



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

**TUESDAY 25 OCTOBER 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

1

Committee Members Present:

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

Council Officials Present:

Mrs A Leitch, Chief Executive
Mr A McCrorie, Depute Chief Executive (Resources and People Services)
Mrs M Paterson, Depute Chief Executive (Partnerships and Community Services)
Mr D Small, Director of East Lothian Health & Social Care Partnership
Mr J Lamond, Head of Council Resources
Mr R Montgomery, Head of Infrastructure
Mr D Proudfoot, Head of Development
Mrs F Robertson, Head of Education
Ms S Saunders, Head of Adult and Children's Services
Mr T Shearer, Head of Communities and Partnerships
Ms M Ferguson, Service Manager – Legal and Procurement
Mr P Forsyth, Team Manager – Assets and Regulatory (Transportation)
Ms S Fortune, Service Manager – Business Finance
Ms J Mackay, Media Manager
Mrs K MacNeill, Service Manager – LADS
Mr D Scott, Quality Improvement Officer, Education
Mr A Stubbs, Service Manager – Road Services

Visitors Present:

Mr A Shaw, KPMG LLP

Clerk:

Mrs L Gillingwater

Apologies:

Councillor D Berry

Declarations of Interest:

None

1. MINUTES FOR APPROVAL

The minutes of the Council meetings specified below were approved:

East Lothian Council – 23 August 2016

Matter arising: Item 1 (Minutes for Approval) – Councillor McLennan requested an update on the position as regards the Edinburgh and South East Scotland City Region Deal. The Chief Executive advised that work was ongoing, but that she was unable to share further details at this time. She undertook to provide further information in due course.

Matter arising: Item 1 (Minutes for Approval) – As regards the Musselburgh schools consultation, Councillor Williamson asked how many responses had been received. The Chief Executive informed him that a report on this matter would be presented to the Council in December.

Matter arising: Item 4 (2015/16 Financial Review) – Councillor Currie asked if there would be a report to Cabinet on the situation in relation to the Abbeylands site in Dunbar. Jim Lamond, Head of Council Resources, advised that this matter would be included in his Quarter 2 Financial Review report, which would be presented to Cabinet in December. He confirmed that the Abbeylands site was an asset on the Housing Revenue Account (HRA), and that there was a five-year lease (from 2014) for the site to be used as a temporary car park, with a rental value of £3,500 per annum. Councillor Currie questioned whether this lease provided value for money and asked when a determination would be made as to the future of the site. Mr Lamond noted that there would be a review in 2019, and that a decision would be made at that time.

East Lothian Council – 6 September 2016

2. MINUTES FOR NOTING

The minutes of the meetings specified below were noted:

Local Review Body (Planning), 16 June 2016

3. ANNUAL AUDIT REPORT TO MEMBERS AND CONTROLLER OF AUDIT

The Provost welcomed Andy Shaw of KPMG LLP to the meeting, noting that this would be Mr Shaw's final presentation to Council, as Audit Scotland would be taking over from KPMG as the Council's external auditor. On behalf of the Council, he thanked Mr Shaw and his colleagues for their service.

Mr Shaw presented the Audit Report to Members, stating that the Council had been given an unqualified opinion on the 2015/16 annual accounts. He reported that, over the past five years, the Council had continued to develop its controls and financial processes, and that there were no issues of concern. He thanked the Head of Council Resources, the Service Manager – Business Finance, and their staff for their efforts and cooperation. Mr Shaw then went on to highlight a number of key aspects of the report, including the use of reserves, capital expenditure, risk, and other areas of focus. He reported positively on the Council's

strong financial controls, improvements in the budgeting process and the reporting of financial results, and the development of the National Fraud Initiative, as well the Council's response to previous recommendations.

Sederunt: Councillor Goodfellow joined the meeting.

The Head of Council Resources, Jim Lamond, assured Members that the external auditors had conducted their audits in a rigorous and challenging way. He spoke of the positive relationship between officers and the auditors.

Councillor Hampshire commented that it was difficult for the Council to plan for the long term when it did not control much of its income. Mr Shaw appreciated that this was a challenge, but believed that long-term planning could be done through various analyses.

Councillor Akhtar asked for Mr Shaw's views on progress made by the Council over the five-year period, in spite of financial constraints. Mr Shaw highlighted the improvements in financial controls and financial management, preparation of accounts, and reporting of financial information to Members.

Responding to a question from Councillor MacKenzie as regards slippage in capital projects, Mr Shaw advised that he was satisfied that the delivery of the Capital Programme and under-spends in a number of services were being managed appropriately.

Councillor Currie commented that long-term planning would become increasingly difficult, especially in light of the decision of the UK to leave the EU. He expressed concern at the level of under-spend, suggesting that there may have been unnecessary cuts made to some services. On the matter of local government funding, he remarked that it was for opposition parties to put forward proposals to the Scottish Parliament, but they had not done so.

Councillor Akhtar made reference to the reduction in funding to the Council from the Scottish Government, claiming that proposals had been put to the Scottish Government to raise income tax in order to fund public services. She welcomed the audit report, as well as the efforts made by Council staff to work within their budgets.

Councillor Innes concluded the debate by highlighting that there were no areas of significant concern reported by the external auditors, and that there had been year-on-year improvements, which demonstrated that the financial management of the Council was sound.

Decision

The Council agreed to note the report.

4. EAST LOTHIAN COUNCIL ANNUAL PUBLIC PERFORMANCE REPORT 2015/16

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) providing the Council with the Council's Annual Performance Report 2015/16.

The Service Manager – Corporate Policy and Improvement, Paolo Vestri, presented the report, advising that it had been considered by the Policy & Performance Review Committee (PPRC) earlier in October. He highlighted the progress made in achieving the objectives of the Council Plan.

Councillor MacKenzie asked if the Council was making the required progress in raising literacy levels at both primary and secondary level. Fiona Robertson, Head of Education,

advised of actions taken to improve literacy levels, including the provision of new guidance for teachers, the introduction of curriculum development groups (working across clusters), a number of staff undertaking new qualifications in literacy and numeracy, improved assessment, tracking and reporting processes, and the involvement of Area Partnerships in developing strategies for particular schools or clusters. She highlighted the importance of initiatives being deliverable and sustainable, as well the sharing of good practice across the Council.

In response to a question from Councillor Currie as regards the support for children with additional support needs, Mrs Robertson advised that she was working closely with head teachers on this issue, with scoping work across clusters being undertaken. She pointed out that the figures fluctuated depending on the level of need, and that resourcing was discussed in the school clusters and using the local authority moderation activity. She added that issues under consideration included professional learning, the assessment process and the application process. She stressed that the reduction in hours was concerned with the level of need, rather than the level of funding.

Councillor Currie also questioned the performance related to delayed discharge, in particular if measures implemented in 2015/16 had been effective. Mr Vestri reported that there had been a reduction in delayed discharge figures for 2015/16. However, there had been an increase in levels in the current year, and the IJB was looking into this. David Small, Director of Health and Social Care, added that the figures had improved since the summer, with a reduction from 70 to 44.

Councillor Akhtar asked if there was an indication that the public were satisfied with Council services. Mr Vestri advised that the latest survey figures were not yet available (they would be reported to the PPRC early in 2017), but he noted that customer satisfaction remained very high, and remained higher than the Scottish average.

Councillor McMillan expressed his disappointment at the delay in broadband provision in East Lothian. He also commended Council staff on their work with communities, highlighting a number of positive initiatives and events. He also referred to the success of East Lothian Works and to the creation of a new business centre in Haddington.

Councillor Goodfellow congratulated Council staff for their efforts to maintain services at a time when the Scottish Government grant funding to the Council had been reduced. He noted that the Council had actually increased funding to a number of services in spite of these financial challenges.

Councillor MacKenzie spoke of the need for the Council to take action to encourage teenagers to read more.

Councillor Currie disputed comments made by Councillor Goodfellow, remarking that the Council's under-spend for the current financial year was greater than the reduction in Scottish Government grant funding. He also expressed concern at the delayed discharge figures and at the resourcing of support for children with additional support needs.

Councillor Akhtar drew attention to several services which would benefit young people, including the new additional support needs provision in Haddington, the construction academy, the book bugs initiative and improvements at Preston Lodge High School library.

On the matter of delayed discharge, Councillor Grant pointed out that this was an issue for many areas in Scotland. He suggested that this was a matter for the IJB to consider.

Councillor Hampshire welcomed the report, highlighting the improvements made to Council homes through the modernisation scheme, and the increase in recycling levels. He praised staff for their work in successfully implementing recent changes to waste collection.

Councillor Innes commented on the positive results set out in the report, which showed that the Council was improving at the same time as introducing a range of new initiatives. He thanked Council staff for continuing to deliver quality services.

Councillor Veitch concluded the debate by commenting on the improvements to local bus services and of the positive relationship between the Council and bus service providers. He also spoke of the new community transport model, hoping that this would be extended to other areas. He did, however, feel that the Council had been let down by rail service provision, particularly as regards overcrowding on the North Berwick line and the delay in introducing new rolling stock.

Decision

The Council agreed to note the progress being made to achieve the Council Plan and approve the Annual Performance Report 2015/16.

5. FINANCIAL PROSPECTS 2017–20

A report was submitted by the Depute Chief Executive (Resources and People Services) providing an overview on the Financial Prospects for 2017/18 and beyond to help inform the development of the 2017–20 budget, and setting out the process to be followed for public consultation.

The Head of Council Resources, Jim Lamond, presented the report, advising that, as well as covering the financial outlook for the Council, the report also detailed proposed changes to the Council Tax system, budget development and capital planning. He noted that the Council's financial strategy was working, and this had been reinforced by the external auditor's Annual Report to Members, presented earlier in the meeting. Mr Lamond pointed out that the Chancellor's Autumn Statement and announcement of the Scottish Government budget would have an impact on the timing of the Council's budget-setting process. He anticipated that would be no increase on the Council's grant funding for 2017/18. On the proposed reform of Council Tax, he warned that although c. £3 million would be raised in East Lothian through the Council Tax Multiplier, it was likely that less than half of that amount would be returned to East Lothian, to support education. He drew Members' attention to the budget development process, proposing that the Council should continue to produce a 3-year budget.

In response to questions from Councillor Currie in relation to the funding of free school meals and additional nursery provision, Mr Lamond advised that additional allocation for these had been made through the block grant from the Scottish Government and that the Council was spending in accordance with its plans. He noted that the uptake of free school meals for P1–3 had not been as high as anticipated, but that this funding was not ring-fenced. On the funding of social care, he advised that the Council was considering its approach as regards additionality.

Councillor Goodfellow questioned the impact of the proposed Council Tax reforms. Mr Lamond explained that it was likely that the allocation of funding to councils resulting from the changes would be based on free school meal entitlement. He estimated that, on that basis, the funding to the Council would be between one-third and a half of the money raised in East Lothian.

Councillor McLennan requested that Members should have a greater involvement in the budget preparation process. Mr Lamond assured him that there was a significant level of engagement with Members in this process, and that members of the Council Management Team were happy to discuss budget proposals with Members.

Councillor Akhtar expressed concern that the Council Tax reform proposals would break the link between local taxation and local spending. She also asked if anyone who was entitled to free school meals or early years' provision had been denied these services. Fiona Robertson, Head of Education, confirmed that no one entitled to these services had been refused.

In response to other questions, Mr Lamond advised that it was not clear at this point whether the UK's decision to leave the EU would impact on future Council budgets, and he reiterated that the allocations for free school meals and nursery provision were not ring-fenced.

Referring to the proposed Council Tax reforms, Councillor Currie informed the meeting that Derek Mackay, Scottish Government Finance Secretary, had stated on 22 September that all money raised through Council Tax would stay within that local authority area. He also noted that the proposed changes to the system had been approved earlier in October. He remarked that if funding was allocated for a specific purpose, then the Council was entitled to know how it was being spent. He also suggested that the Council could contribute to food banks during school holidays. On adult social care, he expressed concern at proposed future budget reductions, and he believed that 'Brexit' would have a negative impact on the Scottish Government and local authorities.

Councillor Akhtar voiced her concern as regards the proposed Council Tax changes, arguing that the Scottish Government should raise income tax to fund national initiatives. She believed that communities were unaware of the proposed changes.

Councillor McMillan highlighted the importance of local authorities having the opportunity to put forward their views to the Scottish Government on the potential impact of 'Brexit' on the funding of local initiatives.

Councillor Veitch spoke in opposition to the Council Tax proposals, describing them as 'an outrageous assault on local democracy', and expressed his disappointment that SNP Members were also not opposing the proposals.

Councillor Innes warned of challenging financial times ahead, and voiced his disappointment that much of the additional Council Tax raised would be diverted to the Scottish Government's Attainment Fund. He was also concerned that some households would see a rise of 22.5% in their Council Tax bills in the coming year. He called on opposition Members to oppose the Council Tax proposals.

Councillor McAllister argued that the Council Tax proposals were fair and progressive, especially as there had been a Council Tax freeze for nine years and properties had not been revaluated since the introduction of the tax. His views were supported by Councillor McLennan.

Councillor Grant commented that the Council Tax proposals undermined local democracy and that the Scottish Government did not view local government as a priority.

Decision

The Council agreed:

- i. to note the financial prospects for 2017/18 and beyond for the Council;

- ii. to note the potential implications arising from the Scottish Government's proposed Council Tax reforms and the need to promote greater public awareness;
- iii. to note the process for the 2017–20 budget development; and
- iv. to note that the public budget consultation would be launched soon.

6. REPORT ON THE OUTCOME OF THE SCHOOL CONSULTATION TO RELOCATE WALLYFORD PRIMARY SCHOOL AND THE PROPOSED CHANGE TO THE WALLYFORD PRIMARY SCHOOL CATCHMENT AREA

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of the recommendations set out in the Consultation Report (attached at Appendix 1 to the report) to relocate Wallyford Primary School and vary the Wallyford Primary School catchment area.

Fiona Robertson, Head of Education, presented the report, advising of the consultation process and representations received. She set out the areas of concern that had been raised by the community, as well as the views of Education Scotland. She drew attention to the consultation report (Appendix 1 to the report), which provided detailed information on the consultation, noting that responses to the proposals were largely positive. She also noted that the Council would receive a contribution from the Scottish Futures Trust towards the capital costs of developing the school.

In response to a question from Councillor Akhtar on the consultation process, Mrs Robertson advised that, as well as a public meeting, a number of other meetings had been held with the school staff and pupils, and that drop-in sessions had been organised.

Councillor McAllister asked what measures would be taken to ensure safe travel to the school. Peter Forsyth, Assets and Regulatory (Transportation) Team Manager, advised that a number of measures would be considered, including the introduction of 20 mph limits around the school and the prohibition of vehicular movement on surrounding streets at certain times.

Councillor Akhtar welcomed the report, stating that the new school would be of benefit to the whole community. She thanked Mrs Robertson and her staff for their work on the consultation process.

Local Members spoke in support of the proposals, particularly in relation to the facilities that would be included within the new school and also to the engagement with the local community. The contribution from the Scottish Futures Trust was also welcomed.

Councillor Currie commented on the challenges in delivering the school, particularly as regards the dependency on developers' contributions.

On the proposed change to the catchment boundary, Councillor Grant thanked Mrs Robertson and David Scott for their engagement with Sanderson's Wynd Primary School, noting that the proposals had been accepted by their Parent and Carer Council.

Decision

The Council agreed to approve, on the basis of the outcome of the school consultation and taking account of the educational and social benefits of the proposal, that:

- i. the existing Wallyford Primary School be relocated to the new site, as set out in the school consultation proposal;
- ii. the catchment boundary of Wallyford Primary School would be extended to include the houses in the vicinity of Dolphingstone Farm, currently in the catchment area for Sanderson's Wynd Primary School;
- iii. children attending the nursery provision, primary school and social, emotional and behavioural needs provision transfer to the new Wallyford Primary School from August 2018, or as soon as possible thereafter.

7. ANNUAL REPORT OF THE CHIEF SOCIAL WORK OFFICER 2015/16

A report was submitted by the Chief Social Work Officer providing the Council with her annual report on the statutory work undertaken on the Council's behalf. The report also provided the Council with an overview of regulation and inspection, and significant social policy themes current over the past year.

The Chief Social Work Officer, Fiona Duncan, presented the report in detail, highlighting the key developments for the Social Work service during 2015/16, including the integration of health and social care, improvements to housing for adults with complex needs, preparations for forthcoming changes to the criminal justice system, improvements to public protection processes and enhanced engagement with young people. She set out the challenges and pressures facing the service in relation to finance, increased workload, the recruitment of foster carers and the provision of care for older people. Ms Duncan also advised of actions taken following the inspection of Older People's Services, positive work as regards tackling substance misuse, the empowerment of service users and carers, and the effectiveness and commitment of Social Work staff.

In response to a question from Councillor MacKenzie as regards mental health services, Ms Duncan advised that the Council was committed to expanding staffing in this area. She referred to the practical and financial challenges of using external providers for mental health services.

Councillor Hampshire welcomed the report, but warned of the implications of increasing demands on social work services. He asked about collaborative working with the Education service as regards careers in caring. Ms Duncan accepted that more work was required to encourage more people to enter the caring profession. The Chief Executive added that a care academy had been established, with a particular focus on care for the elderly and looked after children.

Councillor McMillan asked how the closure of Haddington Sheriff Court had impacted the Social Work service, about the progress of the Named Person Scheme, and about technology-enabled care. Ms Duncan advised that it had had a significant impact on Legal, Anti-social Behaviour and Children's Services, in particular. On the Named Person Scheme, Sharon Saunders, Head of Adult and Children's Services, reported that the implementation of the scheme had been delayed; it was now expected to be introduced in August 2017, pending further review of the legislation through due Parliamentary process, and local development work in preparation for implementation of the scheme and review of legislative amendments was ongoing. On the technology question, David Small, Director of Health and Social Care, noted that broadband coverage was an issue in some areas of East Lothian.

Regarding self-directed support, Ms Duncan advised that the Council had to offer this service and that the number of users was increasing.

Councillor Grant welcomed the report and commended Ms Duncan and Social Work staff for their work. He drew Members' attention to a number of examples in the report of innovative working.

