



MINUTES OF THE MEETING OF THE CABINET

**TUESDAY 8 NOVEMBER 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

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

Other Councillors Present:

Councillor S Brown
Councillor S Currie
Councillor J Gillies
Councillor J Goodfellow
Councillor P MacKenzie
Councillor F McAllister
Councillor K McLeod
Councillor J Williamson

Council Officials Present:

Mrs A Leitch, Chief Executive
Ms M Patterson, Depute Chief Executive – Partnerships and Community Services
Mr A McCrorie, Depute Chief Executive – Resources and People Services
Mr D Small, Director, Health and Social Care Partnership
Mr J Lamond, Head of Council Resources
Mr D Proudfoot, Head of Development
Mrs M Ferguson, Service Manager – Legal and Procurement
Ms S Cormack, Service Manager – HR and Payroll
Ms J Mackay, Media Manager
Ms Z McFadzean, HR Business Partner
Dr R Gertz, Information Governance Compliance Officer

Clerk:

Ms A Smith

Apologies:

None

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – CABINET 11 OCTOBER 2016

The minutes of the meeting of the Cabinet of 11 October 2016 were approved.

2. SUMMARY OF CONTRACTS AWARDED BY EAST LOTHIAN COUNCIL, 1 – 31 OCTOBER 2016

A report was submitted by the Depute Chief Executive (Resources and People Services) advising Members of all contracts awarded by the Council from 1 to 31 October 2016, with a value of over £150,000.

Councillor Currie queried awarding the contract for Phase 2 of Dunbar Grammar School's expansion project to Innovate, the Council's PPP provider; specifically asking about timescales, the tendering process and future delivery of facilities management and lifecycle services. Douglas Proudfoot, Head of Development, advised that regarding the procurement route selected a number of matters had been weighed up in relation to the option analysis. Regarding timescales, the pressure of delivery was an important factor as was risk transfer. In relation to the future delivery of Facilities Management and LifeCycle Services no decision had been taken in this regard, a further benchmarking exercise would be undertaken before going forward. He stated that this was an operational issue, in line with existing budget provision and legal and procurement advice. The benchmarking exercise would be brought to Council; he clarified that the report brought to Council would be for a decision.

Decision

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

3. FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 AND DATA PROTECTION ACT 1998 – COMPLIANCE STATISTICS

A report was submitted by the Depute Chief Executive (Resources and People Services) advising of the Council's compliance with the 20 working day timescale laid down by the Freedom of Information (Scotland) Act 2002 (Fol), and the 40 calendar day timescale laid down by the Data Protection Act 1998 for the period 1 April 2016 to 30 September 2016.

The Head of Council Resources, Jim Lamond presented the report, stating that with respect to Fol, including those requests made under Environmental Information (Scotland) Regulations (EIR), the number of requests made upon the Council remained buoyant (603) albeit this reflected a marginal reduction from the previous 6 months. Headline compliance stood at 83% for Fol and 81% for EIR requests that had been serviced on time which represented a slight reduction in performance. With regard to Data Protection requests made, again reflecting a decrease on the previous period, 85% had been serviced on time.

Councillor McLeod queried the nature of suspended requests. Renate Gertz, Information Governance Compliance Officer, advised that this was mainly linked to the implementation of charges but also referred to those where the enquirer had been asked for clarification and had not responded within the timescale.

Councillor Currie questioned the time lag from the request being met to updating the website. Mr Lamond stated that it was not a requirement for the Council to publish this information on the website, it was discretionary. Dr Gertz added that answering enquiries took priority to uploading information onto the website however additional resources were being considered. Mr Lamond gave an obligation to improve turnaround timescales.

Responding to Councillor Hampshire's query about financial resources, Mr Lamond advised that a distinction was drawn. In relation to this report, which was for noting, the financial resource implication was zero as stipulated, however there was a significant resource issue in relation to servicing Fol requests, he gave some details of costs per case.

