attempting to reduce the risk of harm caused to victims by their partners.

### 3.6 Consultations and Planning Groups

East Lothian Criminal Justice team has been involved in a number of consultations/planning groups during this period. These include:

- a) Mentoring Programme: The Scottish Government made funds available to develop a mentoring programme for prolific male offenders and women through Public Social Partnerships. We were involved in contributing to this programme. Whilst there has been a slight delay in this being rolled out nationally, we are currently working closely with the agencies involved to ensure that we can make the most effective use of this service within the East Lothian area.
- b) Whole Systems Approach and Polmont's Young People Re-integration Protocol: Again, we have been involved in working closely with our partners to help contribute to the above protocols and procedures. The Polmont Protocol was implemented on 1<sup>st</sup> April 2013, whilst Whole Systems went live on 1<sup>st</sup> October 2013. How effective these systems are in engaging with young people, and ultimately, helping to reduce their offending behaviour, will be monitored closely over the coming year.
- c) Haddington Court Closure: We actively participated in the consultation process in relation to this. Whilst the closure will not

occur until January 2015, we are now starting discussions with Edinburgh Courts and Edinburgh Criminal Justice team regarding the future transfer of business.

### **3.7 Future Priorities and Challenges**

Women offenders and the development of the Willow Centre for those residing in East Lothian will be a major priority in the coming year. This is an opportunity to build an effective working relationship with various agencies in the area (eg. Health, Mid and East Drug and Alcohol Partnership, voluntary organisations, etc) and establish a resource that not only tackles offending behaviour, but also addresses non-criminogenic issues such as healthy eating, trauma counselling, etc.

Focussing on reducing re-offending remains our priority. The reconviction rates for 2010/11 have just been published and they show that East Lothian has a reconviction rate of 23.1% compared with the Scottish cohort of 28.4%. The team has, and continues to work at engaging effectively with offenders, their families, and the community.

### **3.8 Public Protection**

A joint East Lothian and Midlothian Critical Services Oversight Group (CSOG) is responsible for the strategic leadership and scrutiny of all Public Protection Services within the East Lothian area. Both the East and Midlothian Adult Protection Committee and East and Midlothian Child Protection Committee are chaired by the same independent chair thus giving a co-ordinated focus to cross cutting issues.

Across the field of Public Protection there is growing awareness that the reality for both children and adults at risk of harm is that their needs are seldom met in one area but usually by two or three. For example a child at risk of harm may also be in a household where there are substance misuse issues and domestic violence. At the Critical Services Oversight Group meeting in December 2012 it was agreed to take a more integrated approach to public protection which is expected to be more effective and efficient in terms of improved outcomes for service users.

A short life project to look at public protection structures and arrangements overall was therefore approved, with its primary aim being a more streamlined, efficient and effective Public Protection service. A model which will consider support and protection across the lifespan and seamless ways of working in response to that is being explored. It is intended to deliver this approach from April 2014.

## Adult Protection

Measure	Short Term Trend	Long Term Trend	2010/11	2011/12	2012/13
Referrals	↑	↑	835	941	1250
Inquiries	↑	↑	140	306	363
Investigations/IRD	↑	↓	70	146	132
Case Conference (inc professional s mtgs)	↑	↓	46	95	91
Open Cases (average)	↑	↓	29	56	48
LSI	↑	-	4	5	4
Protection Orders	-	↓	8	4	4

### Referrals

In the past year Adult Protection referrals increased by 13% to 1065 from 941 in 2011/12 in 2012/13. This increase is reflective of the way we record and deal with the large number of police Adult Concern Forms (887 in 2012/13) currently they are all considered as Adult Support and Protection referrals although in practice only a small number (184) actually met the criteria to warrant inquiries to be made under ASPA legislation. Consideration is currently being given to a more proportionate and streamlined way of dealing with these referrals which is anticipated will reduce the number counted as Adult Support and Protection referrals going forward.

### Inquiries and Investigations

Of the 363 Inquiries undertaken in 2012/13, 132 (36%) were progressed through Inter-agency Referral discussion to Investigation and 141 multi-agency case conferences and 40 professionals meetings were held to inform these processes. In our quarterly reports this year we have begun to look at the geographic location of referrals (by home address) and we are seeking to build on that information which might then be used to target services as necessary. This information was only collected from quarter two therefore does not give the full year picture but from 1 June 2012 – 31 March 2013 the greatest number of referrals came from the Musselburgh area (30%) with 18% from Tranent / Wallyford / Ormiston area; 15% from Prestonpans / Port Seton; 14% from Haddington, 9% Dunbar, 8% North Berwick and the remaining 6% from Gullane / Longniddry / Pencaitland / Macmerry and East Linton.

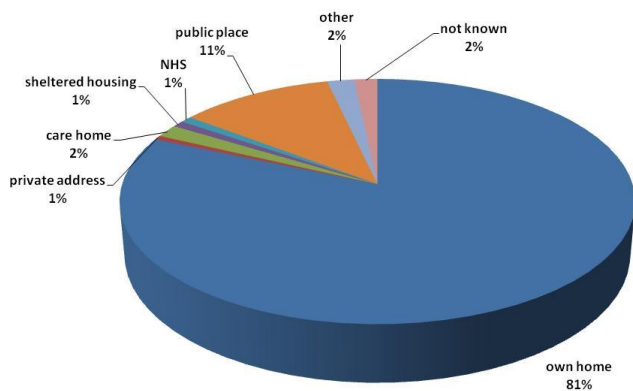
## Large Scale Investigations

In total there have been six Large Scale Investigations in 2012/13. Three for residential establishments and three for care at home agencies. All of these have now concluded with satisfactory outcomes for all concerned.

## Protection Orders

The use of Protection Orders continues to be a very small part of Adult Support and Protection work, but is routinely considered when someone is at risk of serious harm. Banning Orders are the most commonly used Protection Orders and in 2012/13 were successfully used for four adults in a variety of situations, in some cases where the subject is a family member or a partner who has been putting the adult risk of serious harm.

## East Lothian Prevalence from 1<sup>st</sup> April 2012 – 31 March 2013



In East Lothian the vast majority of harm (81%) happens in the adult's home. The 2% occurrence in care homes reflects individual adult protection investigations in care home settings.

## Identified Priorities

In line with Scottish Government's priority workstreams, Financial Harm featured as one of the most consistent types of primary harm reports in 2012-13 and a successful seminar was held to raise awareness with external agencies such as financial institutions, legal services, trading standards and other agencies. In recognition of increasing Adult Support and Protection issues in Care Homes we are working closely with partner agencies and care home providers by providing care home specific training to support awareness and response to Adult Support and Protection issues. This is followed up by regular workshops for care home managers to support them in developing and sustaining knowledge of Adult Support and Protection in the care homes for which they have responsibility.