Councillor Currie commented on the cost of delayed discharge, and suggested that more preventative work was required. He spoke of the challenges facing health and social care providers, particular in relation to reducing budgets and the capacity to deliver services. He called on the Council to invest more in frontline services.

Councillor MacKenzie spoke of the importance of people's well-being, particularly as regards to mental health. He welcomed the decrease in suicide rates in East Lothian.

Councillor Hampshire commended the positive work undertaken by social workers and carers, which benefited many families. He accepted that there were significant challenges in this area, but that staff were working hard to deliver quality services.

Decision

The Council agreed to note the Annual Report of the Chief Social Work Officer 2015/16.

Sederunt: Councillor Day left the meeting.

8. LOCAL GOVERNMENT BOUNDARY COMMISSION REVIEW

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Council of the outcome of the Local Government Boundary Commission's review of councillor numbers and boundary arrangements as these apply to East Lothian. The report also sought authority from the Council either to accept the said outcome or to continue to challenge both the process and the outcome by means of a judicial review of the decision of Scottish Ministers to accept the LGBC's recommendation.

The Chief Executive presented the report, reminding Members of the background to the situation and of the LGBC's recommendations to Scottish Ministers. She advised that Ministers had approved the LGBC's recommendations and that it was for the Council to decide whether or not to seek a judicial review of this decision. She advised that four councils, including East Lothian, had been keen to pursue a judicial review, but that two of those had now decided not to proceed. She pointed out the risks associated with going ahead with this action.

Jim Lamond, Head of Council Resources, explained that it was difficult to ascertain the costs of a judicial review, but estimated that it would be in the region of £30,000 – £155,000. He suggested that the costs could be shared with the other council seeking similar action, but this was not guaranteed. He also warned that, should the Council pursue the judicial review and lose, it may be liable for other legal costs.

Responding to questions from Councillor McLennan, Morag Ferguson, Service Manager – Legal and Procurement, advised that officers from the other council had delegated authority to proceed to a certain stage in the process, and should they decide at that stage not to go ahead, they would report back to their council. The Chief Executive stated that East Lothian Council's decision should not be dependent on the action of the other council, and that the reason the Council was considering the action was concerned with how the review had been conducted by the LGBC. Mrs Ferguson added that, in the opinion of Junior Counsel, the Council's case would not be weakened should it be the only council to proceed to judicial review.

The Chief Executive reiterated the reasons for the Council's opposition to the recommendations put forward by the LGBC.

Speaking in favour of a judicial review, Councillor McNeil outlined the impact of the proposed boundary changes on the communities of Musselburgh, Wallyford and Whitecraig. He spoke of the importance of the ties with community councils, local organisations and schools and of the need for councillors to be accessible and based within the locale. He also voiced concern over the increasing workload for councillors, especially at a time when the population was growing. He believed that the recommendation of the LGBC was flawed and that the Council should challenge it.

Despite his opposition to the proposal to reduce councillor numbers, Councillor Veitch expressed concern at the potential costs involved in pursuing a judicial review, and declared that he would abstain from the vote on the matter.

His views on the outcome were shared by Councillor Currie, who questioned whether a judicial review would be appropriate, given the potential costs and risks involved. He stated that he could not support the expenditure of up to £155,000 for this purpose. He added that he was disappointed with the LGBC's decision.

Councillors Goodfellow, Hampshire, Akhtar and Grant believed that the Council had a duty to challenge the outcome of the review, in the interests of the electorate. They highlighted the need for expanding communities to be appropriately represented and for vulnerable people to be protected. It was also pointed out that the highest number of representations to the LGBC proposals had come from people in East Lothian. They called on the Council to support a judicial review.

Councillors McAllister and Williamson were in agreement with other Members as regards the LGBC recommendations, but believed that the Council should accept the outcome.

Councillor Innes expressed his disappointment that the SNP Group had decided not to support the proposal to proceed to judicial review. He was concerned that the proposed boundary changes would break traditional community links, and argued that the Council should not accept this. He moved that the Council should seek a judicial review on this matter. The motion was seconded by Councillor McMillan.

The Provost then moved to the vote on the motion proposed by Councillor Innes and seconded by Councillor McMillan to challenge, by means of judicial review, the decision of Scottish Ministers to accept the recommendations of the Local Government Boundary Commission's review.

For:	11
Against:	8
Abstentions:	2

The motion was therefore carried.

Decision

The Council agreed:

- i. to note the Local Government Boundary Commission's recommendation to reduce councillor numbers in East Lothian from 23 to 22 with a consequential change to ward boundaries and to note the acceptance of that recommendation by Scottish Ministers; and

- ii. to delegate authority to the Chief Executive to take forward the proposal for a judicial review of the decision of Scottish Ministers to accept the recommendations of the Local Government Boundary Commission's review, taking account of legal advice, possible cost and risk.

9. INTERIM REVIEW OF POLLING DISTRICTS AND POLLING PLACES

A report was submitted by the Depute Chief Executive (Resources and People Services) informing Members of an impending interim review of polling districts and places, now required as a result of The East Lothian (Electoral Arrangements) Order 2016, which requires Council ward boundary changes to be made.

The Head of Council Resources, Jim Lamond, presented the report, advising that due to the timescales involved, the review had already commenced and that he was seeking the approval of the Council to delegate authority to the Chief Executive, in conjunction with the Council Leader, Depute Leader and Leader of the Opposition, to address any recommendations resulting from the review. He pointed out that he did not anticipate any changes to the polling districts themselves, but that there may be changes to the ward names.

Councillor Grant suggested that Ward 3 should be named 'Fa'side', as this was a true reflection of the area covered by that ward.

Discussion

The Council agreed to note that formal public consultation for interim review of polling districts and places would commence on 18 October 2016, and that, given the time pressures that apply in respect of the forthcoming publication of the Electoral Register, agreed that on completion of the review to delegate final approval of the proposed new polling scheme to the Chief Executive (Returning Officer) in consultation with the Leader/Depute Leader of the Council and the Leader of the Opposition.

10. REPORT OF THE EAST LOTHIAN POVERTY COMMISSION

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) sharing the work and the report of the East Lothian Poverty Commission with the Council.

Paolo Vestri, Service Manager – Corporate Policy and Improvement, presented the report. He thanked the Commissioners and Rebecca Spillane (Policy Officer) for their work and their report. He drew attention to the key aspects of the report, including current Council initiatives aimed at tackling poverty, the activities undertaken by the Commission, the themes presented in the report and the Commission's recommendations. He pointed out that a number of these recommendations were in the process of being actioned, such as the establishment of a credit union in Prestonpans and improvement planning in schools.

Councillor Currie welcomed the report, stressing the importance of actioning the recommendations in order to break the cycle of poverty.

A number of Members made reference to the recent stakeholder event organised by the Commission, which had highlighted a range of issues associated with poverty. They paid tribute to Iain Gray MSP, who had instigated the Poverty Commission, to the Commissioners for their work, and also to those who had participated in the stakeholder event.

Councillor Veitch endorsed the recommendations of the Commission, with the exception of the recommendation to protect the Human Rights Act.

Decision

The Council agreed:

- i. to welcome the report from the Poverty Commission and thank the Commissioners for their work;
- ii. to support and agree the recommendations of the report in principle;
- iii. to re-commit the Council to reducing inequalities and breaking the cycle of poverty, and that the Commission's finding and recommendations would form a central part of the draft Council Plan 2017–2022 and new East Lothian Plan; and
- iv. to ask officers to prepare an action plan to implement the recommendations made by the Commission.

11. CONSULTATION ON SOCIAL SECURITY IN SCOTLAND: EAST LOTHIAN COUNCIL RESPONSE

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) seeking approval for the Council's response to the Scottish Government's consultation on Social Security in Scotland.

The Service Manager – Corporate Policy and Improvement, Paolo Vestri, presented the report, advising that the proposed response to the consultation was based on a response that would be submitted by CoSLA. He drew attention to the main themes of the consultation, as set out in Section 3.7 of the report, and to the proposed responses, as outlined in Appendix 1 to the report.

In response to a question from Councillor Goodfellow on the Motability Scheme, Mr Vestri advised that this scheme was not referred to specifically in the response. He noted, however, that the Council was not entirely supportive of cash payments being made and that there was some concern about duplication of services provided through the social security system and those delivered by the Council. John Cunningham, Service Manager – Benefits, added that anything that was introduced would have to dovetail with existing benefits, and that a holistic view of the system was required.

Councillor McAllister asked about the proportion of social security being devolved to the Scottish Government. Mr Vestri advised that it would be approximately 15%, concerned mainly with the payment of the Disability Living Allowance, Personal Independence Payments and some elements of Universal Credit, but that it would not include pension payments.

Councillor Currie welcomed the devolution of social security matters, but believed that the Scottish Government should have complete control of the system in Scotland. He also welcomed the proposed involvement of local government in the delivery of certain elements of social security. He spoke in support of the proposed consultation response and commented on the need for people in receipt of benefits to be treated with respect. His comments were supported by Councillor McAllister, who commented that in order to make changes, the Scottish Government would need to have control of the entire system.

Councillor McNeil highlighted the need to provide assistance to Universal Credit claimants, due to the complexity of the system. He praised those Council staff who had been providing assistance since its introduction.

Councillor McMillan also commented on the need to examine the cost of funerals, which was a source of concern for many families. He thanked officers for the report and endorsed the response.

Decision

The Council agreed to approve the response to the Scottish Government's consultation on Social Security in Scotland.

12. UPDATE ON THE INTRODUCTION OF DECRIMINALISED PARKING ENFORCEMENT AND ON THE INTRODUCTION OF PARKING CHARGES AT COASTAL CAR PARKS

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) updating the Council on the progress made to introduce Decriminalised Parking Enforcement (DPE) in East Lothian and providing an update on the introduction of parking charges at coastal car parks.

Ray Montgomery, Head of Infrastructure, presented the report, advising that DPE would be introduced in East Lothian in November 2016. He provided information on the Council's contract with NSL Ltd, who would provide the service, and of how the service would operate. Mr Montgomery also provided an update on the parking charges at coastal car parks.

Councillor Williamson asked if the public could be alerted to the introduction of DPE through additional signage in select areas. Peter Forsyth, Team Manager – Assets and Regulatory (Transportation) advised that the existing signage and lines were sufficient and that providing additional signage would be costly, time-consuming and difficult to manage.

Responding to a question raised by Councillor Goodfellow, Mr Montgomery confirmed that parking attendants would not be working on a commission-based system.

Councillor Veitch welcomed the report and thanked Mr Forsyth and other staff involved for their work in introducing DPE, which would alleviate parking problems in East Lothian's towns. As regards coastal car parking charges, he raised the possibility of removing charges from car parks at Barns Ness and White Sands, due to the size of these car parks.

Councillor Hampshire referred to parking problems in a number of town centres and around schools, and hoped that the introduction of parking attendants would resolve such problems. He reminded Members that the DPE business case was dependent on a £55,000 annual contribution from coastal car parking charges. He expressed his disappointment at the level of income raised through coastal car parking charges to date, but was confident that this would improve in future years and would allow further investment in the car park facilities.

Councillor Currie spoke in support of the introduction of DPE, but was concerned that the number of parking attendants would not be sufficient. He reiterated his opposition to coastal car parking charges, arguing that the money spent on the charging infrastructure could have been spent on improving the facilities. He stated that the charges would be abolished should the SNP be in administration in future.

Mr Montgomery concluded the debate by pointing out that all parking duties, including those currently within the remit of the Police, would become the responsibility of the Council's parking attendants on the introduction of DPE.

Decision

The Council agreed:

- i. to note progress made on the introduction of Decriminalised Parking Enforcement and the measures necessary to implement the service subject to Transport Scotland making the necessary Orders;
- ii. to note the engagement of NSL Ltd as the service provider for parking enforcement to undertake duties in respect of: on-street enforcement; car pound services; pay and display services; suspension and dispensation; lines and sign maintenance; cashless parking; permit management; back-office support; notice processing and online services;
- iii. to enter into a collaborative working agreement with the City of Edinburgh Council to provide back-office support to process Penalty Charge Notices (PCNs), Notice to Owners (NtOs) and pursue debts through sheriff officers; and
- iv. to note the update on the introduction of parking charges at coastal car parks.

13. SUBMISSIONS TO THE MEMBERS' LIBRARY, 10 AUGUST – 12 OCTOBER 2016

A report was submitted by the Depute Chief Executive (Resources and People Services) advising Members of the reports submitted to the Members' Library since the last meeting of the Council.

Referring to Item 185/16: PPP Project – Procurement of Phase 2 of Dunbar Grammar School's Expansion Project, Councillor Currie asked for details of the lifetime costs of this contract. He voiced his concern that local firms had not been in a position to bid for the work, and that the delivery of the facilities management could be added to the existing PPP contract. He asked officer to provide further detail on this report to the next Council meeting. The Chief Executive noted that the decision on the contract had been taken under delegated powers.

Decision

The Council agreed to note the reports submitted to the Members' Library Services between 10 August and 12 October 2016, as listed in Appendix 1 to the report.

SUMMARY OF PROCEEDINGS

Matter arising from the Private Council Minute of 23 August 2016

Councillor McLennan raised a matter arising from the private minute of the meeting of the Council held on 23 August 2016, in relation to the proposed purchase of the former Cockenzie Power Station site. The Council noted the update on this matter, as provided by the Head of Infrastructure.

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East Lothian Partnership

ACTION NOTE OF THE MEETING OF EAST LOTHIAN PARTNERSHIP
Wednesday 11 May 2016, 2pm,
The Boardroom, Queen Margaret University, Musselburgh

Partnership Members Present:

Willie Innes, Leader, East Lothian Council (CHAIR) (WI)
Angela Leitch, Chief Executive, East Lothian Council (AL)
David Small, Chief Officer, East Lothian Integration Joint Board (DS)
Mark Ormiston, Chair, ELTRP (MO)
David Farries, Local Senior Officer, Scottish Fire & Rescue Service (DF)
Eliot Stark, Chief Executive, STRiVE (ES)
Acting Chief Supt. Bryan Auld, Divisional Commander, Police Scotland (BA)
Mike Ash, Non Executive member NHS Lothian Board & Chair, Resilient People Partnership (MA)
Monica Patterson, Depute Chief Executive Partnerships and Community Services, East Lothian Council (MP)
Cllr. Stuart Currie, Leader of the SNP Group. East Lothian Council (SC)
Jonathan Wilson, International Sector Head - Education and Location / Director for East Lothian, Scottish Enterprise (JW)
Nigel Paul, Chair, Sustainable Economy Partnership (NP)
Elaine Brown, Business development Manager, substitute for George Archibald, Midlothian and East Lothian Chamber of Commerce (EB)
Cllr. Donald Grant, Chair, East Lothian Integration Joint Board (DG)
Jonny Pearson, Associate Vice Principal, Edinburgh College (JP)
Danny Logue, Operations Director, substitute for Neville Prentice, Skills Development Scotland (DL)
Tim Ellis, Chief Executive, National Records of Scotland, Scottish Government (observer) (TE)

Others Present:

Linda Irvine, Strategic Programme Manager, NHS Lothian (LI)
Paolo Vestri, Corporate Policy & Improvement Manager, East Lothian Council (PV)
Veronica Campanile, Policy Officer, Corporate Policy & Improvement, East Lothian Council (VC)
Sue Cairns, Development Worker, ELTRP (SC)
Fiona Dawson, Assistant Communications and Engagement Officer, East Lothian Council (FD)

Partnership Members' Apologies:

Prof. Alan Gilloran, Deputy Principal, Queen Margaret University
Cllr. Veitch, Leader of the Conservative Group, East Lothian Council
Susan Goldsmith, Director of Finance, NHS Lothian Board
Gordon Henderson, Senior Development Officer-Scotland, Federation of Small Business
Hilary Smith, Chair, Association of East Lothian Community Councils Ray
McCowan, Vice Principal Education Leadership, Edinburgh College George
Archibald, Chief Executive, East & Midlothian Chamber of Commerce
Neville Prentice, Senior Director – Development and Delivery, Skills Development Scotland

2a

Welcome / Apologies

- The chair (WI) welcomed everyone and thanked QMU for hosting the meeting
- Apologies were noted as above
- WI advised that Allan Gilloran was stepping down as Vice-chair of East Lothian Partnership on his retiral from QMU and he thanked Allan for his good work as Vice Chair. WI asked if any member wished to take on the role of Vice Chair to contact VC
- WI advised that Alistair Perry of SFRS had moved on to another post within SFRS and welcomed David Farries, Local Senior Officer, to ELP. He added that David will take on the role of Chair of the Safe and Vibrant Communities Partnership in future; in the interim Cllr. Tim Day, Vice Chair, would act as Chair.
- There were introductions round the table.

Declarations of interest

- There were no declarations of interest.

1. Action not of the meeting of 20 January 2016

a. The Action Note of the meeting of 20 January 2016 was approved.

b. Matters arising

- **Strategic Plan for Health and Social Care, draft 2:** this has been adopted and reported through the RPP. [The final versions of the plan are available here.](#)
- **Confirm if the future Community Justice Strategic Plan** should be adopted as part of the Health and Social Care Strategic Plan. DS advised that The IJB is responsible for Strategic Planning for the functions delegated to it. These functions include Criminal Justice Social Work Services, but they do not include the wider elements of the Community Justice Strategic Plan. Those elements of the Community Justice Strategic Plan that relate to Criminal Justice Social Work will be included.
- **Community Engagement Framework** – Commitment restated and agreed to nominate a member of staff to join the Engagement Monitoring Group. **Action AI/PV/VC** to take this forward based on the discussion points in the action note. VC advised that this will be integrated into the review of The East Lothian Plan taking account of the Community Empowerment (Scotland) Act 2015
- **Improvement Point 13: Partnership Asset Management Plan – update. Action -** Take account of the points raised MP/Douglas Proudfoot .
- **School attendance:** Edinburgh College is keen to collaborate – VC/RMcC. Post meeting note: the Head of Education is taking forward this Priority Action with the RPP and will seek to involve partners (VC).
- **Action on IP 11: Strengthening the role of the TSI.** Report due to May meeting but postponed till October. See Agenda Item 4: Improvement Plan-update.
- **Action on Improvement Point 15** – the Review of The East Lothian Plan. This was postponed in the light of the Community Empowerment Act draft guidance. See Agenda Item 4.

