



**MINUTES OF THE MEETING OF
THE CABINET**

**TUESDAY 21 OCTOBER 2014
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor T Day
Councillor D Grant
Councillor N Hampshire
Councillor W Innes (Convener)
Councillor J McMillan
Councillor M Veitch

Other Councillors Present:

Councillor D Berry
Councillor J Caldwell
Councillor S Currie
Councillor J Gillies
Councillor P MacKenzie
Councillor F McAllister
Councillor K McLeod

Council Officials Present:

Mrs A Leitch, Chief Executive
Ms M Patterson, Depute Chief Executive – Partnerships and Community Services
Mr A McCrorie, Depute Chief Executive – Resources and People Services
Mr D Small, Director of Health and Social Care Partnership
Mr J Lamond, Head of Council Resources
Mr R Montgomery, Head of Infrastructure
Mr T Shearer, Head of Communities and Partnerships
Mr D Proudfoot, Acting Head of Development
Mrs M Ferguson, Service Manager – Legal and Procurement
Ms S Fortune, Service Manager – Business Finance
Mr P Vestri, Service Manager – Corporate Policy and Improvement
Ms C McCorry, Service Manager – Community Housing
Ms E Ryan, Environmental Health Partnership Manager
Mr J Coutts, Service Development Manager, Community Housing
Mr C Clark, Principal Environmental Protection Officer
Mr S Baxter, Operations and Engineering Manager
Mr D Northcott, Team Manager – Structures, Flooding and Street Lighting
Ms Z Thomson, HR Business Partner
Ms J Mackay, Media Manager

Clerk:

Ms A Smith

Apologies:

Councillor S Akhtar

Declarations of Interest:

The Chief Executive declared an interest on behalf of the Council Management Team in relation to item 4; it was not the intention for those officers to leave the Chamber as they would not be involved in the debate or decision.

Prior to commencement of business Councillor Veitch paid tribute to John Stephenson, a former Conservative Councillor who had represented both East Lothian District Council and Lothian Regional Council, who had recently passed away.

1. MINUTES OF THE MEETING OF THE CABINET OF 10 JUNE 2014

The minutes of the meeting of the Cabinet of 10 June 2014 were approved.

**2. SUMMARY OF CONTRACTS AWARDED BY EAST LOTHIAN COUNCIL
1 MAY – 8 OCTOBER 2014**

A report was submitted by the Depute Chief Executive (Resources and People Services) advising Members of all contracts awarded by the Council from 1 May to 8 October 2014, with a value of over £150,000.

Councillor Currie welcomed the extension to Pinkie St Peter's Primary School and also welcomed that the contract had been awarded to a local company.

Councillor McMillan echoed those comments.

Decision

The Cabinet agreed to note the award of contracts with a value of over £150,000, as listed in Appendix 1 to the report.

3. FINANCIAL REVIEW 2014/15: QUARTER 1

A report was submitted by the Depute Chief Executive (Resources and People Services) recording the financial position at the end of the first quarter of the financial year 2014/15.

The Head of Council Resources, Jim Lamond, presented the report. He also informed Members that the statutory audit process for 2013/14 had been completed and the external auditors had signed off the accounts with a clean audit opinion, the auditors would be reporting to Council on 28 October. He provided an overview of the Quarter 1 position. He drew attention to the overall position on General Services Revenue expenditure, which reflected an underspend at the end of June. In relation to risk and efficiency ratings progress was generally positive however three areas were showing some adverse signs regarding realising the level of savings and efficiencies planned within the 2014/15 budget. Mr Lamond also highlighted the position as regards the Housing Revenue Account and General Services Capital budgets. He advised Members that the Quarter 2 position would be reported to the November Cabinet and this would also include a refresh of the capital programme.

Councillor Berry referred to the relatively low capital spend and asked for reassurance that this would not adversely affect any particular projects. Mr Lamond gave such assurance, but

added that he would further review the Quarter 2 figures. Councillor Berry then referred to Appendix A, to the Planning and Environmental Services underspend, and asked if there was a mechanism to determine at what point an underspend was to the detriment of the service. Mr Lamond indicated there was no mechanism as such; budgets were set at operational levels by service managers to deliver planned requirements and that in conjunction with their financial advisors, service managers would need to ensure that resources were being applied effectively to deliver planned outcomes. He confirmed this particular service area would be reassessed as part of the Quarter 2 report.

In response to a question from Councillor MacKenzie, Mr Lamond provided further details regarding progress with efficiency savings for primary and secondary schools and the difference between the two school sectors.