Measure	2012/13
Referrals	1113
Inquiries	341
Investigations/IRD	186
Case Conference	183
Open Cases (average)	46
LSI	5
Protection Orders	5

## 4 POLICY IMPLICATIONS

### 4.1 Policy Development

2013 has seen the launch and development of major reviews and policy shifts in three areas of Social Work services.

The Public Bodies (Joint Working) (Scotland) Bill was introduced in Parliament on 28 May 2013. The aims of the Bill are focussed on improving outcomes for people by providing consistency in the quality of services, ensuring people are not unnecessarily delayed in hospital and maintaining independence by creating services that allow people to stay safely at home for longer.

East Lothian Council and NHS Lothian have appointed a Director of Health & Social Care and the Health & Social Care Partnership has established a Shadow Board. The Board will provide an Integration Plan and a Joint Commissioning Plan which will set out the direction for the integration of Adult Health and Social Work services.

- 4.2 The Children and Young People Bill was introduced to Parliament on 17 April 2013. The Bill will further the Scottish Government's ambition for Scotland to be the best place to grow up in by putting children and young people at the heart of planning and services and ensuring their rights are respected across the public sector.

Both the consultation on the Bill and the continuing extensive engagement are playing a key role in shaping the detail of the Bill.

- 4.2.1 To ensure that children's rights properly influence the design and delivery of policies and services, the Bill will:

- Place a duty on the Scottish Ministers to keep under consideration and take steps to further the rights of children and young people, to promote and raise awareness and understanding of the United Nations Convention on the Rights of the Child (UNCRC) and to prepare reports describing this activity;
- Place a duty on the wider public sector to report on what they are doing to take forward realisation of the rights set out in the UNCRC; and



- Extend the powers of Scotland's Commissioner for Children & Young People so that this office will be able to undertake investigations in relation to individual children and young people.

4.2.2 To improve the way services work to support children, young people and families, the Bill will:

- Ensure that all children and young people from birth to 18 years old have access to a Named Person;
- Put in place a single planning process to support those children who require it;
- Place a definition of wellbeing in legislation; and
- Place duties on public bodies to co-ordinate the planning, design and delivery of services for children and young people, with a focus on improving wellbeing outcomes, and report collectively on how they are improving those outcomes.

4.2.3 To strengthen the role of early years support in children's and families' lives, the Bill will:

Increase the amount and flexibility of free early learning and childcare from 475 hours a year to a minimum of 600 hours for three and four year olds, and two year olds who are, or have been at any time since turning two, looked after or subject to a kinship care order.

4.2.4 To ensure better permanence planning for looked after children, the Bill will:

- Provide for a clear definition of corporate parenting and define the bodies to which it will apply;
- Place a duty on local authorities to assess a care leaver's request for assistance up to and including the age of 25;
- Provide for additional support to be given to kinship carers in relation to their parenting role through the kinship care order and provide families in distress with access to appropriate family counselling; and
- Put Scotland's Adoption Register on a statutory footing.

4.2.5 The Bill will also:

- Strengthen existing legislation that affects children and young people by creating a new right to appeal a local authority decision to place a child in secure accommodation and by making procedural changes in the areas of children's hearings support arrangements and school closures
- East Lothian Council developed comments in response to the Consultation on the Bill considering that for example:

- The Corporate Parenting obligations being placed on too broad a range of bodies
- Further flexibility being needed in relation to the early learning and childcare provisions
- Additional places for 2-year old LAC children being too late as a form of early intervention
- The named person role as expressed in the Bill, including having insufficient focus on times of transition, school leavers and home-schooled pupils
- *The requirement* to match a child using the Adoption Register

4.2.6 The final version of the legislation is awaited. The Bill, as currently written, includes a wide range of provisions which have overlapping requirements to publish plans, frameworks and reports. For example, the Bill requires publication of children's services plans, early learning plans and corporate parenting plans. These involve different stakeholder groups and have different timescales for publication, and may be streamlined as the Bill is further scrutinised during the remaining stages of the legislative process.

4.3 On 20 December 2012, a consultation paper on redesigning the Community Justice system was published. It set out three possible options for reform:

- **Option A : Enhanced Community Justice Authority (CJA) Model**, where changes are made to CJA membership and functions.
- **Option B : Local Authority Model**, where local authorities assume responsibility for the strategic planning, design and delivery of offender services in the community.
- **Option C: Single Service Model**, where a new national Social Work-led service for Community Justice (separate to and sitting alongside the Scottish Prison Service (SPS)) is established.

4.4 East Lothian Council responded to the consultation suggesting that Option B: Local Authority Model, would be the preference. Subsequent work with the Government has proposed that alongside the Local Authority Model, there will be a national overarching body which will support the local authority role in Community Justice. This work is ongoing with a suggestion that this will be implemented in 2015.

## 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 - None
- 6.2 Personnel - None
- 6.3 Other - None.

## **7 BACKGROUND PAPERS**

7.1 Appendix 1 - SCRC Inspections of ELC Services 2010/2011

Appendix 2 - SCRC Inspections of ELC Services 2011/2012

Appendix 3 - Children's Wellbeing Inspections by the Care Inspectorate between April 2011 and March 2012

<b>AUTHOR'S NAME</b>	Murray Leys
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<b>DATE</b>	22 November 2013



**Appendix 1**  
**SCRC Inspections of ELC Services 2010/2011**

UNIT NAME	SERVICE TYPE	DATE OF INSPECTION	TYPE OF INSPECTION	GRADING OF QUALITY OF CARE SUPPORT	GRADING OF ENVIRONMENT	GRADING OF STAFFING	GRADING OF MANAGEMENT AND LEADERSHIP	NO. REQUIREMENTS	NO. RECOMMENDATIONS
Greenfield Park	Residential Care Home	20 April 2010	Announced	4	N/A	4	N/A	1	0
Eskgreen	Residential Care Home	09 June 2010	Announced	4	N/A	4	N/A	0	2
Adult Services	Adult Placement Service	06 July 2010	Announced	5	N/A	N/A	4	0	0
Fa'side Lodge	Residential Care Home	13 August 2010	Announced	5	5	5	N/A	0	1
Pathway Resource Centre	Young People's Care Home Service	10 September 2010	Unannounced	5	N/A	4	N/A	0	2
Lothian Villa	Residential Unit for Looked After Young People	21 September 2010	Announced	6	N/A	5	N/A	0	0
Fa'side Lodge	Residential Care Home	03 November 2010	Unannounced	N/A	N/A	N/A	5	0	1
The Abbey	Residential Care Home	22 November 2010	Announced	5	N/A	N/A	N/A		
Greenfield Park	Residential Care Home	22 November 2010	Unannounced	4	N/A	N/A	N/A	0	0
Lothian Villa	Residential Unit for Looked After Young People	10 December 2010	Unannounced	5	N/A	N/A	N/A	0	0
Education & Children's Services	Adoption Service	January 2011	Announced	5 (from Dec 2009)	Not Applicable	4 (from Dec 2009)	5 (from Dec 2009)	3 (from Dec 2009) All Now Met	0
Education & Children's Services	Fostering Service	January 2011	Announced	4 (from Dec 2009)	Not Applicable	4 (from Dec 2009)	5 (from Dec 2009)	3 (from Dec 2009) All Now Met	0
Port Seton Resource Centre	Adult Day Centre	12 January 2011	Announced	5	N/A	N/A	N/A	0	1
Prestonpans Resource Centre	Adult Day Centre	12 January 2011	Announced	5	N/A	N/A	N/A	0	2