2. Partners Strategic Issues:

a. Joint Inspection of Older People's Services. David Small gave a verbal update and noted that the report had been delayed and was due to be released on 17 May. It was noted that the recommendations will be made to the IJB and the Council and the Inspection Report will be on the agenda of the June meeting of the Resilient People Partnership.

Post meeting note: [link to the Joint Inspection Report published on 17th May 2016](#).

b. Musselburgh Total Place Report and Action Plan

Paolo Vestri spoke to the report and introduced the presentation on people's experiences of using our services 'What It's Like to be me' ([link to a pdf of the presentation](#)).

This report concluded Phase 2 of the project and the work of the Project Board. The focus was now on delivery of the Action Plan with 7 strands of work, by the Project Team. Key points from the discussion:

- Job opportunities and working with children and families at primary level are key and SDS can link in through the East Lothian Works member on the Project Team
- Formation of the multi-agency family team/new funding will extend this work to other parts of East Lothian, making links through the Area Partnerships and the Area Managers
- Focus on reflective learning – the learning from/sharing learning with other areas is factored in with involvement of the Improvement Service.

Decision on the Recommendations/Action

b.1 **Noted** the findings of Musselburgh Total Place Family Focus Project Phase 2.

b.2 **Noted** the development of the Musselburgh Family Focus Action Plan, including a bid to the Big Lottery Fund (Improving Lives Programme) to continue to deliver an Intensive Family Support Service and secondly to the European Social Fund to develop a programme of early intervention work with those families in receipt of 'Priority 2' funding.

b.3 **Noted** the intention of the Board to approve a Lead Officer to lead and guide a culture change in the way of working across Musselburgh based services and lead phase 3 of the MTP project.

b.4 **Noted** the MTPFF comments in relation to the need for investment in IT systems and/or information sharing processes which support work to identify and respond to early identification of need and an improvement in the way in which we use existing systems.

b.5 **Approved** the MTPFF Board's request that reporting on future work in relation to the MTPFF move to the Resilient People Partnership when appropriate.

Action

- For governance purposes, each partner to consider whether the Project Report and Action Plan needs formal approval through their organisations and take this forward as appropriate – **All**

c. Gamechanger Proposal

Linda Irvine spoke to the report and presentation ([link to pdf of presentation](#))

Decision on the Recommendations/Action

East Lothian Partnership **noted** the content of this report – and:

c. 1 **Acknowledged** the potential key role of GameChanger Public Social Partnership in the delivery of East Lothian’s strategic priorities within both the East Lothian Plan 2013-23 and the Children and Young People Services Plan 2016-19.

c. 2 **Recognised** the potential contribution of GameChanger to assist with delivering on a number of strategic objectives with a particular focus on preventative approaches within communities and with individuals who experience significant health inequalities.

c. 3 **Supported** the “Safer and Stronger” workstrand which has a particular, although not exclusive, focus on children and families in East Lothian and the Ormiston site; and -

c.4 **Supported** the development of flagship and road map proposals which will include the preparation of Partnership funding applications with a view to progressing the Ormiston site as a Partnership Project, remitting this to the Resilient People Partnership to progress, returning to the Partnership with an Ormiston site Development Proposal for consideration as soon as practicable.

Action

- Work to improve the links between the Hibs Training Centre and the local community – **MO / LI**
- Incorporate into work on Asset Planning for the area – **MP / LI**
- Consider incorporate employability strand into the proposal – **DL / LI**

3. Partnership Priority Actions 2015/16

a. Volunteering Strategy and Action Plan 2016-18. Eliot Stark spoke to the report.

- The Action Plan was tabled. The original report has been amended - see [link](#).

Decision on the Recommendations/Action

3.a .1 East Lothian Partnership **approved** the formation of a Volunteering Reference Group

3.a.2 East Lothian Partnership **accepted** the draft Action Plan as a working document that will be further developed by the Volunteering Reference Group

3.a.3 That East Lothian Partnership agree a launch format and date for the Volunteering Strategy - **Remitted to the SVCP chair**

Action

- The reference group to consider the following points raised in discussion:
 - Feedback from the February workshop including: is there a better name for the strategy which captures both formal and non formal volunteering

- How to tell a good story in order to encourage more people to volunteer in areas which support Partnership priorities, recognising also that people have personal preferences. **ES / LMcN**

4. Partnership Improvement Plan. Veronica Campanile spoke to the report

Decision on the Recommendations/Action

East Lothian Partnership:

4.1 **Considered** progress on the points detailed in the updated Improvement Plan in 7.1 and noted that a further update will be provided at the 26 October 2016 meeting.

4.2 Improvement Point 4 / 14b: considers if it is satisfied with progress overall and in particular the four actions prioritised by this Partnership, which includes developing joint resourcing (IP 4b): *Employability/positive destinations; Physical activity with a focus on health and wellbeing; Enabling people to live at home or in a homely setting and Volunteering.* – **Satisfied with progress and concluded**

4.3 Improvement Point 5: **Agreed** the updated list of protocols shown in appendix b fulfils the requirement.

4.4 Improvement Point 9: The ELP structure diagram has been updated detailing the strategic groups responsible for contributory outcomes and which report to each supporting partnership – see IP 9 Appendix c. **Agreed** that this fulfilled requirements.

4.5 Improvement Point 15: **Agreed** to taking a longer term approach to the Review of The East Lothian Plan, taking account of the Community Empowerment Act guidance on community planning which requires the new Local Outcomes Improvement Plan to be in place by October 2017.

Action

- Resourcing improvement points to be taken forward by the five partners specified in the Community Empowerment Act. AL to arrange a meeting – **AL**

5. Review of The East Lothian Plan

a. Audit Scotland: Improving Community Planning in Scotland. VC spoke to the report. Post meeting note the Audit Scotland Report has been added as an appendix - [link to the report](#)

Decision on the Recommendations/Action

It is recommended that East Lothian Partnership:

5.a.1 Reviews the contents of this report and notes the comments on progress being made by East Lothian Partnership to address the issues raised in the Audit Scotland report. - Noted

5.a.2 Notes that the review of The East Lothian Plan will enable the Partnership to identify and address any further gaps. – Noted

Action

- Consider the three key areas (target resources to priorities and prevention, communities have a strong voice in service planning/delivery/assessment, promote/ lead public service reform) for CPs in the report as the focus for the next Improvement Plan – **PV/VC**

b. Community Empowerment Act 2015 Guidance and Implications for East Lothian. PV spoke to the report.

Decision on the Recommendations/Action

That East Lothian Partnership:

5.b.1 That East Lothian Partnership

- **Noted** the overall content of the report
- Considered action required as set out in the sections on Implications for East Lothian Partnership – **and Action**
 - **Focus on Point 8 the Review of The East Lothian Plan and incorporate the remaining points, particularly production of the LOIP. – PV/VC**
 - **Point 1 Shared leadership – arrange a meeting with the five partners to consider how to share this responsibility – AL**
- **Agreed not to** respond to any of the consultations on the draft guidance –

5.b.2 **Agreed that all partners** will consider how they will address the new requirements within their organisations and feed back to this partnership. **All Members**

6. Finances: ELP Financial Report 2015/16 and Budget 2016/17. PV spoke to the report.

Decision on the Recommendations/Action

East Lothian Partnership:

6.1 **Noted and approved** the financial report for 2015/16 (App. 1)

6.2 **Considered and approved** in principle the budget allocations for 2016/17 (App. 2)

6.3 **Noted** that the budget shows a potential overspend of £4,359 and that partners will be asked to make contributions to the cost of running the Citizens Panel in order to meet the shortfall.

7. 8. and 9. – no action required

10. Next meeting: Wed. 26 Oct. 2016, 2-4pm, The Boardroom, Edinburgh College, 24 Milton Road East, Edinburgh EH15 2PP and Wed. 25 Jan 2017, 2-4pm, Saltire Rooms 1&2, East Lothian Council, JMH, Haddington EH41 3HA.



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

**THURSDAY 15 SEPTEMBER 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

2b

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor J McNeil
Councillor J Goodfellow
Councillor D Berry

Advisers to the Local Review Body:

Ms E Taylor, Planning Adviser to the LRB
Ms M Ferguson, Legal Adviser/Clerk to the LRB

Others Present

Mr S Szylak, Agent (Item 2)

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

Councillor J McMillan

Councillor Hampshire, elected to chair the meeting by his colleagues, welcomed everyone to the meeting and introduced Members of the LRB and Council Officials to those present.

Morag Ferguson, Legal Adviser, stated that there were four planning applications presented in the form of written submissions and that site visits had been carried out prior to the meeting. She advised that a Planning Adviser, who had had no involvement with the determination of any of the original applications, would provide information on the planning context and background of each application. The Legal Adviser outlined the procedure for the meeting and advised that Members had been provided with a submission from the Case Officer and review documents from the applicant. The Planning Adviser would summarise the planning policy issues in relation to each application and Members would decide if they had sufficient information to reach a decision today. If they did not, the matter would be adjourned for further written representations or for a hearing session and Members would have to specify what new information was needed to enable them to proceed with the determination of an application. Should Members decide they had sufficient information, they would proceed to discuss an application and a vote would be taken on whether to uphold or overturn the decision of the Appointed Officer. It was also open to Members to grant an application subject to conditions.

1. PLANNING APPLICATION 15/00211/P – REVIEW AGAINST DECISION (REFUSAL): REPLACEMENT WINDOWS (RETROSPECTIVE) AT BLOCK 1 FLAT 6, ELDER COURT, 38 ELDER STREET, TRANENT

Emma Taylor, Planning Adviser, presented a summary of the relevant planning policy considerations in this case. She stated that the property was an attic flat in a two storey building located in a residential area of Tranent, within the Tranent Conservation Area. The application was seeking retrospective planning permission for the replacement of the six timber framed windows of the flat with UPVC framed windows of a similar design. 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. The development plan consists of the approved Strategic Development Plan for Edinburgh and South East Scotland, known as SESplan, and the adopted Local Plan 2008. The main policy considerations relevant to the application were design and impacts on the Conservation Area. The development plan seeks to preserve or enhance the character of Conservation Areas and the key policies in relation to this are Strategic Development Plan policy 1B and Local Plan policy ENV4. In addition, Local Plan policy DP8 relates specifically to replacement windows. It states that replacement windows in Conservation Areas must preserve or enhance the area's special architectural or historic character. This would normally mean that they should retain the proportions of the window opening, the opening method, colour, construction material of frames, and glazing pattern. Three exceptions are provided for: firstly, multiple glazing where there is no visible difference; secondly, where a building does not positively contribute to the area's character; and thirdly, where the window cannot be seen from a public place. Also relevant to the application were national policy documents, including Scottish Planning Policy and the Scottish Historic Environment Policy.

The Planning Adviser stated that the application had been refused by the Appointed Officer on the basis that the replacement windows are readily visible from the public road and appear significantly different to the timber framed windows they replaced. The Case Officer also considered that they neither preserved nor enhanced the

character and appearance of the flatted building or the character and appearance of the Conservation Area. The proposals were therefore considered to be contrary to the relevant development plan policies. No consultations were carried out by the Case Officer. One representation to the application had been received.

The Chair thanked the Planning Adviser for her presentation and then asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed. Questions from Members followed. In particular, clarification was sought on a number of matters outlined in a letter written by the applicant and received by the Council on 21 July 2016. In this letter, the applicant stated that she had been advised no planning consent was required for the new windows. However, she had submitted a planning application as soon as she had been made aware that permission was necessary. The applicant had also advised that planning consent had been given to the application in 2015, and the Planning Adviser informed Members that an error had occurred when the Decision Notice had been issued. For clarification, she added that this had been an administrative error rather than a change to the decision. In response to another query, on the reason for refusal, the Planning Adviser advised that Members had to make a judgement on whether they considered the replacement windows looked significantly different to the original timber framed windows. The Planning Adviser had no information on the reported 14 months taken to advise the applicant of the administrative error.

Councillor McNeil stated that the site visit had enabled him to view the applicant's property in relation to neighbouring properties and it was clear to him that there was a variety of different windows in the area. He was satisfied that the applicant had followed the professional advice she had received and had not intentionally contravened planning regulations. He also considered that the replacement windows were of a high quality, matching the original design, and he would therefore vote to uphold the applicant's appeal.

Councillor Berry stated that, while he would normally be minded to uphold Council policies, there were mitigating circumstances in this case. The applicant had submitted an application and had been granted planning consent in June 2015 before being advised later that an error had occurred. The applicant had stated in her letter that she had always been a law abiding person and he had no reason to doubt that. Furthermore, he considered that the replacement windows looked identical to the original windows and also pointed out that they were on the second floor of the building and therefore not readily visible from the street. He too, therefore, would vote to uphold the appeal.

Councillor Goodfellow stated that he could see no significant difference between the replacement windows and the original timber windows and, contrary to the view of the Case Officer, he considered that the replacement windows did preserve the character and appearance of the building. He was therefore similarly minded to his colleagues and would support the appeal.

The Chair stated that planning policy should preserve and enhance the appearance of the built environment, but, in this case, the application concerned a modern property in an area of the Conservation Area where there was a variety of different window types in evidence. He therefore did not view the appearance of the replacement windows as detrimental to the Conservation Area and would uphold the appeal.

Decision

The ELLRB unanimously agreed to overturn the original decision of the Planning Officer and uphold the appeal, granting planning permission for the windows.

The Legal Adviser stated that a formal Decision Notice would be issued within 21 days.

2. PLANNING APPLICATION 16/00058/P – NON-DETERMINATION: CHANGE OF USE OF AGRICULTURAL LAND TO DOMESTIC GARDEN GROUND AT 1 AND 2 ROSEBANK, SETON MAINS, LONGNIDDRY

Ms Taylor, Planning Adviser, presented a summary of the planning policy considerations in this case. She stated that the application site was a roughly rectangular shaped area of land on the eastern edge of two new houses erected on the south eastern edge of Seton Mains. These houses were granted planning permission 07/00332/FUL in December 2007 and had subsequent amendments to their height and design through 5 further planning permissions. In September 2014, planning permission 14/00494/P was refused retrospectively for the change of use of the agricultural land to the east of the southernmost house of the two new houses (1 Rosebank), to garden ground for 2 reasons: granting of consent would establish a precedent, and the change of use would be an intrusive and incongruous encroachment beyond the well defined edge of the settlement and as such would be harmful to the character and visual amenity of the landscape of the east of Seton Mains.

The Planning Adviser stated that the planning application had been originally validated on 8 March 2016. As the application had not been determined by 7 May 2016, the statutory 2 month time period within which planning applications should be determined, the applicant had appealed against the non determination of this planning application. The Notice of Review was dated 11 July 2016.

The Planning Adviser advised that the Planning Act required decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. Whilst the two new houses were within the settlement of Seton Mains, this rectangular shaped area of land was located in an area outwith the existing settlement and designated as countryside in the adopted Local Plan under policy DC1. In such designated areas, policy DC1 generally seeks to restrict development to protect countryside character, while allowing some limited forms of appropriate development. The applicant's request for a review argued that the proposal aligned with planning policy and guidance and claimed that there was clear policy support for a development of this scale. Furthermore, they argued that a settlement boundary line within a Local Plan did not constitute a 'well-defined settlement boundary or landscaped edge'. The applicant also considered that there was no evidence such a proposal would create an adverse precedent.

In respect of consultation responses, the Landscape Officer advised that extending the garden ground of the houses, as proposed, would soften the built form of the two new houses and reduce their visual impact on the open countryside. No other consultation responses were sought or received. There were no public objections or representations received to the application.

The Chair thanked the Planning Adviser for her presentation and then asked his colleagues if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed. Questions from Members followed.

The Planning Adviser clarified a number of matters for Members. She confirmed that planning application 14/00494/P which had been refused, related to an area which formed part of today's planning application. She also advised that design changes had been made to planning application 13/00918/P and that plots 1 and 2 of this application were the subjects of today's planning application. The Planning Adviser also responded to queries on the boundaries shown in the layout plans and advised that the status of the land not shown as garden ground was countryside. She also advised that a Section 75 agreement can be used to prevent homes being built on garden ground.

Councillor Berry stated that he had been familiar with the Seton Mains site for a number of years and had knowledge of previous planning applications. Having made the site visit, he had concerns on a number of aspects of this development, including the boundary line and the fact that both the present house at 1 Rosebank and the proposed house at 2 Rosebank appeared too large for their plots. He also considered that there was no material difference between this planning application and a previous planning application which was refused. He would therefore vote to refuse this application.

Councillor McNeil had similar concerns to Councillor Berry and did not agree that the agricultural land adjacent to the two plots of land should be redesignated domestic garden ground. He too therefore indicated that he would vote to refuse permission for this application.

Councillor Goodfellow stated that he would have been more sympathetic to an application requesting a narrower strip of countryside land to be converted to garden ground but considered that the proposal before them was unreasonable. He was therefore minded to refuse the application.

The Chair held a different opinion. He stated that planning permission had been granted for a development on this site but it lacked a defined boundary to the south and he considered that the visual impact of the development would be reduced if there was a planted strip along the boundary line. He was therefore minded to grant planning permission subject to that condition.

Decision

The ELLRB agreed by a majority of three votes to one to refuse this application for planning permission for the following reason:

The effect of the change of use of the agricultural land to residential garden ground would be a prejudicial encroachment of the current settlement boundary into the countryside that serves as the defined edge and setting of Seton Mains, in a manner harmful to the landscape character and visual amenity of the landscape to the east of Seton Mains. There are no special circumstances that would give justification for such expansion of Seton Mains onto land that is not identified for residential use and development. Accordingly, the proposal is not consistent with policy DC1 of the adopted East Lothian Local Plan 2008.

The Legal Adviser stated that a formal Decision Notice would be issued within 21 days.

3. PLANNING APPLICATION 15/00400/P – REVIEW AGAINST DECISION (REFUSAL): ERECTION OF FENCE AND GATE (RETROSPECTIVE) AT 14 DUNBAR ROAD, HADDINGTON

Ms Taylor, Planning Adviser, presented a summary of the planning policy considerations in this case. She advised that the application site was a house and its garden ground located within a residential area of Haddington defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. The application was seeking planning permission retrospectively for a timber fence and gate that had been erected along the south boundary of the garden of the house. The fence in question was 1.8m high and approximately 1801m in length.