Councillor Currie queried slippage in relation to capital underspend stating this was an inherent issue. He welcomed the inclusion of Ormiston Bowling Club in the list of projects, but queried the revenue consequence. As regards slippage, Mr Lamond referred to the lower than planned capital spend last year and highlighted the need for a refresh of the Capital Plan to take account of the now audited year end position; he indicated he would carry out a validation regarding the nature of any slippage on a project by project basis. In relation to Ormiston Bowling Club he was not in a position to be able to provide an update regarding the revenue implications. The Head of Infrastructure, Ray Montgomery, added that work was being progressed, there would be a return to bowling in Ormiston but an actual date had yet to be determined.

Councillor Hampshire welcomed the report; there were some areas of concern but generally the position was positive. He made reference to the severe pressures staff were working under, stating that the Council had to seriously review service provision as current levels of provision could not be sustained.

Councillor Currie agreed with comments about staff pressures. He referred to the budget approved by Council, commenting that below a certain level it was not beneficial to have an underspend; after sight of the Quarter 2 report and the mid-year review, there may be a need to revisit revenue allocations.

Councillor Innes stated that the general position was quite positive although there were areas of challenge as highlighted. He added that it was not the intention of this Administration to deliberately underspend either in relation to revenue or capital.

Decision

The Cabinet agreed:

- i. to note the financial performance of services at the end of June 2014; and
- ii. to note that a refreshed General Services and HRA Capital Plan would be presented to Cabinet as part of the Q2 review.

4. REVISED SCHEME OF CONDITIONS OF SERVICE FOR CHIEF OFFICIALS

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval for local agreements in relation to Chief Officials following the revised national terms and conditions of employment at 1 April 2014.

The HR Business Partner, Zoe Thomson, presented the report, outlining the main changes to the revised national conditions of service. She advised Cabinet that the Council's policies relating to discipline and grievance had amendments drafted to be applicable to all Chief

Officials. It was also proposed that there be a local agreement for Chief Officials to retain an entitlement to 27 days annual leave and to have the salary preservation provisions that applied to other Local Government Employees extended to Chief Officials. Consultation had taken place with the employee group and Unison. She drew attention to the policy implications, informing Members that the aim of the recommendations was harmonisation with other employee groups.

Ms Thomson responded to several questions from Councillor Berry regarding the revised conditions. She reiterated that the aim was to move towards harmonisation of terms and conditions for this employee group with those of other employees. The reason for the proposal for Chief Officials to retain 27 days annual leave rather than reduce to 20/25 days was that it had not been considered appropriate to extend the Flexible Working Hours Policy to Chief Officials. Councillor Berry made reference to terms and conditions for senior employees in the private sector.

Councillor Currie remarked, in response to Councillor Berry's points, that this was not the private sector, there were significant differences in the public sector which needed to be recognised. Harmonising conditions was a good idea; to be able to do this with no additional costs to the Council was welcomed.

Councillor Berry expressed his highest regard for the senior officials but disagreed with his colleague. The Council was not being realistic and was not operating in the best interests of public sector employees; it was up to this Council whether to implement these changes or not. He asked that his dissent be recorded.

Councillor Innes stated that the trade unions had been consulted as required and agreement regarding the revised conditions had been reached.

Decision

The Cabinet agreed:

- i. that the application of the Local Government Employee Discipline and Grievance Policies (as amended) be extended to Chief Officials;
- ii. that Chief Officials retain an entitlement to 27 days annual leave; and
- iii. the scope of local policies relating to salary preservation be extended to include Chief Officials, (relevant policies – Policy and Procedure for Dealing with Redundancies and Protocol on the Conduct of Service Reviews).

5. LOCAL LETTINGS PLANS AND REVISIONS TO COUNCIL HOUSE ALLOCATIONS TARGETS 2014/15

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) seeking approval for the Prestonpans High Street Local Lettings Plan and the revised Council House Allocations targets from 1 November 2014 subsequent to the adoption of this lettings plan. Cabinet was also asked to note that the development of further Local Lettings Plans was underway and proposals would come forward for these next April.

The Service Manager for Community Housing, Caitlin McCorry, presented the report, outlining the purpose of the Allocations Policy. She drew attention to the Local Lettings Plan attached to the report, advising Cabinet this had been developed with staff, tenant representatives and elected members through their respective Local Housing Partnerships. She stated that lettings plans would not be used in isolation but would form part of other regeneration and local initiatives and work alongside other policies such as estates

management and antisocial behaviour. The plan would be monitored and reviewed after one year. Ms McCorry also drew attention to the revised housing allocations targets for 2014/15.

In response to questions from Councillor Currie regarding the proposed percentage targets, Ms McCorry advised that demands would be analysed to ensure that priorities were being achieved.