**1 = Satisfactory; 2 = Weak; 3 = Adequate; 4 = Good; 5 = Very Good; 6 = Excellent; N/A = Not Assessed**

## Appendix 2

### SCRC Inspections of ELC Services 2011/2012

UNIT NAME	SERVICE TYPE	DATE OF INSPECTION	TYPE OF INSPECTION	GRADING - QUALITY OF CARE AND SUPPORT	GRADING - QUALITY OF ENVIRONMENT	GRADING - QUALITY OF STAFFING	GRADING - QUALITY OF MANAGEMENT AND LEADERSHIP	NO. REQUIREMENTS	NO. RECOMMENDATIONS
Eskgreen	Residential Care Home	18 January 2011	Unannounced	5	N/A	N/A	N/A	0	0
Mansfield Road Resource Centre	Adult Day Centre	18 January 2011	Announced	5	N/A	N/A	N/A	0	1
Tynebank Resource Centre	Adult Day Centre	19 January 2011	Announced	5	N/A	N/A	N/A	0	1
The Abbey	Residential Care Home	24 January 2011	Announced	5	N/A	N/A	N/A	0	0
The Abbey	Residential Care Home	07 March 2011	Unannounced	5	N/A	N/A	N/A	0	0
Throughcare After Care Team	Housing Support Service	29 <sup>th</sup> March 2011	Announced	5	N/A	3	N/A	3	3
Throughcare After Care Team	Housing Support Service	3 November 2011	Unannounced	5		5	N/A	0 (previous all met)	5
Pathway Resource Centre	Young People's Care Home Service	5-6 July 2011 11 January 2012	Unannounced Unannounced	2 4	5 N/A	N/A N/A	N/A 4	2 4 (previous all met)	2 2
Family Support Team	Care at Home Service	November 2011	Unannounced	4		4	4	1	1

**1 = Satisfactory; 2 = Week; 3 = Adequate; 4 = Good; 5 = Very Good; 6 = Excellent; N/A = Not Assessed**

NAME	SERVICE TYPE	DATE OF INSPECTION	TYPE OF INSPECTION	GRADING - QUALITY OF CARE AND SUPPORT	GRADING - QUALITY OF ENVIRONMENT	GRADING - QUALITY OF STAFFING	GRADING - QUALITY OF MANAGEMENT AND LEADERSHIP	NUMBER OF REQUIREMENTS	NUMBER OF RECOMMENDATIONS
Throughcare and Aftercare Team	Housing Support Service	3/11/11	Low intensity	Very Good	N/A	Very Good	Not inspected	0	5
Pathway Resource Centre	Care Home Service	6/07/11	Medium intensity, unannounced	Weak	Very Good	Not inspected	Not inspected	2	2
Pathway Resource Centre	Care Home Service	11/1/12	Unannounced	Good	Not inspected	Not inspected	Good	2	4
Family Support Service	Support Service Care at Home	17/11/11	Unannounced	Good	N/A	Good	Good	1	6

Appendix 3

Children's Wellbeing Inspections by the Care Inspectorate between April 2011 and March 2012





**REPORT TO:** East Lothian Council

**MEETING DATE:** 17 December 2013

**BY:** Depute Chief Executive (Partnership and Community Services)

**11**

**SUBJECT:** Countess Crescent, Dunbar – Proposed Experimental Traffic Regulation Order – Prohibition of Vehicular Traffic (During School Travel Periods)

---

## **1 PURPOSE**

- 1.1 To advise Council of the proposal to introduce an Experimental Traffic Regulation Order at Countess Crescent, Dunbar. The purpose of the Order will be to prohibit vehicular traffic at the critical school travel times.

## **2 RECOMMENDATIONS**

- 2.1 That Council approve the initiation of the consultation process and Traffic Regulation Order formal procedures.

## **3 BACKGROUND**

- 3.1 To facilitate the construction of the new Bleachingfield Centre a Temporary Traffic Regulation Order (TTRO) was made to physically close the Countess Crescent / Countess Road junction. This was primarily done to ensure construction traffic was effectively diverted away from the main area of pedestrian activity near to the main school entrance of Dunbar Primary School (John Muir Campus).
- 3.2 The junction was closed for the maximum permissible period of 18 months. The junction was closed:
- to ensure safe traffic management during the construction of the Bleachingfield Centre (March 2011 – April 2012), and;
  - in the interest of public safety near to the school (May 2012 – October 2013)

- 3.3 As the TTRO period has now ended, the temporary closure has been removed. The Council has now received a number of requests to reconsider the removal of the closure.
- 3.4 A site meeting took place on 14<sup>th</sup> November, at which the local members, Headteacher, Parent Council, Police Scotland and Transportation Officers attended. It was agreed that Transportation officials would investigate an appropriate restriction, banning motorised vehicular traffic only during peak travel periods during the school year (190 days) only.
- 3.5 The proposed location is shown on the plan in Appendix A.
- 3.6 Draft sign variations are shown on the drawings in Appendix B. It should be noted that the use of these signs are currently permitted in The Traffic Signs Regulations and General Directions 2002. It should be noted that vehicular access for residents and blue badge holders will still be permitted during the restricted periods.
- 3.7 Support and a commitment to enforce these proposals will be sought from Police Scotland.
- 3.8 This proposal is similar to traffic control measures currently being promoted near two schools in Haddington at Victoria Road and Neilson Park Road.

#### **4 POLICY IMPLICATIONS**

- 4.1 These proposals can contribute towards The East Lothian Council Plan 2012-17 and Our Objectives - Growing Our Communities
- 4.2 These proposals can contribute towards East Lothian's Single Outcome Agreement Outcome 9 - East Lothian's roads and homes are safer.