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 indicate otherwise. The main policy considerations relevant to the application were design and amenity, both in terms of character and appearance, and in terms of safety and security. The key development plan policies in relation to these matters were Strategic Development Plan policy 1B and Local Plan policy DP2. The application had been refused by the Appointed Officer on the basis that the fence and gate were not in keeping with the character and appearance of the surrounding area and that, if approved, the fence and gate would set a harmful precedent for allowing similar fencing to be erected on neighbouring properties.

The Planning Adviser stated that the applicant had argued that the fence and gate were not visually intrusive or incongruous to any public views and that the fence was required to provide privacy and security to protect young children in the family. No consultations had been carried out on the application by the Case Officer and no letters of representation had been received.

The Chair thanked the Planning Adviser for her presentation and then asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed. Questions from Members followed.

Councillor Berry referred to Mr Graves's letter dated 30 June 2016 in which he stated that there was fencing on neighbouring properties in excess of 1m height that was not being challenged by the Council. Councillor Berry therefore asked if it would be a more satisfactory way forward to consider all the fences in this section of Dunbar Road and reach a decision fair to all residents. He proposed that a building line could be drawn along the street and any fence forward of the line would be liable to enforcement action. The Planning Adviser advised that it was open to the ELLRB to seek such a condition if they were minded to grant permission to the application.

Councillor Goodfellow had observed on the site visit that the property at 14 Dunbar Road was disproportionately set back from the road and that the front gardens of this block of houses were much larger than the back gardens. In view of this, he stated that he would support a building line being identified between the house immediately to the south of the block to the house immediately north of the block. If this condition could be applied to consent, he would be minded to overturn the decision of the Case Officer and grant permission to this application.

In Councillor McNeil's view, the fence in its present form looked incongruous and did not look harmonious with its surroundings. However, he acknowledged that other houses in the street had high fencing. He would therefore give further consideration to the application before giving his decision on the application.

Councillor Berry was not convinced that enforcement action was necessary in this case, preferring instead that a more holistic view was taken of the fences in Dunbar Road. He was therefore minded to uphold the appeal.

The Chair stated that an issue existed because this property was out of line with other properties in the street, but he would support a fence of 1.8m up to the building line proposed. This would mean, in effect, that only one panel of the fence would need to be adjusted. He understood why the applicant would want to have privacy in the front garden and would therefore vote to uphold the appeal subject to that condition.

Decision

The ELLRB agreed unanimously that the appeal should be upheld and planning permission should be given for the fence and gate subject to the following condition.

1. Within 28 days of the date of this Decision Notice, the 1.8m high section of fence hereby approved shall be modified so that its western edge shall not protrude beyond the building line of the west elevations of the neighbouring terrace of houses of numbers 2-8 Dunbar Road, Haddington lying to the south of the application site.

The ELLRB also agreed that, should the fence not be so modified within 28 days of the date of this Decision Notice, enforcement action should be initiated to effect its modification.

The Legal Adviser stated that a Decision Notice would be issued within 21 days.

4. PLANNING APPLICATION 16/00108/P - REVIEW AGAINST DECISION (REFUSAL): ERECTION OF WOODEN FENCE (RETROSPECTIVE) AT THE OLD MANSE, 20 WESTGATE, NORTH BERWICK

Ms Taylor, Planning Adviser, presented a summary of the planning policy considerations in this case. She advised that the application site was a house and garden ground that was located in a prominent corner position within North Berwick Town Centre, a mixed use area as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. It was also within North Berwick Conservation Area. The application was seeking planning permission retrospectively for a fence that had been erected along the south west road side boundary of the house. The timber fence was approximately 1m in height, erected on the roadside boundary wall. The top of the fence therefore measured approximately 1.86m in height from ground level.

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. As the site was within the North Berwick Conservation Area, the main policy considerations relevant to the application were design and impacts on the Conservation Area. The development plan seeks to

preserve or enhance the character of Conservation Areas, and generally to promote a high quality of design. The key policies in relation to these matters were Strategic Development Plan policy 1B and Local Plan policy ENV4. Also relevant to the application were national policy documents, including Scottish Planning Policy and the Scottish Historic Environment Policy. The application had been refused by the Appointed Officer on the basis that by its positioning, form and appearance the fence was an intrusive and incongruous feature that did not complement the character and sense of place of the locality. This was contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV4 and DP2 of the adopted East Lothian Local Plan 2008. There were no consultations carried out on the application by the Case Officer. One letter of representation had been received.

The Chair thanked the Planning Adviser for her presentation and then asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed. Questions from Members followed.

Councillor Berry asked if the fence had been in place for more than 4 years and the Planning Adviser responded that it had not been demonstrated that the fence was over 4 years old [the term after which no enforcement action can be taken]. She also clarified a number of points in the applicant's statement regarding an earlier planning application and the height of the fence.

Councillor Goodfellow noted that the applicants had stated in their submission that they had received no complaints regarding the fence. However, he had referred to the Case Officer's reason for refusal and he was minded to agree that the fence did not compliment the character of the locality and nor did it preserve or enhance the appearance of the Conservation Area. He would therefore vote to uphold the original decision of the Case Officer.

Councillor Berry considered that the fence was harmful to the appearance of the Conservation Area, particularly as this road was the point of entry into the town for visitors, and not in keeping with the majority of gardens in Westgate and Abbey Road. He too, therefore, would vote to uphold the original decision of the Case Officer.

Councillor McNeil considered that the fence was not appropriate for its location and agreed with the original decision of the Case Officer.

The Chair indicated that he shared the view of his colleagues.

Decision

The ELLRB agreed unanimously to uphold the original decision of the Planning Officer for the reason set out in the original Decision Letter of 8 April 2016 and dismissed the appeal. The ELLRB also agreed that, should the fence not be removed within 28 days of the date of the Decision Notice, enforcement action should be initiated to effect its removal.

REPORT TO: East Lothian Council

MEETING DATE: 20 December 2016

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Report on the Outcome of the School Consultation on the
New Additional Secondary Education Provision in the
Musselburgh Area

3

1 PURPOSE

- 1.1 To approve the recommendations set out within the Consultation Report to establish a new, additional secondary school within the Musselburgh cluster area. (The Consultation Report is available in the Members' Library, Ref: 235/16, December 2016 Bulletin.)

2 RECOMMENDATIONS

- 2.1 The Council is asked to approve on the basis of the outcome of the school consultation and taking account of the educational and social benefits of the proposal that:
- i. a new additional secondary school will be established in Wallyford from 2020, or as soon as possible thereafter, to provide additional secondary education provision within the Musselburgh cluster area;
 - ii. the site of the new additional secondary school will be in the area of Wallyford in line with the Council's proposed development strategy for the Musselburgh cluster area as set out in the Proposed LDP 2016;
 - iii. the catchment area of the new additional secondary school will be created from the Pinkie St Peter's Primary School and Wallyford Primary School catchment areas including, if approved, amendments as proposed in the Pinkie St Peter's and Wallyford Primary Schools Catchment Area Consultation, 8 November 2016:

<https://eastlothianconsultations.co.uk/education/pinkiewallyford-catchment/>

- iv. pupils living within the catchment areas of Wallyford Primary School and Pinkie St Peter's Primary School transitioning from P7 into S1 will attend the new additional secondary school at the effective date, i.e. August 2020 or as soon as thereafter;
- v. pupils living within the catchment areas of Wallyford Primary School and Pinkie St Peter's Primary School transitioning into S2 and S3 will move to the new additional secondary school at the effective date, i.e. August 2020 or as soon as thereafter;
- vi. pupils attending Musselburgh Grammar School, living in the Pinkie St Peter's Primary and Wallyford Primary school catchment areas and transitioning into S4, S5 and S6 at the effective date, i.e. August 2020 or as soon as thereafter, would remain at Musselburgh Grammar School for the remainder of their senior phase education (S4–S6);
- vii. all pupils living within the Pinkie St. Peter's Primary and Wallyford Primary school catchment areas, will live within two miles of the new secondary school, with a safe travel route to the school;
- viii. younger siblings of S4-S6 pupils living in the Pinkie St Peter's Primary and Wallyford Primary school catchment areas and attending Musselburgh Grammar School at the effective date, i.e. August 2020 or as soon as thereafter, would have the option to attend Musselburgh Grammar School if they wish.

3 BACKGROUND

- 3.1 On 24 February 2015 approval was given by East Lothian Council to undertake consultations relating to the school estate (i.e. schools, catchment areas, locations) regarding work necessary to inform the emerging Local Development Plan (LDP), where there is likely to be a need for new or re-provisioned facilities, without further reference to or approval by Council; and to report back to Council on the outcomes of such consultations in order that the Council can make a decision on any proposed changes.
- 3.2 The required consultation regarding the new additional secondary education provision in the Musselburgh area commenced on Tuesday 3 May 2016 and lasted until Thursday 16 June 2016, being a period of six weeks, which also included the minimum 30 school days. This was in line with the Schools (Consultation) (Scotland) Act 2010. Notification of the consultation was given to all statutory consultees prior to the commencement of the consultation. The Consultation Document was published on [East Lothian Council's Consultation Hub](#) and paper copies distributed on Tuesday 3 May 2016.

- 3.3 Representations were sought from statutory consultees and the wider public by the completion of an online questionnaire available on the East Lothian Council Consultation Hub. The Consultation Hub also stored all relevant consultation documentation for public viewing. Paper copies of the questionnaire were also distributed at Council buildings around the Musselburgh area.
- 3.4 Publicity material detailed an East Lothian Council email address, phone number and postal address, to which representations and any other queries could be submitted.
- 3.5 HM Inspectors from Education Scotland undertook their statutory duties in accordance with the Schools (Consultation) (Scotland) Act 2010, by reviewing the educational aspects of the proposal and completing their report. A full copy of the report can be found in Appendix 9 of the Consultation Report.
- 3.6 All submitted representations, including the Education Scotland report, were analysed by East Lothian Council officers, summarised and answered to in the Consultation Report. The Consultation Report, summarising all representations and East Lothian Council's response, was published on the East Lothian Council Consultation Hub on 15 November 2016. This was made publicly available for a period of three weeks, in line with the Schools (Consultation) (Scotland) Act 2010.

Summary

- 3.7 The Council received 423 responses to the questionnaire (online or written) and 10 written responses. Of the submitted written responses, 6 were from the Parent Councils of Campie Primary, Pinkie St Peter's Primary, Stoneyhill Primary and Wallyford Primary schools, Musselburgh Grammar School and Musselburgh & Inveresk Community Council, and 4 of the written responses were from individuals.
- 3.8 Of the 423 questionnaire responses, a clear majority of respondents (60.5%) support the proposal. 35.2% of the questionnaire respondents oppose the proposal. 4.3% expressed no opinion. A summary of responses by demographic is provided in the Consultation Report.
- 3.9 Of the 10 written responses, 3 Parent Councils supported the proposal (Pinkie St Peter's, Stoneyhill and Wallyford), 1 Parent Council opposed the proposal (Musselburgh Grammar) and 1 Parent Council was evenly split (Campie). Musselburgh & Inveresk Community Council opposed the proposal.
- 3.10 A number of common themes emerged from the written and oral responses, and can be grouped as follows:
 - concerns over the proposed site or catchment of the new school

- choices for places to have lunch
- community facilities
- the consultation process
- divisive for the community and rivalry
- environmental Impact
- the proposal not being the preferred option
- parity of subject choices and facilities at both schools
- traffic, transport, parking and safer routes to schools
- school capacity
- SIMD (Scottish Index of Multiple Deprivation) profile and diversity
- transition concerns and siblings

East Lothian Council's response to these themes is detailed in Section 7 of the Consultation Report.

3.11 In line with the Schools (Consultation) (Scotland) Act 2010, Education Scotland considered the educational aspects of the proposal and submitted a report to East Lothian Council. As part of this consideration, Education Scotland met with children, young people, staff and parents who may be affected by the proposal. The full report from Education Scotland can be found in Appendix 9 of the Consultation Report. Education Scotland reported that the proposal to establish a new, additional secondary school in the Musselburgh area had the potential to bring about educational benefits as follows:

- addressing the capacity pressures on Musselburgh Grammar School, due to the proposed Local Development Plan and the impact this would have on learning and social spaces at the school;
- an additional secondary school within Musselburgh area offers the potential for joint planning and greater breadth of provision in the curriculum, and in wider activities which will benefit all young people within the Musselburgh learning community.

3.12 Education Scotland reported that most parents, children and staff who met HM Inspectors were positive about the proposal and understood the benefits it could bring. The same group of stakeholders from Musselburgh Grammar School who met with HM Inspectors were less positive, with most parents and staff opposing the proposal. Generally, parents reported they were appreciative regarding the sibling transition arrangements (as set out in the

proposal) and the continuance of the senior phase pupils' education at Musselburgh Grammar School. However, some stakeholders have concerns that the creation of a second secondary school could lead to a split within the community.

3.13 Education Scotland noted that East Lothian Council needs to ensure the following, if the proposal is taken forward:

- continue to engage with stakeholders to investigate further ways in which the schools can work together for a united community;
- ensure that planning for appropriate transition arrangements for affected pupils, especially the most vulnerable, takes place in good time for the expected start date;
- develop and share its plans, in due course, for ensuring that a suitably wide range of staff is in place to deliver a broad curriculum for the first cohort of learners at S1–S3;
- ensure that stakeholders are provided with greater detail, once this is possible, on the financial costs and implications of its proposal;
- continue to work with stakeholders to establish and develop safe routes to the new secondary school.

3.14 Following receipt of a total of 423 questionnaire responses, 10 written representations and consideration of oral representations made at a public meeting held during the consultation period, a range of officers from Education, Transport, Planning and Communities and Partnerships, reviewed the proposal. This ensured that the Council met the requirements of sections 9(1), 12 and 13(3) (b) of the 2010 Act. Officers of the Education Authority have listened carefully to the points made at the public meetings and have considered the written representations, including the Education Scotland report.

3.15 Having reviewed the feedback from consultees, officers conclude that the original proposal remained the best solution, to provide appropriate and effective secondary education provision to pupils in the Musselburgh area.

4 POLICY IMPLICATIONS

4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report has been through the Integrated Impact Assessment process. Potential impacts have been identified and will be addressed.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – The cost of the capital provision will be met by the Council, partially off-set by developers' contributions. Developers have a legal obligation to pay their proportionate share of costs of the new education facility directly related to the impact of the additional housing being built. The Council will also incur additional revenue costs associated with the day-to-day running of the secondary school.
- 6.2 Personnel – The new additional secondary school will be staffed in line with current East Lothian recruitment procedures, appointing the best candidates for each vacancy. Recruitment will be open to all appropriately qualified staff from East Lothian and beyond. Whilst this will provide career opportunities for many of our existing staff, the staffing will be phased in over a number of years and should not have a detrimental impact on the teaching and learning in neighbouring schools. The Council does not foresee the need for compulsory redeployment of staff as a consequence of this proposal. A senior management team will be recruited a number of months before the school is open. The key tasks of this group will be to appoint the staff team in readiness for the new secondary school opening, and to prepare for transition.
- 6.3 Other – None

7 BACKGROUND PAPERS

- 7.1 Consultation Report on the outcome of the consultation on the new additional secondary education provision in the Musselburgh area, available in the Members' Library, Ref: 235/16, December 2016 Bulletin:

http://www.eastlothian.gov.uk/meetings/meeting/5998/members_library_service

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DATE	5 December 2016

REPORT TO: East Lothian Council

MEETING DATE: 20 December 2016

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Elections: Appointment of Returning Officer

4

1 PURPOSE

- 1.1 The Council has an obligation to appoint an officer of the authority to act as Returning Officer (RO) for the conduct of all elections undertaken within the Council area.

2 RECOMMENDATIONS

- 2.1 That Council approves the appointment of the Chief Executive, Angela Leitch, to carry out the role of Returning Officer within the East Lothian area.

3 BACKGROUND

- 3.1 The Representation of the People Act 1983, Section 41, requires every local authority in Scotland to appoint a Returning Officer (RO) for each election of councillors to the authority.
- 3.2 By virtue of this appointment, the holder also automatically becomes responsible for discharging the duties of RO at UK Parliamentary Elections, Scottish Parliamentary Elections and those of the Local Returning Officer for European Parliamentary Elections, within the designated constituencies/regions. This would also extend to the duties of Local Counting Officer in support of any national referendum.
- 3.3 The appointment as RO is personal and, historically within East Lothian, in common with most (but not all) Scottish councils, has typically been offered to the Chief Executive. More recently, responsibility for carrying out the responsibilities of the RO is now included within the job outline for the Chief Executive.
- 3.4 The Council's role is restricted to the appointment of the RO and to the appointment of a replacement, if the person appointed is, for any valid reason, unable to act.

- 3.5 Once appointed, the Council is required, by statute, to place at the disposal of the RO, the services of staff and other resources, for the purpose of assisting with the discharge of their election responsibilities.
- 3.6 The RO is not accountable, in any way, to the Council for their actions in respect of the official conduct of an election. It therefore follows that the Council cannot direct or instruct the RO on how to carry out any aspect of the election process.

4 POLICY IMPLICATIONS

- 4.1 There are no direct implications upon Council policy as a result of the recommendation made in this report.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – The RO is entitled to receive remuneration for carrying out these duties and is paid on a fee scale basis, as prescribed in legislation in respect of individual elections, as and when they are held. For UK and Scottish Parliamentary Elections, the costs are recoverable from the respective governments. Although there are no direct financial implications for the Council associated with this report, the provisions within Section 3.5 merit consideration.
- 6.2 Personnel - there are no direct staffing implications associated with this report, although the provisions within Section 3.5 merit consideration.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Representation of the People Act 1983, Sections 25 and 41.

AUTHOR'S NAME	Jim Lamond
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DATE	1 November 2016

REPORT TO: East Lothian Council
MEETING DATE: 20 December 2016
BY: Chief Executive
SUBJECT: Risk Management Strategy

5

1 PURPOSE

- 1.1 To present to Council the Risk Management Strategy (Appendix 1) for approval.

2 RECOMMENDATIONS

- 2.1 It is recommended that Council approves the Risk Management Strategy and in doing so, the Council is asked to note that this is a live document which will be reviewed by the Corporate Risk Management Group.