Councillor MacKenzie welcomed this Local Lettings Plan for Prestonpans. He noted that the stock profile referred to a total of 158 properties. He made reference to the Scottish Index of Multiple Deprivation and the key role of these plans.

Councillor Hampshire also welcomed this report; lettings plans would be a useful management tool to deal with issues in particular areas of the community. He noted that other lettings plans would be developed and rolled out in due course.

Councillor Currie remarked that the test of any lettings plan was outcomes and effectiveness. He referred to the attributes as detailed, stating that first one, no history of antisocial behaviour, was key. This would be a tool, amongst others, to create sustainable communities. These plans would play a key role in areas of multiple deprivation.

Councillor Innes welcomed the report and the Prestonpans Local Lettings Plan. The Administration had given a commitment to endorse policies that would create balanced and sustainable communities. He looked forward to the development of other lettings plans.

Decision

The Cabinet agreed:

- i. to approve the Prestonpans Local Lettings Plan with effect from 1 November 2014;
- ii. to approve the new recommended allocations targets to take effect from 1 November 2014; and
- iii. to note that new targets would be set for 2015/16 to take into account the other three lettings plans currently in development.

6. FLOOD RISK MANAGEMENT STRATEGY

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) updating Cabinet on the Flood Risk Management Strategy (FRMS) process and seeking approval of the draft Strategy including the short list of actions prior to a period of public consultation.

The Team Manager for Structures, Flooding and Street Lighting, David Northcott, presented the report, referring to earlier reports to Cabinet regarding the ongoing Strategy process. He drew attention to the appendices; the Local Plan District (LPD) overview, initial objectives and short list of actions. East Lothian was within LPD District 10, as shown on the map at Appendix 1, which also detailed the Potentially Vulnerable Areas (PVAs). He informed Members that the Flood Risk Management Plan (FRMP) would also consider flooding issues not considered at strategy level. Phase 1 of the public consultation, when the Characterisation Reports would be made available for review, would run from December 2014 to June 2015; phase 2 which would include the Objectives and Short List of Actions, from March to June 2015. The final FRMS would be published in December 2015 and the final local FRMPs in June 2016.

In response to questions from Councillor Currie, Mr Northcott advised that a number of schemes were ongoing, including various issues following on from flooding at Macmerry. Regarding major issues at the Esk and Tyne rivers, the Council received warnings from SEPA and measures were put in place to mitigate any issues. With regard to future financial provision, the Short List of Actions were being analysed by SEPA for March 2015.

Councillor Berry asked if SEPA had selected the PVAs. Mr Northcott advised that PVAs were determined from the national flood risk assessment by SEPA, 5 PVAs had been identified in East Lothian and the draft Strategy was based on these. Any other areas would be considered at local level and in local FRMPs. Councillor Berry expressed concern that North Berwick had not been marked as a PVA, making specific reference to the harbour area and sewage works; he asked for assurance that these 2 points would be looked at. Mr Northcott confirmed that these 2 areas would be considered in the local FRMP.

In response to questions from Councillor McAllister, Mr Northcott advised that groundwater in Musselburgh was recognised by SEPA, but at a strategic level no measures were proposed; this would be looked at in the local FRMP. Regarding dredging, this would be included in sediment management in the Short List of Actions.

Councillor Currie referred to recurring reports regarding the flood strategy process, but remarked that the public perception was that action was not being taken to alleviate issues. He referred to the Capital Plan, stating that the capital required to deal with flooding matters would be considerably more than anticipated. The work carried out by staff when flooding occurred was recognised, but was not a long term solution. He stressed that the Council had to communicate directly and effectively to residents about actions and progress.

Councillor Hampshire referred to the SEPA briefing on 7 October and to the stated requirement that local authorities had to fund problems associated by flooding. Often flooding was caused by other peoples' land mismanagement, which the Council had no control over. This was a major issue.

Councillor Berry agreed that the powers available to local authorities were not sufficient to deal with these issues. He also agreed that local communities wanted to see evidence of progress. He referred to the installation of floodgates at Biel Water, beneficial to local residents of West Barns; there were some works the Council could progress without SEPA.

Councillor Caldwell referred to flooding problems in the Pinkie area of Musselburgh, where there were old mine shafts/workings. He appreciated the work carried out by the Council; however a lot more was still required. He stated that the Coal Authority had to be involved and had to share the costs.

In relation to responsible authorities included in the Local Plan District Partnership, Councillor MacKenzie noted that the Coal Authority was not listed and agreed with his colleague that they should be involved.