#### **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 - all costs involved in the design, processing, staff time and implementation associated with these proposals can be accommodated within the current Transportation – Road Network Revenue Budget.
- 6.2 Personnel - None
- 6.3 Other - None

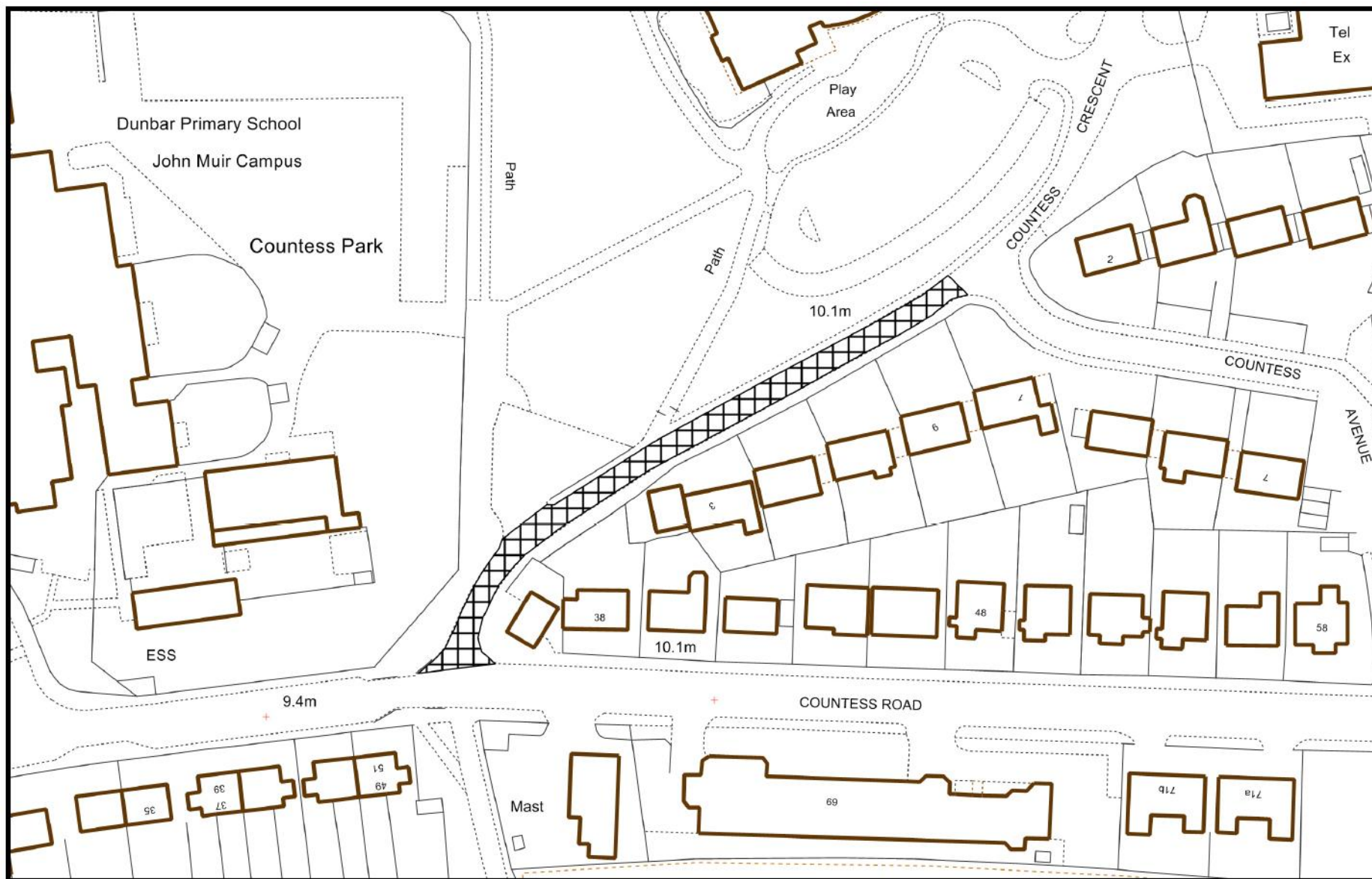
## 7 BACKGROUND PAPERS

- 7.1 Neilson Park Road and Victoria Road, Haddington – Proposed Experimental Traffic Regulation Order – Prohibition of Vehicular Traffic (During School Travel Periods) – Item 7 Cabinet 13 November 2012


<b>AUTHOR'S NAME</b>	Peter Forsyth
<b>DESIGNATION</b>	Senior Area Officer (East)
<b>CONTACT INFO</b>	Colin Baird Ext 7739
<b>DATE</b>	15 November 2013





Appendix A  
Countess Crescent, Dunbar



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<b>PEDESTRIAN ZONE</b> 	<b>except residents and blue badge holders</b>	<b>Mon - Thurs 8.30 - 9.30 am 3.00 - 4.00 pm Fri 8.30 - 9.30 am 11.45 - 12.45 pm during School Term</b>
---	--	---

Width: 805mm; Height: 1444mm; x-Height: 50mm; Area 1.16 sq m

<b>PEDESTRIAN ZONE</b> 	<b>except permit holders</b> 	<b>Mon - Thurs 8.30 - 9.30 am 3.00 - 4.00 pm Fri 8.30 - 9.30 am 11.45 - 12.45 pm during School Term</b>
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Width: 805mm; Height: 1543mm; x-Height: 50mm; Area 1.24 sq m

**REPORT TO:** East Lothian Council  
**MEETING DATE:** 17 December 2013  
**BY:** Depute Chief Executive (Resources and People Services)  
**SUBJECT:** Common Good Committees – Scheme of Administration

---

**12**

## **1 PURPOSE**

- 1.1 To replace the Scheme of Administration adopted by East Lothian Council on 28<sup>th</sup> August 2007 (as amended) with a new Scheme of Administration and to add the Common Good Committees to the Council's Scheme of Administration of the Council's Standing Orders.

## **2 RECOMMENDATIONS**

- 2.1 That the Council approves a new Scheme of Administration (Appendix 1) for Common Good Committees to replace the existing Scheme (Appendix 2) that has been in place since 28<sup>th</sup> August 2007.
- 2.2 That the Council adds the Common Good Committees to the Scheme of Administration of the Council's Standing Orders.

## **3 BACKGROUND**

- 3.1 The origins of Common Good property can be traced back to the Middle Ages. The Common Good Act 1491 (Appendix 3) is still in force. Common Good Funds are generally made up of property gifted to former burghs by Royal Charter or otherwise and land used by the public in time immemorial. There are various Common Good properties that generate income for the Common Good Funds.
- 3.2 In 1995 on the dissolution of District Councils, East Lothian Council took over the Common Good Properties and Funds falling within its Geographical area. There are currently four Common Good Funds:-
- Musselburgh
  - Haddington

- North Berwick
- Dunbar

3.3 Common Good Committees for each fund were established on 28 August 2007 as Committees of the Council. At that time, due to an oversight, these Committees were not added to the list of Council committees listed in the Scheme of Administration of the Council's Standing Orders.