3 BACKGROUND

- 3.1 The strategy provides a comprehensive framework that will help embed effective management of risk. Key elements of the strategy are:
- Risk Management Philosophy, Objectives and Standard Procedures
 - Structural Arrangements and Responsibilities
 - Monitoring and Reviewing Risk Management Activity
 - Implementation, Communication and Review
- 3.2 The Strategy was last revised in December 2014. The Corporate Risk Management Group has revised the Strategy and made some relatively minor amendments to take account of existing practice. The revised Strategy is attached in full as Appendix 1.

4 POLICY IMPLICATIONS

- 4.1 In approving this report the Council will be ensuring that risk management principles, as detailed in the Corporate Risk Management Strategy are embedded across the Council.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

6 RESOURCE IMPLICATIONS

- 6.1 Financial – There are no direct financial implications associated with approving the revised Strategy although it is anticipated that implementation may give rise to improvement measures which may themselves have financial implications.
- 6.2 Personnel – There are no immediate implications.
- 6.3 Other – Effective implementation of this Strategy will require the support and commitment of those identified within the Strategy to have specific responsibilities.

7 BACKGROUND PAPERS

- 7.1 Appendix 1 – Risk Management Strategy

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DATE	08 December 2016



Risk Management Strategy

DECEMBER 2016

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<u>Document Control</u>			
<u>Version No.</u>	<u>Effective Date</u>	<u>Reason for Update</u>	<u>Lead Reviewer</u>
1.0	December 2009	New document	CMT/EP&RM
2.0	October 2012	Revised	CMT/EP&RM
3.0	January 2015	Revised	EP&RO/CMT
4.0	December 2016	Revised	EP&RO

1. Background

East Lothian Council provides a diverse range of services to the community of East Lothian and visitors to the area. The strategic and operational hazards and potential risks associated with delivering these services are many and varied.

East Lothian Council regards risk as the threat that an event or action will adversely affect the Council's ability to achieve objectives and the successful execution of strategies. Risk Management is the process of identifying, analysing, treating and monitoring risks which face the organisation and forms part of East Lothian Council's internal control and corporate governance strategy.

Developing a risk management culture and integrating risk management into the way the Council delivers services is essential for achieving best value, taking up opportunities and achieving the Council's Vision of making East Lothian a good place to live, work or visit. When risk is well managed it often goes unnoticed. If it is poorly managed or not managed at all the consequences can be significant and high profile. Effective risk management is needed to prevent such failures.

2. Policy Statement

- 2.1 The Elected Members and Chief Officers of East Lothian Council are committed to creating a culture within the Council where all staff are encouraged to develop new initiatives, improve performance and achieve their goals safely, effectively and efficiently by consistent application of tried and tested methodologies for identifying and managing opportunity and risk.
- 2.2 In doing so the Council aims to make the most of opportunities to:
- achieve high standards of performance;
 - deliver high quality services for service users;
 - provide an environment that meets Health & Safety requirements for the people it employs;
 - protect assets and liabilities against potential losses, and
 - minimise uncertainty in achieving its goals and objectives.

3. Scope

- 3.1 Whilst the Chief Executive has overall accountability for risk management, the Head of Communities and Partnerships has responsibility for the implementation of a suitable and effective risk management framework, and is supported in this respect by the Emergency Planning & Risk Manager and the Emergency Planning & Risk Officer whose remit is to co-ordinate, integrate, oversee and support the risk management agenda and ensure that risk management principles are embedded across the Council.
- 3.2 The Council has agreed that the Council Risk Management Group (chaired by the Head of Communities and Partnerships) is the lead Group overseeing the development, implementation and maintenance of risk management across all services. Risks will be recorded within the corporate risk register, service risk registers or project risk registers.
- 3.3 **Corporate risks** represent those with the potential to impact on the 'corporate body', East Lothian Council, in achieving its stated policies and corporate objectives and those that require strategic leadership (for example the Council Plan and the Single Outcome Agreement). Service risks may be included on the corporate risk register where a risk impacts on multiple services or requires significant central resources in the development of risk control measures.
- 3.4 **Service risks** represent the potential for impact on 'individual services' in relation to service delivery, or the experience of those who work within the services, i.e. staff, partners, contractors and volunteers, or the general public and clients in receipt of the services provided.

- 3.5 All risk will be analysed in terms of impact on the Council, its component services and the likelihood of occurrence. This analysis will produce an evaluation of risk as being Low, Medium, High or Very High. The council's response in relation to adverse risk, or 'risk appetite' is such that:
- 'Low' risk is broadly acceptable without any further action to prevent or mitigate risk;
 - 'Medium' risk is tolerable with control measures that are cost effective;
 - 'High' risk may be tolerable providing the Council is assured that adequate and effective control measures are in place; and,
 - 'Very High' risk is unacceptable and measures should be taken to reduce, transfer or treat the risk to a more tolerable position.

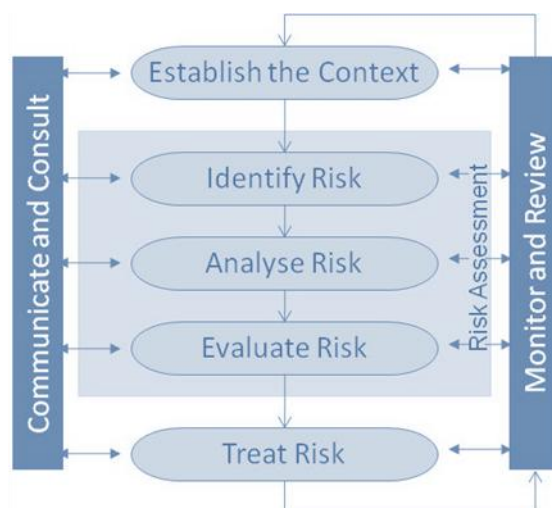
High and Very High risk will be subject to closer scrutiny by the Council Management Team (CMT) and the Cabinet or Audit and Governance Committee.

- 3.6 This document represents the risk management framework to be implemented across the Council and effectively contributes to the signing of the Statement of Internal Control, which is an annual requirement of the Head of Council Resources.

4. Risk Management Philosophy and Objectives

- 4.1 Risk Management is about the culture, processes and structures that are directed towards realising potential opportunities whilst managing adverse effects¹. It is pro-active in understanding risk and uncertainty, it learns and builds upon existing good practice and is a continually evolving process that has an important role to play in ensuring that defensible and beneficial 'risk-aware' not 'risk-averse' decisions are made. It ensures that the Council provides high quality services and staff are aware that every effort has been made to maximise their opportunities to succeed.

- 4.2 East Lothian Council uses the risk management process shown below².



4.3 Risk Management Objectives

The specific risk management objectives of the Council are to:

- (i) integrate governance and risk management into the day to day activities of all Council employees including project management and service planning;
- (ii) create a consistent approach to risk across all services using the adopted process;
- (iii) promote practical measures to reduce the council's exposure to risk and potential loss;

¹ Australia/ New Zealand Risk Management Standard, AS/NZS 4360: 2004

² Australia/ New Zealand Risk Management Standard, AS/NZS 4360: 2004 and ISO 31000 (2009)

- (iv) define clear lines of responsibility for the management of risk, including corporate risks, service risks and those involving specialised support functions;
- (v) provide a system for monitoring the effectiveness of the risk management framework;
- (vi) provide a system for feedback on the management of key risks to Elected Members, with clear and measurable targets set, and reports on progress made against those targets;
- (vii) comply with legislative requirements; and
- (viii) comply with the requirements of Corporate Governance

4.4 The fundamental principles of Risk Management are to:

- ensure that the Risk Management process takes account of and links to Council objectives;
- monitor the provision of, and attendance at, Risk Management training events;
- to keep the elected members and senior managers advised of any significant risk management issues;
- to promote an open and fair reporting culture;
- encourage local ownership of the Risk Management process by ensuring that decisions on risk management are taken locally rather than centrally.
- agree clear roles and definitions relating to the accountability, management, escalation and communication of key risks; and
- approach the assessment of risks and opportunities consistently.

5. Benefits of Effective Risk Management

5.1 Effective risk management will contribute to delivering significant benefits for the Council. The primary benefit is that appropriate, defensible, timeous and best value decisions are made. Such 'risk-aware' decisions should be based on a balanced appraisal of strengths, weaknesses, opportunities and threats, and should enable acceptance of a certain level of risk in order to achieve a particular goal or reward.

5.2 Defensible decision-making means that:

- all reasonable steps in the decision-making process will have been taken;
- all relevant information will have been collected and thoroughly evaluated;
- reliable assessment methods will have been used;
- decisions (and supporting rationales) will have been clearly documented, and
- processes will have been put in place to monitor the effectiveness of the decision outcomes.

5.3 Other benefits would include:

- high achievement of objectives and targets;
- high levels of staff morale and productivity;
- better use and prioritisation of the council's resources;
- high levels of user experience/ satisfaction with a consequent reduction in adverse incidents, claims and/ or litigation;
- further enhancement of the council's good reputation both as an employer and as a public service provider; and
- avoid duplication of Risk Management issues which affect more than one service and bring them together to benefit from good practice.

6. Standard Procedures

6.1 Standard procedures (6.1.1 – 6.1.14) should be fulfilled in order to achieve a consistent approach to effectively implementing risk management across all areas of the Council.

6.1.1 Full implementation of the continuous risk management process, embedding risk management within existing Council processes so that an assessment of risk as well as costs and benefits becomes routine wherever possible.

- 6.1.2 Identification of risk using standard methodologies and involving managers throughout the service with detailed knowledge of the service and the environment in which it operates.
- 6.1.3 Each Service through its Risk Working Group will identify events which may have the consequence of affecting the Council's ability to provide services and achieve its objectives.
- 6.1.5 Consistent application of a standardised 5x5 risk matrix to analyse risk in terms of impact and likelihood of occurrence, thus producing a risk score and evaluation of either 'low', 'medium', 'high' or 'very high.' The values attached to the risk for likelihood and impact are then multiplied and placed on the risk matrix, which shows the level of risk ranging from 1 to 25.
- 6.1.6 Consistency of approach for risk response/ treatment where appropriate actions are taken to bring a situation to a level where the exposure to risk is acceptable to the Council, either through termination, tolerance, transfer or treatment of the risk.³
It will be for the CMT or the departments Risk Working Group to decide on what action they take to deal with the identified corporate or operational risks.
- 6.1.7 Implementation and maintenance of risk registers as a means of collating risk information in a consistent format allowing comparison of risk evaluations and informed decision-making in relation to prioritisation of resources. The council will investigate the development of Risk Software to ensure consistency of approach and format of risk registers.
- 6.1.8 Routine reporting of risk information to the appropriate group e.g. Audit and Governance Committee, CMT and Cabinet dependent on the type and significance of risk.
- 6.1.9 Periodic re-assessment of individual risks, proportionate to significance of risks (i.e. low and medium risks fully reassessed every two years and significant [high and very high] risks annually) including routine audit of robustness of measures implemented to control risks.
- 6.1.10 Fully document the risks in the risk registers and to monitor and carry out an annual review of corporate and service risk registers to ascertain progress and to check for contextual changes affecting the risks.
- 6.1.11 Ongoing proactive identification of new and/or potential risks as a general responsibility of all service areas specifically those where risk is inherently discussed as part of their remit.

7. Structural Arrangements and Responsibilities

- 7.1 All employees are responsible for managing risk to varying degrees within East Lothian Council and it is important that employees are made aware by the Council of their specific responsibilities in order to ensure risk is successfully managed throughout the Council. The Risk Framework (Figure 2.0) illustrates the relationship between different levels of employees and their accountability amongst each other. It shows the structure whereby information, instruction, training, supervision and reporting in relation to the management of risk will be effectively communicated within the Council.
- 7.2 The process must be driven from the most senior level of the Council. The framework (2.0) shows that the CMT has collective responsibility for the management of risk and that the process of implementing the strategy will be through the Council Risk Management Group and thereafter cascading through the Council departments.

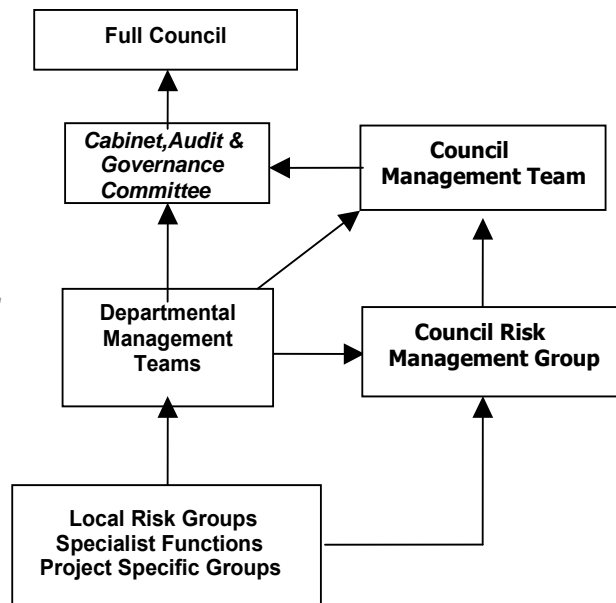
³ **Termination** - avoiding the risk by not proceeding with the activity likely to generate the risk;

Tolerance - ensuring that adequate plans exist to respond to potentially disruptive events and monitoring current controls where the probability of harm materialising is low and/or the economic cost of further reducing the risk is disproportionately high;

Transfer - arranging for another party to bear or share some part of the risk, through insurance, contracts, partnerships, joint ventures etc.; and

Treatment - controlling the likelihood and consequences of the occurrence through preventative measures.

*Figure 2.0
Reporting Arrangements*



7.3 Formal Groups

7.3.1 Elected Members, Full Council, Cabinet and Audit and Governance Committee

Elected Members will promote a culture of risk management throughout the Council and encourage effective management of risk by Officers.

As part of its corporate governance role, **Full Council** is accountable for ensuring that the organisation has a suitable risk management framework in place and that significant risks are adequately identified and controlled. At meetings of the relevant committees, Elected Members will approve service risk registers and risk management plans submitted on an annual basis.

Cabinet has delegated authority for and on behalf of Council for ensuring that corporate risks and any emerging significant (high and very high) risks within their specific remit are adequately controlled. Cabinet will approve the Corporate Risk Register.

Audit and Governance Committee will scrutinise and review the effectiveness of the implementation of the risk management processes within the Council. It will also scrutinise and review the Risk Registers.

7.3.2 Council Management Team

Council Management Team (CMT) will promote the importance placed on risk management within the Council and will:

- oversee the implementation of this strategy throughout the Council;
- review the proposed corporate risk register and all service risk registers and agree the risks for the Council in achieving its key corporate objectives;
- monitor the effective management of known risk by officers of the Council, by reviewing action taken in managing risks identified on all risk registers on an annual basis;
- support implementation of the strategy throughout the Council;
- timeously identify potential risks arising from the Council's external environment, and
- ensure effective systems of internal control and Risk Management are in place to support the corporate governance of the Council advise and promote the Risk Management framework, policy and strategy.

7.3.3 Council Risk Management Group

The Council Risk Management Group is fundamental to the delivery of risk management throughout East Lothian Council and will meet on a regular basis to ensure that risk management remains high on the corporate agenda. The Council Risk Management Group comprises the Emergency Planning and Risk Manager, Emergency Planning and Risk Officer and representatives from each Risk Working Group, Internal Audit, Insurance Services, Health and Safety, IT Security and other relevant members by invitation and will:

- identify and review corporate risks, in consultation with the CMT, through the production of a corporate risk register that will demonstrate the overall risk profile of the council and be used to focus on developing actions for effectively managing the risks;
- provide regular risk management reports to the CMT (in respect of risk registers, risk management plans);
- assist in implementation issues across the council, share experiences and inform changes to the strategy and direction;
- form a sub group(s) from within the Council Risk Management Group to take forward specific initiatives complimentary to the remit of the Group when required.

7.3.4 Risk Working Group (Service) – Can be Service Management Teams

Risk Working Groups will:

- organise training and raise awareness in their area of responsibility to ensure practical prevention and control measures are put in place to minimise risk;
- contribute to the service risk register and regularly review its content to ensure it continually reflects the key risks of the service and highlights the service's top risks;
- report progress to their Service Management Team on a regular basis;
- on behalf of the Head of Service, contribute to the council's assurance framework through the annual submission of their service's risk register for review prior to submission to the Audit and Governance Committee;
- provide the central point for co-ordination of risk management policy within the service;
- oversee the implementation of this strategy throughout the service at an operational level, and
- provide a representative to the Council Risk Management Group.

7.3.5 Specialist Functions

Specialist functions such as Insurance and Health and Safety will:

- provide a central resource of expertise to the wider Council, and
- be responsible for the development and actioning of corporate risk management initiatives, either directly or through other Council services.

Where relevant, the Council will access external sources of expertise such as the Police or the Council's Insurers.

7.3.6 Internal Audit

Internal Audit is an independent appraisal function within the Council. Internal Audit will:

- review, appraise and report on the adequacy and effectiveness of Risk Management arrangements within the Council, and
- take into account the Council's Corporate and Service Risk Registers when identifying areas to be included in the Annual Audit Plan.

7.4 Individuals

7.4.1 Chief Executive

The Chief Executive has ultimate responsibility for ensuring that there are suitable and effective arrangements in place to manage the Council's risks.

7.4.2 Head of Communities and Partnerships

The Head of Communities and Partnerships is the lead for risk management, its related strategy and supporting processes and is supported in this respect by a dedicated risk management resource in the Emergency Planning and Risk Manager and the Emergency Planning and Risk Officer.

7.4.3 Depute Chief Executives/Director of Health & Social Care Partnership

The Depute Chief Executives and Director of Health & Social Care Partnership are accountable to the Chief Executive for the management of risk within their areas of responsibility and will ensure that risks identified as likely to impact on their delivery of the strategic objectives are managed effectively.

It is the responsibility of each Depute Chief Executive/Director of Health & Social Care Partnership and their senior management team to implement local arrangements which accord with the principles, objectives and standard procedures set out in this strategy. Specifically, they will:

- implement the strategy within their own range of services, seeking every opportunity to embed risk management methodologies within their existing processes;
- monitor and review the effective application of the risk management process throughout their service and report on significant risks to the Council Risk Management Group, and
- encourage their Risk Working Group to promote staff learning and development in risk management and monitor operational risk management progress;

Whilst the Depute Chief Executives and Director of Health & Social Care Partnership have overall responsibility for the management of a risk within their services, they might not 'own' the risk control mechanisms being implemented to manage the risks (e.g. implementation of policies developed by other services, such as Finance or Human Resources). In this case, their role is to oversee that the control(s) is/ are fit for purpose and operating effectively within their area of responsibility.