Councillor Grant also expressed concern that the Council had to meet the cost of flooding incidents caused by others, echoing that the relevant agencies had to be involved and contribute as appropriate.

Councillor Innes stated that this Administration had increased the budget for flood management, a considerable amount had been spent, however the sum required to address these issues would be significant. He agreed that other agencies had to be involved in resourcing. He also drew attention to coastal erosion, which was a major issue.

Decision

The Cabinet agreed to approve the objectives and short list of actions (attached as appendices to the report) as part of the ongoing Flood Risk Management Strategy process and to note that the characterisation reports had been lodged in the Members' Library (October 2014 bulletin, ref 193/14).

7. LOCAL AIR QUALITY MANAGEMENT – DESIGNATION OF AIR QUALITY MANAGEMENT AREA IN MUSSELBURGH: UPDATE

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) informing Cabinet of the outcomes of a Further Assessment of local air quality in Musselburgh in fulfilment of the Council's obligations under Section 84(2)(a) of the Environment Act 1995, the UK National Air Quality Strategy and Scottish Air Quality Regulations; and seeking approval to progress the development of an Air Quality Action Plan required by section 84(2)(b) of the Environment Act 1995 to work towards compliance with air quality objectives and relevant Regulations.

The Acting Head of Development, Douglas Proudfoot, presented the report, drawing particular attention to the assessment of air quality in East Lothian. He referred Members to the conclusions of the air quality detailed assessment for Musselburgh that had been completed in 2012 and to the additional monitoring of nitrogen dioxide (NO₂) that had taken place in 2012-13. The monitoring results confirmed that parts of the High Street were exceeding the nitrogen dioxide annual mean objective, which was a measure of longer term exposure. A further update report would be brought to Cabinet in 2015.

In response to questions from Members Mr Proudfoot referred to the conclusions of the 2014 further assessment, adding that in relation to the Air Quality Management Area the statutory obligation now was to develop the Air Quality Action Plan.

Councillor Hampshire queried timescales for the High Street works. The Operations and Engineering Manager for Road Services, Stuart Baxter, advised that improvement works were ongoing, included within these works was the upgrading of the traffic signals at the High Street/Newbigging junction which should reduce queue lengths.

In response to questions from Councillor McAllister regarding bus emissions, queuing, timetables and bus stop separation, Mr Baxter confirmed that ongoing discussions were taking place with bus companies. He advised that bus stop separation had been looked at and while this may improve traffic flow it would not however improve air quality management.

Councillor Berry stated that one single street could not cope with all the traffic, in a town the size of Musselburgh this created obvious problems. The only options were to open Inveresk Road or the Scottish Power Bridge, or both; anything else would not have a meaningful result.

Councillor Currie stressed that this was an issue that had to be addressed however the options put forward by his colleague were not viable, outlining the reasons against those suggestions.

Councillor Caldwell agreed that the proposals put forward by Councillor Berry were not feasible. The short term solution was to ensure that as many people as possible used the bypass and did not go through Musselburgh town centre.

Decision

The Cabinet agreed:

- i. to note the conclusions of the 2014 Further Assessment and the 2014 Air Quality Progress report;
- ii. to acknowledge that further actions through developing an Air Quality Action Plan were required in order that air quality objectives were achieved in Musselburgh; and
- iii. to acknowledge that Environmental Protection would liaise with Transportation to develop options that would be considered for inclusion within the Air Quality Action Plan, with a further report to be submitted for consideration by Cabinet in 2015.

8. PUBLIC MINUTES OF THE MEETINGS OF THE LICENSING SUB-COMMITTEE HELD ON 12 JUNE AND 14 AUGUST 2014

The public minutes of the meetings of the Licensing Sub-Committee held on 12 June and 14 August 2014 were approved.

9. MINUTES FOR NOTING

The minutes of the Sustainable Economy Partnership held on 30 April 2014, the Resilient People Partnership held on 21 May 2014 and the Safe and Vibrant Communities Partnership held on 26 May were noted.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Cabinet unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraphs 1, 3 and 6 (information relating to any particular employee of the Authority; information relating to any particular applicant for, recipient or former recipient of a service provided by the Authority; information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

Sub-Committee Minutes

The private minutes of the meetings of the Licensing Sub-Committee held on 12 June and 14 August 2014 were approved.

The private minutes of the meetings of the Homelessness Appeals Sub-Committee held on 17 July, 21 August 1 September and 25 September 2014 were approved.

The private minutes of the meetings of the Employee Appeals Sub-Committee held on 24 July and 4 September 2014 were approved.

The private minute of the meeting of the Social Work Appeals Sub-Committee held on 2 October was approved.