3.4 The local Councillors for each of these areas administer the expenditure from the individual Funds in accordance with the current Scheme of Administration. The income from the Common Good is generally first of all used to maintain Common Good Properties but if there is sufficient income available it is added to the Common Good Fund. A Common Good Fund can be used to provide financial support for projects or events for the benefit of those people living in the former Burgh. Applications can be made to the Common Good Funds by members of the public, local organisations, schools etc. that belonging to the area covered by the particular Common Good Fund.

3.4 A proposed new Scheme of Administration has been prepared following consultation with officers and with appropriate Councillors.

#### **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 – as described in the Report

6.2 Personnel - None

6.3 Other - None

#### **7 BACKGROUND PAPERS**

7.1 Council Report 27 August 2007 – “Common Good Funds”

7.2 Members Library Report 2 July 2012 – “Common Good Committees”



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<b>DATE</b>	27 November 2013



## **Common Good Funds**

### **Scheme of Administration**

#### **1. Background**

- 1.1 Common Good Funds are the assets and income of some former Burghs of East Lothian. They represent a substantial portfolio of land, property and investments and by law continue to exist for the Common Good of the inhabitants of the former Burghs to which they relate.
- 1.2 East Lothian Council has a wide discretion over the use of its Common Good Funds so long as they are applied for the benefit of the community using reasonable judgement and having regard to the interests of the inhabitants of the former burgh.

#### **2. Administrative Arrangements**

- 2.1. Council will approve an annual budget for each of the Common Good Funds that will include provision for the maintenance of assets and any committed items of expenditure.
- 2.2. The Common Good Committee for each area will administer its own Common Good Fund with support from officers.
- 2.3. Each Common Good Committee will consist of all the councillors for those areas, namely:-
  - Musselburgh – all 6 Musselburgh Councillors
  - Haddington – all 3 Haddington Councillors
  - North Berwick – all 3 North Berwick Councillors
  - Dunbar – all 3 Dunbar Councillors
- 2.4. For the Musselburgh Common Good Committee the quorum is 4. For the other three Committees, the quorum is 2.
- 2.5. Each Common Good Committee will be timetabled to meet quarterly although it may meet more or less frequently as business dictates. The chair will be appointed by a vote at the start of the first meeting following the local government elections and will hold that post until the next local government election.
- 2.6. Meetings of the Common Good Committees will generally be held in a venue located within the area to which the Common Good Fund relates but may be held elsewhere
- 2.7. Each Common Good Committee has authority to:-

- Award a grant of up to £10,000
- Approve revenues expenditure of up to £10,000 for the maintenance of the assets of the fund provided that can be met within the approved budget

2.8. Each application for a grant will be considered on its own merits. The Committee must consider whether or not it is a reasonable judgement for them to consider making a disbursement from the Common Good Fund for the benefit of the Community. This can, for example include expenditure on:-

- The expense of civic ceremonies and of the provision of suitable hospitality on appropriate occasions and for appropriate persons and guests
- Applications from individuals and groups where the grant of the application would benefit the community as a whole
- Firework displays where appropriate

This list is representative only and does not preclude other awards that are thought appropriate.

2.9. Decisions of the Committees will be taken by simple majority of those present following a show of hands. In the event of a tie the Chair will have a casting vote.

2.10. The Common Good Committees can make recommendations to the Head of Council Resources in relation to expenditure over £10,000. The Head of Council Resources on receipt of the recommendation will prepare a report for Council. Council will make the decision on any matter involving expenditure of more than £10,000.

2.11. No officer of the Council has delegated power to commit Common Good Funds.

2.12. A six monthly report detailing all discretionary grant awards for each fund will be prepared by the Head of Council Resources and will be lodged in the Members' Library and made available electronically to all members of the appropriate Common Good Committee.

**REPORT TO:** East Lothian Council

**MEETING DATE:** 28 August 2007

**BY:** Acting Chief Executive and Head of Corporate Finance

**SUBJECT:** Common Good Funds

---

## **1 PURPOSE**

- 1.1 To consider the adoption of a Scheme of Administration and 2007/08 budgets for the Common Good funds administered by the Council.

## **2 RECOMMENDATIONS**

- 2.1 That the Council approves the Scheme of Administration (Appendix 1) for the Common Good funds administered by ELC and the 2007/8 budgets for the 4 Common Good funds (Appendices 2, 3, 4 and 5)

## **3 BACKGROUND**

- 3.1 The historical origin of Common Good property in Scotland can be traced back to the Middle Ages and the systems of local government administration which evolved from that time, e.g. Royal Burghs, Burghs of Regality, Burghs of Barony, etc. However for the purpose of this report the historical origin is of limited relevance.
- 3.2 The modern statutory basis for Local Authorities administering Common Good funds is contained in Section 15(4) of the Local Government etc. (Scotland) Act 1994 ("the 1994 Act"), and in relative Statutory Instruments.
- 3.3 Section 15(4)(a) of the 1994 Act provides that in administering property forming part of the Common Good, any authority to which such property is transferred shall:-
- (a) except in the case of the Councils for Aberdeen, Dundee, Edinburgh, and Glasgow, have regard to the interests of the inhabitants of the area to which the common good related prior to 16 May 1975.

16 May 1975 was the date of transfer to the then new Regional and District Councils under the Local Government (Scotland) Act 1973 from

the former County and Town Councils. Before Section 15(4) of the 1994 Act came into force similar provisions were contained within Section 222(2) of the Local Government (Scotland) Act 1973.

- 3.4 Article 12 of the Local Authorities (Property Transfer) (Scotland) Order 1995 provided that on 1 April 1996 any property which immediately before that day was held by an authority as part of the common good shall transfer to and vest in the authority within whose area was situated the burgh of whose common good that property (or property which has been replaced by that property) formed part on 15 May 1975. "Property" under the 1995 Order was defined to include both heritable (e.g. land and buildings) and moveable, (e.g. funds). Article 8 of the Local Government (Transitional Financial Provisions) (Scotland) (Order) 1996, provided that any credit balance on the accounts of the common good of a district council immediately before the transfer date shall be transferred on that date to the council within the area of which was situated the burgh of whose common good those accounts formed part on 15 May 1975.
- 3.5 Given the above historical and statutory background, East Lothian Council is responsible for administering Common Good funds for the following four former burghs: Dunbar, Haddington, Musselburgh and North Berwick. Accounts are maintained for each of the individual funds to ensure that Common Good funds are kept separate from each other and from Council funds.
- 3.6 There are no funds for the Prestonpans and Tranent areas. We have no historical records on funds for these areas and we assume that either these did not exist or they were fully expended by predecessor Councils.
- 3.7 Subject to the terms of Section 56 of the Local Government (Scotland) Act 1973, East Lothian Council is responsible for designing its own governance arrangements for Common Good funds. Section 56 of the 1973 Act provides that a local authority may arrange for the discharge of any of their functions by a committee, a sub-committee, or by an officer of the authority. It has been custom and practice for local Councillors to make decisions regarding the Common Good funds for their areas. However, these arrangements have not been formalised by East Lothian Council and there is a need to adopt a Scheme of Administration to help demonstrate that the funds are administered in an appropriate and transparent manner. The proposed Scheme of Administration (Appendix 1) formalises the procedures regarding the administration of the Common Good funds in East Lothian Council.
- 3.8 In order to comply with the governance arrangements required by Section 56 of the 1973 Act, it would be appropriate, should the Council wish to devolve decision making on expenditure of common good funds to the local level, for Common Good Committees to be formed for each of the four former burghs of Dunbar, Haddington, Musselburgh, and North Berwick. Such Common Good Committees are shown in section 2.7 of the Appendix 1, Scheme of Administration.