7.4.4 Heads of Service

Heads of Service are accountable to their Depute Chief Executive for the management of risk within their areas of responsibility. They will ensure that any risks identified as likely to impact on their service are documented in the Risk Register and thereafter managed effectively.

Heads of Service across East Lothian Council have a responsibility to ensure that all employees are made aware of the latest risk management strategy, guidance and controls.

7.4.5 Emergency Planning and Risk Manager

The Emergency Planning and Risk Manager, in conjunction with the Risk Officer, will:

- organise the meetings of the Council Risk Management Group;
- offer advice and support to service managers and other groups in the management of corporate and service risks
- maintain the Corporate Risk Register and risk management systems for the Council.

7.4.6 All East Lothian Council Employees

All Council employees should be encouraged to be involved at all levels in identifying current and potential risks where they work. They should make every effort to be aware of situations which place themselves or others at risk, report identified hazards and implement risk reduction measures developed by their service. Risk assessments should encompass all facilities used to deliver services and be completed using the knowledge and experience of all relevant staff and where appropriate service users. This approach will support the formal risk review conducted annually by all services and enable staff to:

- understand the risks that relate to their roles and their activities;
- understand how the management of risk relates to their own and their client's/ the public's safety;
- understand their accountability for particular risks and how they can manage them;
- understand how they can contribute to continuous improvement of risk management;
- understand that risk management is a key part of East Lothian Council's culture;
- report systematically and promptly to senior management any perceived new risks or failures of existing control measures, and
- liaise with line managers to assess risk in their jobs and will manage risk effectively in their jobs.

8. Training, Learning and Development

- 8.1 To implement this strategy effectively, it is essential to have a workforce with the competence and capacity to identify and manage risk and handle risk judgements with confidence including learning from past experience.
- 8.2 The Council recognises that for Risk Management to be successfully embedded in the Council's day to day activities appropriate training must be undertaken by all members of staff to varying degrees. The Emergency Planning and Risk Manager, supported by the Emergency Planning and Risk Officer, will regularly review the risk management training needs of the Council and ensure the implementation of a programme of training for all staff to be undertaken both internally and also through specialist external trainers. This will ensure that all employees are equipped with the skills to act effectively in accordance with good practice.
- 8.3 Depending on the purpose, nature and extent of the training, it can provide staff with knowledge of the following:
- the risk management process;
 - risk reporting requirements;
 - risk management roles and responsibilities;
 - risk tools and techniques and how and where they are applied; and how to identify, assess and manage risks;
 - the Council's policy on risk, and
 - the Council's risk appetite, risk tolerance levels and escalation rules.

9. Monitoring and Reviewing Risk Management Activity

- 9.1 Efficient and effective risk management requires a monitoring and review structure to ensure that changes to the council and its environment are identified and addressed.
- 9.1.1 There will be reports to the CMT and Cabinet on progress in managing the risks recorded in the Corporate Risk Register. This will detail the most significant risks and what actions have been taken to mitigate them. The risks will be reviewed as follows:
- Very high risks and High Risks and the actions taken to mitigate them will be reviewed annually;
 - Medium risks and Low risks and the actions taken to mitigate them will be reviewed every two years.
- 9.1.2 There will be regular reporting to Service Management teams on progress against the risk management plans and service risk registers;
- 9.1.3 There will be regular reporting on progress on the Risk Management Action Plan to the Council Risk Management Group;
- 9.1.4 There will be quality assurance checks on the risk management process conducted through meetings of the Council Risk Management Group;
- 9.1.5 There will be continual review by Risk Working Groups of progress in managing individual risks listed in the service risk registers;
- 9.1.6 There will be quarterly reporting of claims data to Heads of Service by the Insurance Section and 'Stewardship reports' will be provided by the council's Broker annually;
- 9.1.7 There will be annual review of risk registers by the Audit and Governance Committee which will incorporate the reporting of progress made with individual risks.
- 9.2 A review of the above and other data sources should determine whether:
- the risk management framework and process is fit for purpose and aligned to the Council's corporate objectives;
 - staff across the Council have sufficient risk management skills, knowledge and competence in line with the activities they are required to perform on a daily basis, and
 - improved knowledge would have helped to make better judgements or reach better decisions and identify lessons for future assessments and the management of risks.

10. Risk Registers

- 10.1 The Council Risk Management Group will establish a Corporate Risk Register, which aligns with the Council Plan and they will have responsibility for maintaining the Register.
- 10.2 Each Service will establish a Risk Register which aligns to its Service Plan and which will, where appropriate, be linked to the Corporate Risk Register. The information to be contained in both the Corporate Risk Register and the respective Service Risk Registers will be:
- risk identification number;
 - risk description (linked to the achievement of business objectives);
 - likelihood/impact rating;
 - risk rating;
 - controls in place;
 - potential residual risk;
 - planned actions;
 - service or person responsible for planned actions/managing the risk;
 - timescale for completion of action, and
 - evidence of regular review.

11. Strategy Implementation, Communication and Review

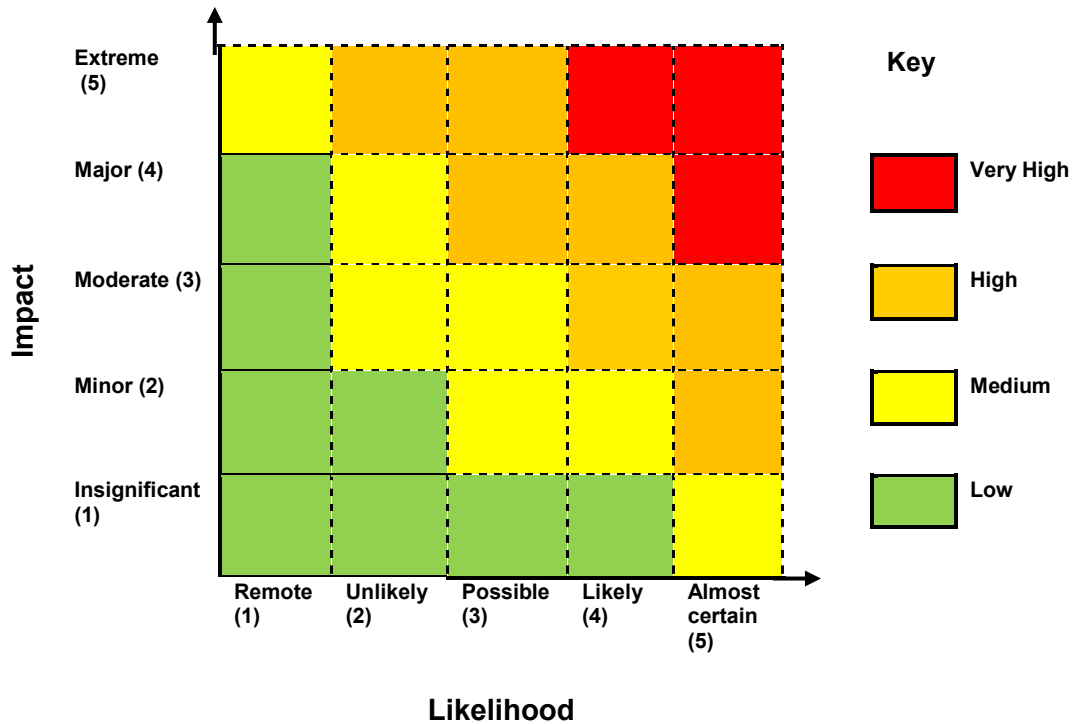
- 11.1 The Council's Risk Management Strategy was first approved by Council at its meeting on 8 December 2009, subsequently revised and approved in October 2012 and December 2014 before being further revised in December 2016. The Strategy accurately represents the arrangements for managing risk within the Council at the time of approval. Implementation of this strategy will be underpinned by Risk Management Guidance and the Risk Management Action Plan.
- 11.2 The Elected Members and Chief Officers consider that effective communication of risk management information across all services and levels of staff is essential in developing a coherent, consistent and effective approach to risk management. Copies of this strategy are available on ELnet and specific details will feature in the induction programme for all new staff.
- 11.3 This strategy will be reviewed at periodic intervals of at least every 3 years to ensure that it reflects current standards and best practice in risk management and fully reflects the rapidly changing environment in local government.

12. Outputs and Benefits of the Risk Management Strategy

- 12.1 Embedding a Risk Management culture throughout East Lothian Council is vital to the success of this strategy. The anticipated outputs and benefits of the Risk Management Strategy are:
- Improved service delivery;
 - Better value for money;
 - Improved corporate governance and compliance systems;
 - Improved insurance management;
 - Improved decision making;
 - Enhanced understanding of the Council's vulnerabilities;
 - Improved use of resources;
 - Enhanced strategic awareness;
 - Compliance with legislation/ regulation;
 - Adds value to the activities of the organisation, and
 - Increases the probability of success in achieving business objectives.
- 12.2 These outputs and benefits will protect and enhance East Lothian Council's reputation, which will in turn increase public trust.

Appendix 1 – Risk Rating Matrix

The probability (likelihood) of an event occurring being almost certain, likely, possible, unlikely or remote and the impact ranging through, catastrophic, major, moderate, minor or none, that such an event may have on the following areas; service objectives, financial, people, time and reputation. See next page for descriptions of risk ratings.



Descriptions of Risk Ratings

Very High Risk (17 – 25)	These are classed as primary or critical risks requiring immediate attention. Their potential consequences are such that they must be treated as a high priority. This may mean that strategies should be developed to reduce or eliminate the risks, and the risk monitored every 6 months. Consideration should be given to planning being specific to the risk rather than generic. Examples of impact include: national attention, Government intervention, total service disruption and fatality. Very High risks are unacceptable and measures should be taken to reduce, transfer or treat the risk to a more tolerable position.
High Risk (10 – 16)	These risks are classed as significant. They may have a high or low likelihood of occurrence but their potential consequences are sufficiently serious to warrant appropriate consideration after those risks classed as 'very high'. Consideration should be given to the development of strategies to reduce or eliminate the risks and they should be reviewed every 6 months. Examples of impact include: national media, adverse comments (reputational risk), external audit, MSP intervention, significant service disruption and disability (or other serious injury). High risks may be tolerable providing the Council is assured that adequate and effective control measures are in place.
Medium Risk (5 – 9)	These risks are less significant but may cause upset and inconvenience in the short term. These risks should be monitored to ensure they are being appropriately managed and should be reviewed annually. Examples of impact include: local media attention, service user complaints, service disruption and lost time injuries. Medium risks are tolerable with control measures that are cost effective.
Low Risk (1 – 4)	These risks are either unlikely to occur and not significant in their impact. They should be managed using normal or generic planning arrangements and require minimal monitoring and control unless subsequent risk assessments show a substantial change. They should be reviewed every two years. Examples of impact include: isolated complaints and minor service disruption. Low risks are broadly acceptable without any further action to prevent or mitigate risk.

REPORT TO: East Lothian Council

MEETING DATE: 20 December 2016

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Ratification of SESplan Budget 2017/18

6

1 PURPOSE

- 1.1 To request that Council ratifies the decision of the Joint Committee of the South East Scotland Strategic Development Planning Authority (SESplan) to approve the SESplan Operating Budget for 2017/18.

2 RECOMMENDATIONS

- 2.1 It is recommended that Council agrees to ratify SESplan's Operating Budget for 2017/18 in the terms of the decision of the SESplan Joint Committee.

3 BACKGROUND

- 3.1 SESplan, the Strategic Development Plan Authority, is required to report its spend against agreed budgets to the SESplan Joint Committee. It is also required to present for the approval of the Joint Committee its budgets for future years.
- 3.2 The SESplan Joint Committee of 28 November 2016 approved the 2017/18 Operating Budget, subject to its being ratified by the six SESplan member authorities. However, Members highlighted that councils were not receiving their own budget settlements until 15 December and suggested that it would be prudent to only approve the Operating Budget for 2017 / 2018 in principle at this stage. Members discussed this suggestion and agreed that a further report on the final budget position is to be presented at their next meeting in March.
- 3.2 The SESplan financial rules set out that Operating Budgets for the next financial year should be proposed by the SDP Manager, approved by the

SESplan Joint Committee and that decision ratified by the member authorities by the end of December. The decision to approve the Operating Budget in principle is now required to be ratified by each of the member authorities by the end of December.

- 3.3 The 2016/17 Operating Budget was set and ratified at £286,336, the majority of which is the core team staff and accommodation. Following the relocation of the core team to accommodation with West Lothian Council offices, those fixed costs were reduced from the 2015/16 budget of £300,874. This meant that member contributions for 2016/17 were held at £46,550, as for 2015/16 budget year. This represented a 5% reduction compared to previous years' contribution of £49,000 per authority.
- 3.4 The core team is currently without an SDP Manager following the retirement of Ian Angus in September 2016. Discussions as to a replacement or temporary solution continue in the context of the Scottish Government's independent review of planning and uncertainty as to the future structure of strategic development planning in Scotland. However, it remains a legal requirement to progress with SDP2 and any legislative proposals brought forward may not change this.
- 3.5 In this context the SESplan Joint Committee agreed a 2017/18 budget and for the subsequent 2 years at £279,800 per annum. Whilst the reduction in salary costs for the SDP Manager post represents an opportunity for additional savings, requirements for cross boundary transport modeling work and examination costs for the Proposed SDP2 need to be built in, with further technical work in following years. The balance to maintain the budget at the £279,800 level is provided by use of reserves. The individual authority contribution is therefore kept very close to the 2016/17 payment of £46,550. Details are given in Appendix 1 of the Background Papers.
- 3.6 SESplan annual contributions are provided for within the Partnership and Services for Communities budget and this will require to be maintained at the required level. As noted above, the SESplan Joint Committee will review the budget situation in March 2017.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – No new requirements
- 6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 Report by Strategic Development Plan Lead Officer to SESplan Joint Committee 28 November 2016, *Finance*

AUTHOR'S NAME	Iain McFarlane
DESIGNATION	Service Manager, Planning
CONTACT INFO	01620 827292 imcfarlane@eastlothian.gov.uk
DATE	06/12/2016

ITEM 8 - FINANCE

Report by: Alice Miles, Lead Officer

Purpose

This report presents the following for SESplan Joint Committee consideration:

- Expenditure against the approved Operating Budget for 2016 / 2017 up to October 2016;
- Total forecast expenditure against the approved Operating Budget for 2016 / 2017; and
- Operating Budget for 2017 / 2018, 2018 / 2019 and 2019 / 2020.

Recommendations

It is recommended that the SESplan Joint Committee:

1. Notes the expenditure against the approved Operating Budget for 2016 / 2017 up to October 2016 as set out in Appendix 1 to this report;
2. Notes the total forecast expenditure against the approved Operating Budget for 2016 / 2017 as set out in Appendix 1 to this report;
3. Approves the Operating Budget for 2017 / 2018 as set out in Appendix 1 to this report;
4. Notes the Operating Budgets for 2018 / 2019 and 2019 / 2020 as set out in Appendix 1 to this report;
5. Agrees that member contributions for financial year 2017 / 2018 will be set at £46,550 (excluding VAT) per authority, payable to Fife Council by the 30 April 2017; and
6. Notes that member authorities will be required to ratify the decision at Recommendation 3 of this report by the end of December 2016 and to make their required contributions by the due date.

Resource Implications

As set out below and in Appendix 1.

Legal and Risk Implications

There are risks to the process if sufficient funding is not available to progress the Strategic Development Plan (SDP) at a rate which provides up to date strategic planning policy context for the timeous progression of the member authorities Local Development Plans as is required by the relevant legislation. All risks and responses to these are detailed in the SESplan risk register and updates on risk management are reported to SESplan Joint Committee on an annual basis (See Item 5 Risk Management).

Policy and Impact Assessment

No separate impact assessment is required.

1. Background

2.1 The SESplan Financial Rules set out that Operating Budgets for the next financial year should be proposed by the SDP Manager, approved by the SESplan Joint Committee and that decision ratified by the member authorities by the end of December. The SESplan Operating Budget for 2016 / 2017 was approved at SESplan Joint Committee on the 14 December 2015, with all member authorities to contribute £46,550 by the 30 April 2016. All member authorities paid the required contribution by the due date.

1.1 The Treasurer in conjunction with the SDP Manager is also required to submit detailed finance monitoring reports to the SESplan Joint Committee twice a year, with one occasion being the end of each financial year.

2. Operating Budget 2016 / 2017

2.2 In terms of fixed costs the Operating Budget for 2016 / 2017 includes an allowance for staffing within the Core Team of the SDP Manager, Lead Officer (1 FTE – Maternity Leave cover over the period January 2016 – January 2017), Planner, Temporary Planner (contract to December 2017) and Student Planner (0.4 FTE contract to August 2016).

- 2.3 Accommodation costs within West Lothian Civic Centre were assumed at £7,613 with an allowance of £2,000 for administration support. In terms of IT / Software, the Operating Budget includes £12,000 for Objective and £1,500 per annum for Objective Connect. Also included is the annual hosting of the SESplan website and recharge for West Lothian IT services who provide IT hardware and support to the Core Team. Audit fees in 2014 / 2015 were £3,380 and costs were assumed to be the same in future years (i.e. no reduction but also no inflation).
- 2.4 The 2016 / 2017 Operating Budget included £20,000 for spend on technical support plus £2,000 contingency.
- 2.5 The approved Operating Budget for 2016 / 2017 is £286,366. Total actual expenditure to October 2016 is £123,017 with total forecast expenditure estimated at £257,565, an underspend of £28,771.
- 2.6 The underspend in forecast expenditure is largely because the SDP Manager post has been vacant since September 2016 and the Student Planner post became vacant in May rather than August 2016. As set out under Item 5 (Risk Management) there is a risk of insufficient resources over the period to the submission of Proposed SDP2 for Examination. In response to this risk, the underspend on the 2016 / 2017 Budget in staffing has allowed for the recruitment of a planner and student planner posts on temporary three month contracts. These posts will assist with the processing of representations received on Proposed SDP2 and preparation of the Schedule 4s and Submission Package for Examination. The Submission Package and Schedule of Unresolved Representations will be brought to the SESplan Joint Committee in March 2017 for approval. In addition, opportunities for the SEStran Partnership Director to provide some leadership and management for the team previously delivered through the SDP Manager post are being explored, albeit on the basis of one day a week, a much reduced time commitment.