Councillor McMillan, referring to the top 3 categories of enquirer, queried other categories and asked how it could be established if a person was from the general public and not a journalist for example. Mr Lamond advised that there was no obligation on an enquirer to disclose their status; these categories had been included in the report purely for the benefit of Members. Dr Gertz added that the Fol team could only go by the information provided by the enquirer.

Councillor Goodfellow also expressed concern about resources and asked if a report on costs involved could be brought forward. Mr Lamond indicated he would be happy to bring this forward if requested; adding that these activity reports were provided on a 6 monthly basis but when reporting the full financial year the cost information would be built in.

Councillor Currie commented on the volume of work being done under pressurised timescales along with the ever increasing workload. He also felt that receiving more information on the status of enquirers would be helpful.

The Convener stated it was important that the public had access to information about Fol enquiries/responses and having this available on the Council's website was beneficial.

Decision

The Cabinet agreed to note the report.

4. DRAFT REVISED MANAGING ATTENDANCE POLICY

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval from Cabinet on amendments to the Managing Attendance Policy following consultation with the Joint Trades Unions and employees.

Mr Lamond presented the report. He informed Members that the consultation process had been comprehensive and inclusive with high levels of engagement. A number of key changes had been included within the initial consultative draft with further modifications made specifically as a result of feedback received during the formal consultation phase; the most significant being increasing the cumulative day trigger and the provision of an increased phased return to work period. Further meetings had taken place with the Joint Trade Unions to improve final drafting of the policy and in an effort to secure their full support; he drew attention to the statement from UNISON and the EIS. He paid particular credit to Zoe McFadzean and Louise Lissaman for their work in drafting this policy.

Responding to questions from Councillor Currie about the position of the Trades Unions, Mr Lamond stated that bringing forward a policy that had their full support had been the intention however there was no requirement for this and it was not a collective agreement. He added that engagement by the Trades Unions in the consultation process had been welcomed and amendments to the policy had been made in response to their comments.

Councillor Akhtar queried the level of engagement from the Trades Unions to the last policy, Mr Lamond advised that they had not engaged at all previously so the previous policy had come forward to Cabinet without a contribution from the Trades Unions.

In response to questions from Councillor McMillan, Mr Lamond advised that it was normal practice to issue formal, supporting management guidance, framed on the policy; extensive work was underway regarding this guidance. He stated that from dialogue with the Trades Unions their greatest concern was fair and consistent application of the policy. Managers would need to be equipped with an understanding of the policy and, in addition, support from HR officers was crucial; a lot of training and support work would be undertaken before the policy was implemented and he was hopeful the Trades Unions would play a part in this.

Councillor Currie, referring to the long consultation process, expressed concern that after going through this lengthy process that the Trades Unions had not been able to agree to the revisions. He made reference to the statement from the Trades Unions.

Councillor Akhtar remarked that addressing the health and wellbeing of staff was important; the revisions to the policy would provide more opportunities to support staff. As Mr Lamond had said no local authority had a collective agreement regarding this; there had however been better and more effective engagement from the Trades Unions this time. She suggested that a review of the policy should be carried out after one year.

Councillor Veitch highlighted the context underlying this revision work; the financial cost to the organisation due to staff absence. It was important to have a policy in place that worked. The Trades Unions involvement at all stages of the consultation was welcomed, it was disappointing that they had not felt able to support the revised policy.

Councillor Grant supported Councillor Akhtar's suggestion for a review after one year.

The Convener thanked all staff involved in the revision of this policy. A comprehensive review had been required; this revised version would provide better support mechanisms for staff. He noted that the Trades Unions had participated in the consultation process. Consistent application of the policy was essential and he was heartened by Mr Lamond's comments about provision of guidance and training. He also supported a review in a year.

Decision

The Cabinet agreed:

- i. to approve the revised Managing Attendance Policy with effect from 1 January 2017, allowing time for communication of the revised Policy and initial training to take place; and
- ii. to review the Managing Attendance Policy after one full operational year.

Signed

Councillor Willie Innes
Council Leader and Convener of the Cabinet