- 3.9 The proposed Scheme of Administration includes a requirement for the Council to approve an annual budget for each of the Common Good funds. The proposed budgets for 2007/8 are shown in appendices 2 to 5 of this report.
- 3.10 Each of the Common Good funds owns assets that generate rental income e.g. the Brunton Hall in Musselburgh and the Town House in Haddington. The budgets reflect that income is used in the first instance to maintain the assets with any surplus funds being used to benefit the inhabitants of the area covered by the fund. Any unused funds are carried forward to the following year.
- 3.11 The budgets are based on historical spending patterns and known commitments for 2007/08. A review of Common Good rents is ongoing which aims to ensure that an appropriate landlord-tenant split is maintained and that rental valuations are up to date. The budgeted income for 2007/8 reflects some one-off adjustments that have resulted so far from this review and I expect that further adjustments will follow.
- 3.12 For each fund the budget shows that there are funds available for use in 2007/08 and these can be used to finance projects for the common good in each of the 4 areas.

#### **4 POLICY IMPLICATIONS**

- 4.1 None

#### **5 RESOURCE IMPLICATIONS**

- 5.1 Financial - None
- 5.2 Personnel - None
- 5.3 Other – None

#### **6 BACKGROUND PAPERS**

- 6.1 None

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<b>DATE</b>	17 August 2007



## **Common Good Funds**

### **Scheme of Administration**

#### **1. Legal Background**

- 1.1. East Lothian Council is responsible for administering Common Good Funds for the following four areas: Dunbar, Haddington, Musselburgh and North Berwick. These funds have to be separately administered by the Councils for the “common good” of the inhabitants of each area.
- 1.2. The statutory provisions regulating the specific activities of the fund are sparse, but are as contained in the Local Government etc. (Scotland) Act 1994, section 15(4), a copy of which is attached.

Subject to compliance with these provisions and Section 56 of the Local Government (Scotland) Act 1973, East Lothian Council may design its own governance arrangements.

#### **2. Administrative Arrangements**

- 2.1 The Council must approve an annual budget for each of the Common Good funds before the start of the financial year. The budget must include provision for the maintenance of assets and for any committed items of expenditure e.g. property costs, administrative expenses and payments that have historically been paid by the Common Good funds. The Council cannot approve a deficit annual budget i.e. where expenditure would exceed income and the accumulated fund brought forward in any one year.
- 2.2 A committee of Councillors representing the area covered by the fund will administer each of the Common Good funds. Details of the membership of the Common Good committees are attached at the end of this document. Membership is based on the wards covered by each fund. At least 50% of the members must be present to constitute a quorum.
- 2.3 Each Common Good committee must meet at least once a year. A recorded minute of the meeting must be produced. The committee can hold other ad hoc meetings at its discretion.
- 2.4 Each Common Good committee will have authority to:
  - 2.4.1 Award a grant of up to £10,000 which supports an event, project or facility which is openly available to the inhabitants of the area to which the common good related (see Section 15(4)(a) of the 1994 Act, or supports a club or group which provides a benefit to the community of that area as a whole. The decision to award a grant must be

unanimous. If a unanimous decision cannot be reached then the application should be referred to the Council.

- 2.4.2 Approve revenue expenditure of up to £10,000 for the maintenance of the assets of the fund provided that it can be met within the approved budget.
- 2.4.3 Consult with other parties as appropriate, including the Community Councils
- 2.5 All decisions regarding expenditure over £10,000 will be considered as recommendations only and will be reported to the Council for a decision by the Head of Corporate Finance at the request of the relevant Common Good committee.
- 2.6 No officer of the Council has delegated powers to commit Common Good funds.
- 2.7 A quarterly report detailing all the discretionary grant awards for each of the funds will be prepared by the Head of Corporate Finance and lodged in the Members Library Service.

### **Common Good Committees**

#### **Dunbar**

<b>Councillor</b>	<b>Ward</b>
Jacquie Bell	Dunbar & East Linton
Norman Hampshire	Dunbar & East Linton
Paul McLennan	Dunbar & East Linton

#### **Haddington**

<b>Councillor</b>	<b>Ward</b>
Ludovic Broun-Lindsay	Haddington & Lammermuir
Sheena Richardson	Haddington & Lammermuir
Tom Trotter	Haddington & Lammermuir

#### **Musselburgh**

<b>Councillor</b>	<b>Ward</b>
John McNeil	Musselburgh West
Barry Turner	Musselburgh West
John Williamson	Musselburgh West
John Caldwell	Musselburgh East & Carberry
Andy Forrest	Musselburgh East & Carberry
Roger Knox	Musselburgh East & Carberry

**North Berwick**

<b>Councillor</b>	<b>Ward</b>
David Berry	North Berwick Coastal
Stuart MacKinnon	North Berwick Coastal
Neil Rankin	North Berwick Coastal

# Local Government etc. (Scotland) Act 1994

1994 c. 39 - *continued*

## Part I - Local Government Reorganisation - *continued*

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[back to previous page](#)

### Chapter 3

#### Property

Transfer of  
property.

**15** (1)  
(2)  
(3)

(4) The power to transfer property conferred by this section includes power to transfer property which is held by an existing local authority as part of the common good, but such property may not be transferred to a residuary body and, in administering such property, any authority to which it is transferred shall—

- (a) except in the case of the councils for Aberdeen, Dundee, Edinburgh and Glasgow, have regard to the interests of the inhabitants of the area to which the common good related prior to 16th May 1975; and
- (b) in the case of the councils for Aberdeen, Dundee, Edinburgh and Glasgow, have regard to the interests of all the inhabitants of their areas.