3. Operating Budget 2017 / 2018 and Forecast Operating Budgets 2018 / 2019 and 2019 / 2020

- 3.1 Appendix 1 sets out a proposed Operating Budget for the financial year 2017 /2018.
- 3.2 The 2017 / 2018 Operating Budget includes an allowance for staffing within the SESplan Core Team of Lead Officer (0.8FTE), Planner (1FTE), Planner (1FTE contract to December 2017) and SDP Manager (0.2FTE). It is proposed that the Planner contract to December 2017 is extended to December 2018. There is also provision for a Student Planner on a twelve month contract.

- 3.3 These posts will provide for stability within the Core Team over the period to the approval of SDP2 by Ministers (anticipated Spring 2018). Critically these posts will allow for the completion of substantial pieces of work to inform the preparation of Supplementary Guidance on a Cross Boundary Transport Contributions Framework (see Item 5 Risk Management and paragraph 3.6 below) and two frameworks for the cross boundary Green Network Priority Areas identified in Edinburgh and West and South East.
- 3.4 In terms of IT / software, the Operating Budget includes £12,000 for Objective and £1,500 per year for Objective Connect. These systems allow management of the consultation on the plan and the sharing of information and papers with members and other stakeholders. Also included is the annual hosting of the SESplan website and recharge for West Lothian IT services who currently provide IT hardware and support to the Core Team.
- 3.5 Audit fees in 2015 / 2016 (totals for 2016 / 2017 are not yet available) were £3,380. Costs for 2017 / 2018 have been assumed to be the same (i.e. no reduction but also no inflation).
- 3.6 Under variable costs, the 2017 / 2018 Operating Budget includes £108,350 for spend on technical support. The largest item of spend is £60,000 for research to provide the robust evidence needed to justify an appropriate rate for contributions and the 'contributions zones' that will be a key element of the Cross Boundary Transport Contributions Framework Supplementary Guidance. As set out under Item 5 (Risk Management) sufficient funds have been set aside to commission further work to generate contribution zones for specific interventions that will address the impacts of cross boundary travel. This work should as a minimum ensure the outputs will enable a system to be established that could not be subject to the same challenges as the Aberdeen Strategic Transport Fund.
- 3.7 Following discussions with the DPEA, £30,000 has been allocated to cover the costs of the Proposed SDP2 Examination.
- 2.7 Looking ahead the White Paper on Planning following the Planning Review is anticipated to be published in January / February 2017. The Planning Review included the recommendation that SDPs are no longer prepared and that Strategic Development Planning Authorities (SDPA) should be repurposed. In this context the format of SDP3 is unknown. However as set out above there are opportunities for the SEStran Partnership Director to provide some leadership and management for the team previously delivered through the SDP Manager post.

- 3.8 SEStran are located within Victoria Quay in Edinburgh, therefore it is sensible for the SESplan Core Team to relocate to Victoria Quay alongside the SEStran Partnership Director. The Core Team are anticipated to relocate by April 2017. Accommodation costs for 2017 / 2018 have been assumed at the same level as Civic Centre at £7,487 with an increase of 1.5% per year for inflation. Exact costs to accommodate the SESplan Core Team in Victoria Quay have not been confirmed, but they are not expected to be higher than current accommodation costs in the Civic Centre in Livingston.
- 3.9 In the short term the underspend in the 2016 / 2017 Operating Budget will facilitate the relocation of the SESplan Core Team and allow for the procurement of IT hardware currently provided by West Lothian Council. In the longer term discussions on the opportunities for the repurposing of SESplan alongside SEStran will be explored. In this context into 2018 / 2019 and 2019 / 2020 opportunities for savings in the SESplan Operating Budget particularly around administration and IT as the structures and arrangements currently in place at both SESplan and SEStran are reviewed will be investigated.
- 3.10 The SESplan Annual Audit for 2015 / 2016 identified that there may be merit in re-assessing the Authority's use of reserves and it is noted that the Operating Budget sets out that the Authority's reserves will increase over the period 2018 / 2019 and 2019 / 2020. However it is sensible to plan the 2017 / 2018 Operating Budget and 3 Year Budget on the basis of a continuation of SESplan in its current form with member contributions to remain at £46,550 per authority. This will ensure that SESplan or any potential successor organisation has adequate resources to deliver any new responsibilities that may emerge from the Planning Review process. In any event by 2019 / 2020 much of the evidence on which strategic infrastructure planning in the region is based will need to be updated, regardless of the public sector landscape or governance arrangements under which strategic regional planning is actually delivered in that year.
- 3.11 The 2018 / 2019 Operating Budget will be drafted to take account of any changes to the purpose of the SDPA and a Monitoring Report on finance and expenditure will be brought to the SESplan Joint Committee meeting in March 2017. Opportunities for efficiencies will be identified.

4. Conclusion

-
- 4.1 It is requested that member authorities take steps now in their budget setting to ensure that contributions will be in place by the start of the next financial year.

Appendices

1 SESplan Operating Budget 2016 / 2017 and Three Year Operating Budget to 2019 / 2020

Report Contact

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Appendix 1 - SESplan Operating Budget 2016 / 2017 and Three Year Operating Budget to 2019 / 2020

DESCRIPTION	16/17 Budget	Actual spend Sept- 16	16/17 Forecast	16/17 Variance	17/18 Budget	18/19 Budget	19/20 Budget
SINGLE STATUS BASIC PAY incl Agency	227,199	96,591	197,294	-29,905	160,931	163,969	190,186
TRAINING COSTS	1,000	520	1,000	0	2,000	2,000	2,000
RENTS PAYABLE, incl service charges	9,613	7,376	7,376	-2,237	7,487	7,599	7,713
TRAVEL EXPENSES	5,100	1,611	4,200	-900	4,200	4,200	4,200
IT HARDWARE	0	0	500	500	0	0	0
IT SOFTWARE	16,000	7,200	13,500	-2,500	13,703	13,909	14,118
IT MAINTENANCE	0	684	684	684	0	0	0
MOBILE LINE RENTAL	524	55	200	-324	203	206	209
PROFESSIONAL FEES	3,400	0	3,400	0	3,400	3,400	3,400
EVENT COSTS	0	411	411	411			
MISCELLANEOUS EXPENSES	1,500	0	1,500	0	1,500	1,500	1,500
Fixed	264,336	114,448	230,065	-34,271	193,424	196,783	223,326
Technical Support							
PRINTING/PHOTOCOPYING COSTS	2,500	135	4,000	1,500	4,000	4,000	4,000
CROSS BOUNDARY TRANSPORT PROJECT	16,000	8,434	16,500	500	60,000	0	0
EXAMINATION					30,000	0	0
TECHNICAL SUPPORT					0	20,000	30,000
POSTAGES/FRANKING	500	0	500	0	500	500	500
ADVERTISING/MARKETING	1,000		4,000	3,000	4,000	4,000	4,000
OTHER SERVICES (Contingency 10%)	2,000		2,500	500	9,850	2,850	3,850
Variable	22,000	8,569	27,500	5,500	108,350	31,350	42,350
Expenditure	286,336	123,017	257,565	-28,771	301,774	228,133	265,676
INCOME-OTHER LOC AUTH(VAT)	-279,300	-279,300	-279,300	0	-279,300	-279,300	-279,300
SALES-PLANNING	-250	0	0	250	0	0	0
INCOME-INTEREST ON REV BALANCE	-1,000	0	-500	500	-500	-500	-500
Income	-280,550	-279,300	-279,800	750	-279,800	-279,800	-279,800
Net	5,786	-156,283	-22,235	-28,021	21,974	-51,667	-14,124
(TAKE FROM)/ADD TO RESERVES	-5,786		22,235	28,021	-21,974	51,667	14,124
NET TOTAL	0		0	0	0	0	0
Usable reserve balance	-36,889		-64,910	-28,021	-42,936	-94,603	-108,727
Usable reserve balance at 1/4/16	-42,675						
Usable reserve as % of expenditure			-25.2%		-14.2%	-41.5%	-40.9%

REPORT TO: East Lothian Council

MEETING DATE: 20 December 2016

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Update on Welfare Reform and Universal Credit

7

1 PURPOSE

- 1.1 To provide an update to Council on the rollout of various elements of the UK Government's welfare reforms and their impact on East Lothian Council Services.

2 RECOMMENDATIONS

That the Council:

- 2.1 notes the growing impact of welfare reform on individuals and families when taking decisions about service development and to consider as part of budget deliberations;
- 2.2 takes action to try to minimise any potential negative impacts of welfare reform by ensuring that Council service areas are optimally configured to continue to deliver high quality services to East Lothian residents;
- 2.3 continues to press the DWP to respond positively to the concerns raised by the Council about inefficient processes and poor communication with the Council, coupled with the lengthy delays experienced by claimants as they wait of Universal Credit payments;
- 2.4 asks the DWP to carry out an urgent investigation into the impact of Universal Credit in East Lothian on claimants and on the local authority and other social landlords;
- 2.5 asks the UK Government to suspend the housing cost element of Universal Credit until this investigation has taken place;
- 2.6 asks the UK Government to reconsider the proposal to exclude 18–21 year olds from receiving the housing cost element of Universal Credit (due to be implemented from 1 April 2017).

- 2.7 seeks financial recompense from the UK Government for the loss of Council Tax and Council house rent income as a result of Universal Credit;
- 2.8 asks the Scottish Government to take immediate steps to use its powers to have the housing cost element of Universal Credit paid direct to landlords;
- 2.9 asks the Scottish Government to take immediate steps to redesign the Council Tax Reduction Scheme to better align with Universal Credit; and
- 2.10 asks the Scottish Government to consider the implications of Universal Credit on the funding of the Scottish Welfare Fund, Discretionary Housing Benefits and Social Care budgets.

3 BACKGROUND

- 3.1 This report is the latest in a series of reports providing information on the UK Government's welfare reforms, the consequential changes to Council Services and the potential impacts for East Lothian residents.
- 3.2 Since early 2013 the Council's Welfare Reform Task Group has considered the service implications of the various welfare reforms and in response has produced a succession of Welfare Reform action plans which have provided a framework for Council services to deliver a concerted response. Since the introduction of the Welfare Reforms from April 2013, the Welfare Reform Task Group's strategy has been supported by the activities of the Welfare Reform Liaison Group and the Welfare Reform Reference Group. These groups have facilitated communication between Council services which have had to respond to welfare reforms and the Council's external partner agencies.
- 3.3 The current Welfare Reform Action Plan also seeks to establish an East Lothian Rights and Advice Network. It is envisaged that this will replace the current Welfare Reform Reference Group as a forum to share information, consult and engage with key stakeholder groups and support the development of an inter-agency referral system.
- 3.4 Since April 2013 the impact of Welfare Reforms has required responses from a range of Council services, (including Revenues, Benefits, Community Housing, Customer Services, Welfare Rights and East Lothian Works). Whilst these impacts have been diverse, the risks posed by Universal Credit to East Lothian residents' ability to maintain their rent and Council Tax payments have become a growing concern.
- 3.5 In addition to the financial risks associated with the rollout of Universal Credit (UC) the report also highlights additional risks associated with further welfare changes including the reduced Benefit Cap, (introduced 7 November 2016) and the exclusion of 18 to 21 year olds from receiving UC Housing Costs (1 April 2017).

- 3.6 It should also be noted that the UK Government devolved new powers to the Scottish Parliament on 5 September 2016 which will allow it to adapt the existing UK Welfare system more closely to Scotland's needs.

Universal Credit

- 3.7 East Lothian Council was initially involved as a partner agency to Musselburgh Job Centre Plus (JCP) during the rollout of the Universal Credit Live Service (UCLS) from 27 April 2015. The Council subsequently signed up to a further Delivery Partnership Agreement, (DPA) for the full digital rollout of the Universal Credit Full Service (UCFS) from 23 March 2016. In partnering Musselburgh JCP the Council has assisted the DWP by providing help for UC claimants at local Council offices and libraries to make their claim online and have provided personal budgeting support (PBS) for UC claimants requiring assistance with budgeting. However, this partnership has also provided the overall framework for the administration of cases migrating from Housing Benefit to UC Housing Costs and the management of various interactions between the Council and UC Service Centres.
- 3.8 The 11-month period working in a UCLS environment helped establish the groundwork for the cooperative approach required to deliver UC locally. However, the introduction of the UCFS in March 2016 represented a significant step change. Whilst the Council recognised that UC would have a significant impact on East Lothian residents and households it was decided that the Council was better placed to influence outcomes as a signatory of the Delivery Partnership Agreement (DPA) than it would be operating out with an agreement.
- 3.9 From a Council services' perspective, the key impacts/points to note in respect of the UCFS rollout have been:
- A wider range of people in scope for claiming UC & higher volume of cases as a consequence
 - The reliance on UC claimants to make and maintain their claim online
 - The built-in 7-day waiting period for the majority new UC claims
 - Extended processing times for UC claims (min 32 days but potentially 42 days before first payment)
 - Additional demand for Scottish Welfare Fund, (SWF) Crisis Grants (20% in excess of profiled SWF expenditure as at 30 September 2016)
 - Consequential increase in the number of referrals to food banks
 - Level of deductions from UC first payments causing further hardship
 - The payment of UC Housing Costs direct to the claimant
 - The uncoupling of the well established joint claim for Housing Benefits and Council Tax Reduction (CTR). This has been a significant factor contributing to the reduction in those claiming CTR, contributing to an overall reduction in expenditure of £392k (7.6% reduction YTD as at 30 September 2016).

- The increased reliance on automated data transfer between DWP/JCP has seen many repeated experiences of errors, missing documentation and Data Protection breaches on the part of the DWP.
- Lack of consistency and knowledge amongst DWP Service Centre staff
- Lack of training of DWP staff in Service Centres dealing with vulnerable people
- Previously agreed data sharing protocols no longer apply under UCFS, curtailing Council officers' ability to make telephone enquiries about UC claimant's entitlement
- An increased reliance on the UC claimant providing information from their online UC Journal
- The growing reluctance of private sector landlords to let to UC claimants
- Increased risk of potential homelessness due to delays in UC Housing Costs being awarded and increased evictions for rent arrears with some choosing not to pay rent when they receive lump sum UC payment
- Impact on ELC Temporary Homeless Accommodation (General Services Budget) as a result of increased rent arrears
- Orchard and Shipman PSL temporary homeless accommodation management charges not covered by UC Housing Costs, meaning ELC (GS) will have to cover potential annual shortfall of approx £350k when UC migration is fully implemented
- Housing Associations operating in East Lothian experiencing similar issues and some taking legal action to evict tenants with UC related rent arrears
- Increased demand for Discretionary Housing Payments
- Insufficient Housing Costs information to facilitate DHP decisions, (increasing the burden of proof on the DHP claimant)
- Concerns raised by Council Services over Job Centre Plus' ability to support vulnerable claimants through the migration to UC
- Early indications of UC becoming an increasing factor associated in instances of petty crime.

3.10 The Impact of Universal Credit Full Service on mainstream Council house rent collection has been severe:

- **590** Council house tenants were known to be claiming UC at the end Q2 2016/17. The total value of rent to be collected from these tenants each fortnight was **£75,400.47**. This equates to **£1,809,611.28** over a 12 month period.
- Current tenant rent arrears reduced from **£1,295,782.60** at the end of 2015/16 to **£1,210,872.63** at the end of Q1 2016/17 - an **£84,909.97**

reduction (**6.55%**). This significant reduction was mainly due to the summer rent charge break at the end of June 2016. This is an expected reduction at this time of year as those in arrears continue to pay.

- Current tenant rent arrears increased from **£1,210,872.63** at the end of Q1 2016/16 to **£1,452,515.37** at the end of Q2 2016/17. – a **£241,642.74** increase (**19.95%**).
- This equates to a net in-year increase of **£156,732.77** (**12.09%** increase). The increase in rent arrears in Q2 2016/17, has almost entirely wiped out the reduction in rent arrears reported in both 2014/15 and 2015/16.
- Of the year-to-date increase of **£156,732.77 – £79,140.69** relates directly to debt associated with UC. The remaining **£77,592.08** remaining is the indirect impact, i.e. time spent dealing with UC claimants is detracting from the time officers are able to spend dealing with other tenants.
- By way of comparison, during the same period in 2015/16, current tenant rent arrears reduced by **£51,262.42**.
- **481** of these 590 tenants have rent arrears. **316** of these 481 tenants have **increasing** rent arrears.
- The average rent arrears for a UC claimant is **£898.89** – to put this into context, the average rent arrears against a non-UC case are £589.49.
- Overall, there has been a **12.09%** increase in current tenant rent arrears in 2016/17. However, for UC claimants, there has been a **22.40%** increase in rent arrears.

3.11 From the start of the UC rollout East Lothian Council recognised the need for good relationships to exist between Council Services, Musselburgh JCP, UC Service Centres and the UC Project Team. The Council and JCP have set up an Operational Delivery Group (ODG) in order to manage UC activities under the DPA and each organisation represented at the Group has also appointed a Single Point of Contact (SPOC) to deal with day-to-day operational matters that come to light. Whilst relationships between the Council and JCP Officers have generally been good, the fact that the ODG meetings have not been regularly attended by UC Project or Service Centre staff has at times limited the ability to escalate operational issues to the relevant people within the UC Project in order to rectify operational problems quickly.

3.12 As it stands, Council services are continuing to fulfil their responsibilities under the UC DPA. Whilst the UC rollout from Musselburgh Job Centre has not been publicised by the DWP, the Council has produced leaflets and online publicity to provide advice for prospective UC claimants. Council officers across a range of services have been advising and supporting residents in their dealings with UC and staff workload related to UC has increased considerably. Customer Services staff in Local Area

Offices and Libraries have been assisting UC claimants with limited digital skills in making their online claims as well as advising claimants how to use key information contained within their UC Journal.