## Dunbar Common Good

## Income &amp; Expenditure Budget 2007/8

**Expenditure**

	<b>Actual 2006/7</b>	<b>Budget 2007/8</b>
Local Govt Workers Pay	1,549	1,600
Premises Costs - Repairs & Maintenance	7,095	7,100
Premises Costs - Rates	2,847	3,000
Supplies & Services - Services	320	320
Supplies & Services -Grants	8,400	2,000
Loan Charges - Principal repayments	0	590
Loan Charges - Interest	0	1,540
Total Expenditure	<u>20,211</u>	<u>16,150</u>

**Income**

Sales of Goods & Services - Rents	-23,825	-31,600
Interest & Investment Income - Interest Receipts	-990	-1,000
Other contributions - other organisations	0	-450
Total Income	<u>-24,815</u>	<u>-33,050</u>
Surplus for the Year	-4,604	
<b>Available funds or Estimated Surplus for Year</b>		<b>-16,900</b>
Common Good Fund opening balance	-25,937	-30,541
Accumulated fund	<u>-30,541</u>	<u>-47,441</u>

## Haddington Common Good

## Income &amp; Expenditure Budget 2007/8

**Expenditure**

	<b>Actual 2006/7</b>	<b>Budget 2007/8</b>
Premises Costs - Repairs & Maintenance	12,521	12,500
Premises Costs - Operating Lease	11,044	11,040
Supplies & Services - Services	330	330
Loan Charges - Principal repayments	0	550
Loan Charges - Interest	0	1,430
Total Expenditure	<u>23,895</u>	<u>25,850</u>

**Income**

Sales of Goods & Services - Rents	-33,000	-33,000
Interest & Investment Income - Interest Receipts	<u>-6,730</u>	<u>-6,730</u>
Total Income	<u>-39,730</u>	<u>-39,730</u>

Surplus for the Year -15,835

**Available funds or Estimated Surplus for Year -13,880**

Common Good Fund opening balance	-317,593	-333,428
Accumulated fund	<u>-333,428</u>	<u>-347,308</u>

## Musselburgh Common Good

## Income &amp; Expenditure Budget 2007/8

**Expenditure**

	<b>Actual 2006/7</b>	<b>Budget 2007/8</b>
Premises Costs - Repairs & Maintenance	14,735	15,000
Premises Costs - Water Services	887	1,000
Premises Costs - Rates	1,824	1,800
Supplies & Services -Materials	14,934	10,000
Supplies & Services - Services	48,848	30,000
Supplies & Services -Grants	31,237	50,000
Loan Charges - Principal repayments	0	1,510
Loan Charges - Interest	0	3,930
Total Expenditure	<u>112,465</u>	<u>113,240</u>

**Income**

Other contributions - other organisations	-102,413	-126,580
Sales of Goods & Services - Services	-238	0
Sales of Goods & Services - Rents	-299,511	-265,000
Interest & Investment Income - Interest Receipts	<u>-62,500</u>	<u>-62,500</u>
Total Income	<u>-464,662</u>	<u>-454,080</u>
Surplus for the Year	-352,197	
<b>Available funds or Estimated Surplus for Year</b>		<b>-340,840</b>
Common good Fund opening balance	-1,390,683	-1,742,880
Accumulated fund	<u>-1,742,880</u>	<u>-2,083,720</u>

## North Berwick Common Good

## Income &amp; Expenditure Budget 2007/8

**Expenditure**

	<b>Actual 2006/7</b>	<b>Budget 2007/8</b>
Premises Costs - Repairs & Maintenance	2,119	2,100
Premises Costs - Rates	1,770	1,770
Supplies & Services - Services	1,160	320
Supplies & Services -Grants	15,734	0
Total Expenditure	<u>20,783</u>	<u>4,190</u>

**Income**

Sales of Goods & Services - Rents	-19,419	-19,400
Interest & Investment Income - Interest Receipts	-2,790	-2,790
Total Income	<u>-22,209</u>	<u>-22,190</u>

Surplus for the Year -1,426

**Available funds or Estimated Surplus for Year -18,000**

Common Good Fund opening balance	-70,332	-71,758
Accumulated fund	<u>-71,758</u>	<u>-89,758</u>



**Common Good Act 1491**  
**1491 C. 19**

Of the commoun gud of all burrowis.

1 Short title “The Common Good Act 1491” given by Statute Law Revision (Scotland) Act 1964 (c. 80), Sch. 2

Scotland

Law In Force

1. Item it is statut and ordinit that the commoune gud of all our souerane lordis burrowis within the realme be obseruit and kept to the commoune gude of the toune and to be spendit in commoune and necessare thingis of the burght be the avise of the consale of the toune for the tyme and dekkynniss of craftis qhare thai ar [...]1

**Notes**

1 Words repealed by Statute Law Revision (Scotland) Act 1906 (c. 38)

**Commencement**

s. 1: May 18, 1491 being the day that the act was passed in the parliament April 28, 1491, Edinburgh

**Extent**

s. 1: Scotland



**REPORT TO:** East Lothian Council

**MEETING DATE:** 17 December 2013

**BY:** Depute Chief Executive (Resources and People Services)

**SUBJECT:** Appointments to Committees of the Council, East Lothian Licensing Board and Outside Bodies

**13**

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**1 PURPOSE**

- 1.1 To seek Council approval to make alterations to the membership of Committees of the Council and East Lothian Licensing Board, and to the Council's representation on the Board of Scotland Excel.

**2 RECOMMENDATIONS**

- 2.1 That the Council notes the work undertaken to best achieve political balance on the Planning and Education Committees following the abolition of *ex officio* positions on those committees;
- 2.2 That Council approves the following changes to membership of Committees of the Council and the East Lothian Licensing Board:
- Planning Committee – an increase in membership from 16 to 18, with three Councillors being appointed to the Committee and Councillor Veitch relinquishing his membership
  - Education Committee – an increase in Elected Member membership from 14 to 18, with four Councillors being appointed to the Committee
  - Audit and Governance Committee and the Joint Consultative Committee – a change to membership as detailed at section 3.8 of this report.
  - East Lothian Licensing Board – Councillors Currie and Trotter being appointed to the Board, subject to satisfactory completion of the mandatory training, and Councillor McLennan relinquishing his membership.
- 2.3 That the Council approves the nomination of Councillor McMillan to represent the Council on the Board of Scotland Excel, replacing Councillor Hampshire.

### 3 BACKGROUND

- 3.1 Members will recall that as part of the review of the Council's Standing Orders, it was agreed that *ex officio* positions on the Planning Committee and Education Committee would be abolished and that existing *ex officio* members would become ordinary members of those committees. In addition to this change, a more explicit requirement to achieve political balance has been made and further adjustment to the membership of the committees is now required.
- 3.2 In accordance with Standing Orders, it is for Council to determine the size of committees and, to assist with calculating proportionality and the achievement of political balance, it is proposed that the Planning and Education Committees should each have a membership of 18 Elected Members (with the Education Committee having 4 external members in addition to the Elected Members). This will mean that the membership of the Planning Committee needs to increase by 2 Elected Members and the Education Committee by 4 Elected Members.
- 3.3 In order to best achieve political balance on the Planning Committee, the Conservative Group membership would be reduced by one, the SNP membership would increase by two and Councillor Caldwell, as the Independent Member not currently a member of the Committee, would be offered a place. The Labour Group representation would remain unchanged.
- 3.4 In order to best achieve political balance on the Education Committee, the Labour Group membership would increase by one, the SNP membership would increase by two, and Councillor Berry, as the Independent Nationalist Member not currently a member of the Committee, would be offered a place. The Conservative Group representation would remain unchanged.
- 3.5 Members are asked to note that in the event the Independent Members choose not to take up the additional positions as outlined in Sections 3.3 and 3.4 above, their place on the committee would not be re-allocated.
- 3.6 The Leader of the Labour Group has indicated that the additional member on the Education Committee will be proposed at the Council meeting.
- 3.7 The Leader of the SNP Group has proposed that the two additional Members on the Planning Committee would be Councillors Brown and McLeod and that the two additional Members on the Education Committee would be Councillors McLennan and Williamson.
- 3.8 The Leader of the SNP Group has proposed changes to the SNP membership of other committees, as outlined below:
- Audit and Governance Committee – Councillor McAllister should replace Councillor McLennan
  - Joint Consultative Committee – Councillor MacKenzie should replace Councillor McLennan.

3.9 The Leader of the SNP Group has also proposed changes to the SNP membership of the East Lothian Licensing Board, as outlined below, noting that membership of Licensing Board is subject to satisfactory completion of the mandatory training:

- Councillors Currie and Trotter be appointed as Members of East Lothian Licensing Board with Councillor McLennan relinquishing his membership

3.10 Members are asked to note that the updated list of committee membership will be published on the Council's website.

3.11 The Administration has advised of a proposed change to the Council's representation on the Board of Scotland Excel, in that Councillor McMillan should replace Councillor Hampshire. Members are asked to approve this change.

#### **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 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 East Lothian Council Standing Orders

<b>AUTHOR'S NAME</b>	Lel Gillingwater
<b>DESIGNATION</b>	Democratic Services Manager
<b>CONTACT INFO</b>	<a href="mailto:lgillingwater@eastlothian.gov.uk">lgillingwater@eastlothian.gov.uk</a> x7225
<b>DATE</b>	2 December 2013



**REPORT TO:** East Lothian Council

**MEETING DATE:** 17 December 2013

**BY:** Depute Chief Executive (Resources and People Services)

**SUBJECT:** Submissions to the Members' Library Service  
10 October – 4 December 2013

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**14**

## **1 PURPOSE**

- 1.1 To record the reports submitted to the Members' Library Service since the last meeting of Council, as listed in Appendix 1, into the Council's Business.

## **2 RECOMMENDATIONS**

- 2.1 Council is requested to record the reports submitted to the Members' Library Service between 10 October and 4 December 2013, as listed in Appendix 1, into the Council's Business.

## **3 BACKGROUND**

- 3.1 The Members' Library Service has a formal role in the consultative process between Council officers and Members as outlined in Standing Order 9(iv). It is therefore necessary to circulate a list of those reports submitted to the Library Service, to be recorded into the proceedings of the Council.
- 3.2 If Members have no objections to the reports listed in Appendix 1 they will be recorded into the Council's Business. All reports submitted to the Members' Library are available on eGov.

## **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 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 East Lothian Council's Standing Orders – 9(iv)  
7.2 Report to East Lothian Council on 25 January 2005 – Submission to the Members' Library Service 29 October 2004 - 14 January 2005, and Changes to the Members' Library Process

<b>AUTHOR'S NAME</b>	Lel Gillingwater
<b>DESIGNATION</b>	Democratic Services Manager
<b>CONTACT INFO</b>	<a href="mailto:lgillingwater@eastlothian.gov.uk">lgillingwater@eastlothian.gov.uk</a>
<b>DATE</b>	4 December 2013



**MEMBERS' LIBRARY SERVICE RECORD FOR THE PERIOD  
10 October – 4 December 2013**

<b>Reference</b>	<b>Originator</b>	<b>Document Title</b>	<b>Committee</b>	<b>Access</b>
212/13	Depute Chief Executive – Partnership and Services for Communities	Society of Chief Officers of Environmental Health – Civic Hospitality	Cabinet	Public
213/13	Head of Policy and Partnerships	ELC Response to Consultation on the Medical Certificate of Cause of Death (MCCD Consultation)	Council	Public
214/13	Head of Housing and Environment	Mortgage to Rent Scheme – Purchase of House in Port Seton	Cabinet	Private
215/13	Depute Chief Executive – Partnership and Services for Communities	Building Warrants Issued under Delegated Powers between 1 <sup>st</sup> and 30 <sup>th</sup> September 2013	Planning	Public
216/13	Depute Chief Executive – Resources and People Services	Sale of a Property in Tranent	Cabinet	Private
217/13	Depute Chief Executive – Resources and People Services	Service Review Report – Children's Wellbeing Service Redesign and Review	Cabinet	Private
218/13	Depute Chief Executive – Partnership and Services for Communities	Service Review Report – Creation of Temporary Intern Work Experience Post	Cabinet	Private
219/13	Depute Chief Executive – Partnerships and Community Services	Building Warrants Issued under Delegated Powers between 1-31 October 2013	Planning	Public
220/13	Depute Chief Executive – Partnerships and Community Services	Sports Award Scheme - Special Award	Cabinet	Public
221/13	Chief Executive	Letter to Chief Constable re Police Scotland's police public counter service review and traffic warden review	Council	Public
222/13	Chief Executive	Service Review Report – Realignment of Council Services, Chief Officer Responsibilities and Appointment of Service Managers	Cabinet	Public

223/13	Depute Chief Executive – Resources and People Services	Annual Treasury Management Review 2012/13	Council	Public
224/13	Head of Education & Head of Adult Wellbeing	Service Review Report – Transfer of Post of Access Officer (ASN) from Education to Adult Wellbeing	Cabinet	Private
225/13	Head of Development	Sale of Former Schoolhouse, West Barns, Dunbar	Cabinet	Private
226/13	Depute Chief Executive – Partnerships and Community Services	Proposed Housing Development, Victoria Park, Haddington	Cabinet	Public
227/13	Depute Chief Executive – Partnerships and Community Services	Service Review Report – Amendment to Facilities Management Services Structure	Cabinet	Private
228/13	Chief Executive	Appointment of East Lothian Council Chief Executive as Vice Chair of SOLACE Scotland	Council	Public
229/13	Head of Development	Planning Guidance for Wind Farms of Over 12MW: Supporting Documentation	Cabinet	Public
230/13	Head of Children’s Wellbeing	Call for Evidence on a Legislative Consent Memorandum on the Anti Social Behaviour, Crime and Policing Bill	Council	Public

4 December 2013