- 3.13 Since September 2016 a JCP Work Coach has carried out UC surgeries in Local Offices and Libraries, recognising it is not always easy for people living in the eastern part of the county to travel to the JCP in Musselburgh. This has helped to augment the Council's capacity to provide digital support. The number of UC claimants seeking assistance from these surgeries has risen steadily, with over 100 enquiries being dealt with in October. JCP staff have also run a Job Club from Musselburgh Library. It is understood that 30 people who have used this service and that 14 have secured jobs.
- 3.14 Given that East Lothian has featured very early in the UCFS rollout, the Council has been keen to engage with the UC Project Team at the highest level in order to share its emerging findings. A summary report and recommendations was shared with the UC Director General on 26 July 2016. This was subsequently discussed at a meeting between the Director General and the ELC Chief Executive on 21 September 2016. Whilst it was acknowledged that many of the impacts related to UC policy matters, both the Council and UC Project Team are continuing to work (in conjunction with CoSLA) to help improve/develop UC processes (including data sharing and Alternative Payment Arrangements). Council officers are also liaising with other local authorities that are due to see UCFS rolled out in their area at some point in the future.
- 3.15 East Lothian Council also has a planned engagement with the DWP's Operational Excellence Delivery Team (OEDT). The OEDT will seek to examine the impact of UC Policy and processes. This work will be informed by a number of case studies which have been collated as part of a report entitled "Impact of Universal Credit on Revenues Services Q2 2016/17".
- 3.16 A future change to UC which could have significant implications for Housing Allocations and Rent Income is the exclusion of 18 to 21 year olds from receiving UC Housing Costs (due to be implemented on 1 April 2017). Whilst this change is initially expected to impact on new UC claimants, the ongoing migration of HB cases to UC may see existing HB claimants of this age group lose their Housing Cost, (at the point that a material change triggers a claim for UC).
- 3.17 For the past three years, the Scottish Legal Aid Board (SLAB) has provided funding for 1.5 Tenancy Support Officers (TSOs) to help address Welfare Reform issues being experienced by vulnerable social housing tenants. Since the introduction of UCFS, more of the TSO's time is being used to support UC cases. The current funding arrangement runs up to 31 March 2017. The Community Housing Service is awaiting confirmation from the Scottish Government if this is to be extended.

- 3.18 The “natural” migration of HB claims to UC will continue until July 2018 after which it is understood that the DWP will then commence a “managed” migration of remaining working age HB claims, leaving the Council’s Benefits and Financial Assessment Service to administer pension age HB claims and all CTR claims.
- 3.19 In summary, since the rollout of UCFS in East Lothian, there is growing evidence that the way that the service is being managed by DWP is causing major concern for the Council and for affected East Lothian residents. The Council is working closely with partners to support claimants through the transition into UC and to help manage rent arrears and prevent homelessness. However, inefficient DWP processes and poor communication with Council officers, coupled with the lengthy delays experienced by claimants in both mainstream and temporary accommodation as they wait to receive UC payments, is causing significant pressure on Council services and stress and financial hardship for claimants.

Benefit Cap

- 3.20 The Benefit Cap means there is a maximum amount of Benefit that a working age household (defined as an individual, their partner and any children they are responsible for and who live with them) can be entitled to. This applies to the combined income from the main out of work benefits plus Housing Benefit, Child Benefit and Child Tax Credits.
- 3.21 The initial cap was introduced in July 2013. However, as part of the summer 2016 Budget the Chancellor announced a reduction in the Cap which will mean that an increased number of households will be subject to a reduction in their combined income from Benefits.
- 3.22 Starting from 7 November 2016 the Cap was lowered as detailed in the table below:

Rates Applicable	Original Cap Levels, (July 2013)	Cap from (November 2016)
Couples with or without children and single parents with children	£500.00 per week (£26,000 per annum)	£384.62 per week (£20,00 per annum)
Single person or a single parent whose children does not live with them.	£350.00 per week (£18,200 per annum)	£257.69 per week (£13,400 per annum)

- 3.23 In July 2013 there were 33 East Lothian Households subject to the original Benefit Cap however this subsequently was reduced to 13 as alternative housing options were adopted by those affected.

- 3.24 The Council initially received information from the DWP which indicated that 90+ East Lothian households could be affected by the latest Benefit Cap. Subsequent changes have seen this reduce to approximately 75, (of which some will be affected for a second time).
- 3.25 The Benefits and Financial Assessments Team is continuing to work with Community Housing, Rent Income Teams and East Lothian Works to ensure that wherever possible residents exercise their housing and employment choices in a way that minimises their exposure to the Benefit Cap. The majority of affected households are larger families; Children's Wellbeing and Education Services have been kept advised of these changes.

Devolution of Social Security Benefits

- 3.26 Since 5 September 2016 the Scottish Parliament has the powers to:
- create new benefits in devolved areas
 - top up reserved benefits, (such as UC, Tax Credits and Child Benefit)
 - make Discretionary Payments and assistance
 - change employment support
 - make changes to UC for the costs of rented accommodation
 - make changes to UC in respect of the timing of payments and to whom the payments are made.
- 3.27 In addition, from 1 April 2017, the Scottish Parliament will take on the power to make Discretionary Housing Payments (DHPs). In recent years DHPs have been funded by DWP and Scottish Government/CoSLA funding streams. However, the transfer of the DWP element to the Scottish Government will be one of the first welfare powers to be devolved. Other welfare powers (including responsibility for carers and disability benefits, maternity payments and funeral payments) will transfer at a later date.
- 3.28 In preparing for the devolution of these powers, the Scottish Government undertook a 13-week consultation to help develop the Scottish Social Security legislation and inform its service delivery design. The Council submitted a response to this consultation. This response was included in a report to Council on 25 October 2016. Council Officers also gave evidence to the Scottish Parliament's Social Security Committee on 10 November 2016.
- 3.29 The timeline for the development and implementation of these devolved powers is uncertain at this point. However, Council officers are actively engaging with the Scottish Government and CoSLA to highlight the ongoing impacts of the UC rollout in East Lothian in the hope that the Council's experiences are considered as the Scottish Government lays its future plans for the delivery of its devolved welfare powers.

4 POLICY IMPLICATIONS

- 4.1 No policy implications at present. However current policies may need to be reviewed in light of further devolution of elements of Social Security.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 An integrated Impact Assessment is to be carried out into the implications of the roll out of Universal Credit in East Lothian. The results of this assessment will be shared with DWP and the Scottish Government and will inform the development of the services provided by the Council to support Universal Credit claimants.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - a number of the reforms covered by this report are continuing to have a significant detrimental impact on the Council's income streams – notably the Housing Revenue Account (HRA) which relies on efficient rent collection to fund its landlord services to tenants. The ongoing migration of HC caseload to UC may have a further impact on the level of HB Administration Subsidy which the Council receives from the DWP.
- 6.2 Personnel – staffing resources within the Council have been stretched to support those individuals who require greater assistance due to the implementation of welfare reforms and the consequential issues which have arisen, as highlighted in this report. Staffing resources will have to be reviewed in light of continuing and increasing demand and/or further reductions in either funding or income.
- 6.3 Other – None.

7 BACKGROUND PAPERS

- 7.1 East Lothian Council Welfare Reform Action Plan (Sept 2015 to March 2017)
- 7.2 Chief Executive's letter to Universal Credit Director General (26th July 2016).
- 7.3 Report to Council by Depute Chief Executive (Partnership and Services for Communities) on the Consultation on Social Security in Scotland (25th October 2016).
- 7.4 Submission to The Scottish Parliament's Social Security Committee on East Lothian Council's Experience of the Rollout of Universal Credit "Full Service" In Musselburgh Job Centre (10 November 2016)
- 7.5 [Scottish Parliament Social Security Committee 10th November 2016.](#)

- 7.6 “The Impact on Scotland of the New Welfare Reforms” Report, Sheffield-Hallam University (7th October 2016)
- 7.7 Impact of Universal Credit on Revenues Service Q2 2016/17 Report, (including supporting case studies)

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DATE	07 December 2016

REPORT TO: East Lothian Council

MEETING DATE: 20 December 2016

BY: Chief Executive

SUBJECT: Appointment to the Post of Head of Service (Education)

8

1 PURPOSE

- 1.1 To advise Council of the decision of the Chief Officer and Head Teacher Appointments Sub-Committee to appoint Fiona Robertson to the post of Head of Service (Education).

2 RECOMMENDATIONS

- 2.1 To note the decision of the Chief Officer and Head Teacher Appointments Sub-Committee to appoint Fiona Robertson as Head of Service (Education).
- 2.2 To advise Council that following receipt of satisfactory pre-employment checks Fiona Robertson was offered the post and has subsequently confirmed her acceptance. Mrs Robertson's commencement date has still to be agreed with her current employer.
- 2.3 To note the minute of the Chief Officer and Head Teacher Appointments Sub-Committee held on 29 November 2016 for the appointment of the Head of Service (Education) (Appendix 1).

3 BACKGROUND

- 3.1 An external recruitment campaign to recruit to the vacant post of Head of Service (Education) post ran from Wednesday 26 October until midnight on Thursday 10 November 2016. Five applications were received.
- 3.2 A cross-party/Elected Member/Chief Officer and Head Teacher Appointments Sub-Committee was established in accordance with Council's Standing Orders and charged with making an appointment to the permanent post of Head of Service (Education). The Sub-Committee comprised:

Cllr Willie Innes (Chair)
Cllr Shamin Akhtar
Cllr Peter MacKenzie

- 3.3 The Sub-Committee was advised by Council officials: Angela Leitch, Chief Executive; Alex McCrorie, Depute Chief Executive (Resources and People Services); Sue Cormack, Service Manager – HR and Payroll Services; and Peter Hay, the Independent HR Adviser, who provided advice throughout the recruitment campaign, candidate selection and the candidate interview process.
- 3.4 The Sub-Committee met on 14 November 2016 to consider longleet recommendations made by the Independent HR Adviser. Two candidates were selected for longleet and interviews took place on Wednesday 16 November 2016. The interviews were conducted by the Independent HR Adviser in conjunction with the Chief Executive, Depute Chief Executive (Resources and People Services) and Service Manager – HR and Payroll Services.
- 3.5 The Independent HR Adviser presented his feedback on the longleet interviews and recommendations for shortleet to the Sub-Committee on 18 November. The Sub-Committee confirmed one candidate to go forward for shortleet.
- 3.6 The candidate completed a series of online psychometric tests prior to their formal interview; the tests were designed to assess their leadership skills, personality and situational judgement. The process was undertaken by Kiel Management Centre and an outcome-based report on candidate's assessments was prepared by their lead psychologist. The report was discussed with the Independent HR Adviser who shared the findings with the Sub-Committee following the formal interview on the 29 November 2016 to help inform their decision making.
- 3.7 The candidate, in addition, met with a Young People's Panel prior to the formal interview. The panel comprised pupils from two of East Lothian's primary schools and two from secondary schools and was chaired by a Principal Education Officer. During the course of the meeting, which lasted approximately half an hour, the candidate was asked a number of questions relating to the post following which the responses were collated by the Chair. The Panel presented their feedback to the Sub-Committee after the formal interview on the 29 November to help inform their decision making.
- 3.8 The formal competency based interview took place on 29 November 2016. Immediately prior to the interview, the candidate was given 45 minutes to prepare a short report on *'how they would embrace the Education challenges facing councils in 2017 and what would be their key priorities to ensure these challenges are met'* which they then presented to the Sub-Committee at the beginning of the formal interview. Thereafter, the candidate was asked a number of pre-set competency based interview questions. The Sub-Committee was advised by Peter Hay, Independent HR Adviser, Depute Chief

Executive (Partnerships and Community Services), Monica Patterson, and Service Manager – HR and Payroll Services, Sue Cormack.

- 3.9 Following the interview, taking full account of the candidate’s performance in relation to the competency based interview and presentation and the feedback from the psychologist and the Young People’s Panel, the Sub-Committee unanimously determined that Fiona Robertson was the preferred candidate for the post of Head of Service (Education).
- 3.10 The relevant pre-employment checks were carried out and found to be satisfactory, following which a formal offer was made to Fiona Robertson which she has formally accepted. Mrs Robertson will take up the post at a date to be agreed with her current employer. A minute of the meeting of the Sub-Committee which conducted the interviews for the post on 29 November 2016 (Appendix 1) is presented for noting.

4 POLICY IMPLICATIONS

- 4.1 In accordance with standing orders of East Lothian Council, Fiona Roberson has become East Lothian Council Head of Service (Education).

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

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

7 BACKGROUND PAPERS

- 7.1 None

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DATE	December 2016

**MINUTES OF THE MEETING OF THE
CHIEF OFFICER AND HEAD TEACHER APPOINTMENTS SUB-COMMITTEE
For the Post of
HEAD OF SERVICE (EDUCATION)**

Held on 29TH November 2016

PROVOST'S BOARDROOM, JOHN MUIR HOUSE, HADDINGTON

Chief Officer and Head Teacher Appointments Sub-Committee:

Councillor Willie Innes (Chair)
Councillor Shamin Akhtar
Councillor Peter Mackenzie

In Attendance:

Peter Hay, External Independent HR Adviser

Council Officials:

Angela Leitch, Chief Executive
Alex McCrorie, Depute Chief Executive – Resources and People Services
Sue Cormack, Service Manager - HR and Payroll

Candidates began their interview by giving a ten minute presentation to the Sub-Committee setting out “ **how they would embrace the Education challenges facing Councils in 2017 and what would be their key priorities to ensure these challenges are met**” should they be appointed to the post. This was followed by a series of set competency based questions from Sub-Committee Members.

At the end of the formal interview the Sub-Committee discussed the relative merits of the candidate with assistance from Mr Hay, the Chief Executive and Depute Chief Executive - Resources and People Services following which Peter Hay presented to the Sub-Committee an overview on the outcome of the online assessments exercise undertaken by the candidate following which the Young People's Panel gave feedback on their discussions with the candidate both of which helped inform the Sub-Committee's final deliberations. The Sub-Committee then proceeded to score the candidate. Fiona Robertson scored highly in both the presentation topic and in all of the competency questions posed and was accordingly declared to be the preferred candidate.

The Service Manager - HR and Payroll explained that the usual pre-employment checks on the preferred candidate would be carried out prior to formal appointment.

REPORT TO: East Lothian Council

MEETING DATE: 20 December 2016

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Submissions to the Members' Library Service
13 October – 7 December 2016

9

1 PURPOSE

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

2 RECOMMENDATIONS

- 2.1 Council is requested to note the reports submitted to the Members' Library Service between 13 October and 7 December 2016, as listed in Appendix 1.

3 BACKGROUND

- 3.1 In accordance with Standing Order 3.4, the Chief Executive will maintain a Members' Library Service that will contain:
- (a) reports advising of significant items of business which have been delegated to Councillors/officers in accordance with the Scheme of Delegation, or
 - (b) background papers linked to specific committee reports, or
 - (c) items considered to be of general interest to Councillors.
- 3.2 All public reports submitted to the Members' Library are available on the Council website.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

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 – 3.4

AUTHOR'S NAME	Lel Gillingwater
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DATE	7 December 2016

**MEMBERS' LIBRARY SERVICE RECORD FOR THE PERIOD
13 October – 7 December 2016**

Reference	Originator	Document Title	Access
194/16	Head of Communities and Partnerships	Consultation on Social Security in Scotland: East Lothian Council Response	Public
195/16	Head of Council Resources	Service Review Report, Development Service	Private
196/16	Head of Council Resources	Service Review Report, Wallyford Primary School	Private
197/16	Depute Chief Executive – Communities and Partnerships	Proposed Demolition of Fa'side Lodge, Tranent	Public
198/16	Depute Chief Executive – Communities and Partnerships	Proposed Reconstruction of Fire Damaged House at 21 Windygoul Crescent, Tranent	Public
199/16	Head of Council Resources	Service Review Report – Adult Wellbeing	Private
200/16	Head of Council Resources	Service Review Report – Joint Health and Social Care Partnership	Private
201/16	Head of Council Resources	Service Review Report – Safer Communities	Private
202/16	Head of Council Resources	General Banking Services CON-16-079	Public
203/16	Head of Development	Grant of Servitude of Rights for Pedestrian and Vehicular Access at Campie Lane, Musselburgh	Private
204/16	Head of Development	Environmental Health Services Plan 2016/17	Public
205/16	Head of Council Resources	Service Review Report – Transformation Programme – Graduate Intern	Public
206/16	Head of Council Resources	Service Review Report – Football Development – Graduate Intern	Private
207/16	Head of Council Resources	Service Review Report – Sanderson's Wynd Primary School	Private
208/16	Head of Council Resources	Service Review Report – Health and Social Care	Private
209/16	Head of Council Resources	Service Review Report – Innerwick Primary School	Private
210/16	Head of Council Resources	Bad Debt Write Offs	Public
211/16	Head of Council Resources	Service Review Report – School Library and Young People's Services	Private
212/16	Depute Chief Executive (Partnerships and Community Services)	Building Warrants issued under Delegated Powers - October 2016	Public
213/16	Chief Executive	Interim Review of Polling Districts and Polling Places	Public
214/16	Head of Infrastructure	Musselburgh Flood Protection Scheme CON-16-67	Public
215/16	Head of Education	Early Development Instrument: Assessing children's	Public

		“readiness to learn”	
216/16	Head of Council Resources	Service Review Report – St Mary’s Primary School	Private
217/16	Head of Development	Joint Health Protection Plan 2016-18	Public
218/16	Depute Chief Executive (Partnerships and Community Services)	Agreement with the Improvement Service for the employment of a Transformation Programme Manager	Public
219/16	Head of Council Resources	Service Review Report – Modern Apprentice, Revenues	Private
220/16	Head of Council Resources	Service Review Report – Social Work Assistant Post	Private
221/16	Head of Development	Social Work Adaptations – Proposed Bathroom and Shower Room Adaptations to Council Houses: Framework Agreement	Public
222/16	Head of Development	Proposed Social Work Adaptations to Council Houses, Various Addresses	Public
223/16	Head of Development	Environmental Health Service Charter 2016	Public
224/16	Depute Chief Executive – Communities and Partnerships	Building Warrants Issued under Delegated Powers between 1 st November - 30 th November 2016	Public
225/16	Depute Chief Executive – Resources and People Services	Unified Business Support – Team Structure	Private
226/16	Depute Chief Executive – Communities and Partnerships	Planning Enforcement Notices, 1-30 November 2016	Public

7 December 2016