



## MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 20 DECEMBER 2016  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

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### Committee Members Present:

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

### 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  
Mr T Shearer, Head of Communities and Partnerships  
Mr J Cunningham, Service Manager – Benefits  
Ms C Grandison, Acting Executive Officer  
Ms M Ferguson, Service Manager – Legal and Procurement  
Mr R Lewis, Senior Information Officer (Education)  
Ms J Mackay, Media Manager  
Mr I McFarlane, Service Manager – Planning  
Ms L McLean, Service Manager – Strategic Asset and Capital Plan Management  
Mr R Parker, Service Manager – Education (Strategy and Operations)  
Mr D Scott, Quality Improvement Officer, Education  
Ms P Smith, Principal Officer (Information and Research) (Education)  
Mr G Wilson, Acting Team Leader – Legal and Procurement

### Visitors Present:

None

### Clerk:

Mrs L Gillingwater

**Apologies:**

Councillor McAllister

Councillor T Trotter

**Declarations of Interest:**

Item 4: Angela Leitch, Chief Executive

**Order of Business**

*Prior to the commencement of business, the Provost announced that an urgent item of private business, by way of a verbal update on a matter arising from the Council meeting of 25 October 2016, would be heard following Item 10.*

**1. MINUTES FOR APPROVAL**

The minutes of the Council meetings specified below were approved:

**East Lothian Council – 25 October 2016**

*Matter arising: Item 5 (Financial Prospects 2017–20)* – Councillor Currie confirmed that all monies raised through the Council Tax Multiplier would be returned to East Lothian, to be spent as determined by the Council. He also noted that through the Scottish Government's funding settlement, c. £1.5 m would be given directly to schools in East Lothian.

*Matter arising: Item 1 (Matters Arising)* – Councillor McLennan asked for an update on the position as regards the Edinburgh and South East Scotland City Region Deal. The Chief Executive confirmed that a commitment in principle had been given for the City Region Deal, but that she was not able to provide further details at this time. She undertook to provide Members with detailed information in due course.

**2. MINUTES FOR NOTING**

The minutes of the meetings specified below were noted:

**East Lothian Partnership, 11 May 2016**

**Local Review Body (Planning), 15 September 2016**

**3. REPORT ON THE OUTCOME OF THE SCHOOL CONSULTATION ON THE NEW ADDITIONAL SECONDARY PROVISION IN THE MUSSELBURGH AREA**

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of the recommendations set out within the Consultation Report to establish a new, additional secondary school within the Musselburgh cluster area.

Fiona Robertson, Head of Education, gave a detailed presentation of the report, advising of the consultation process (carried out in accordance with the Schools (Consultation) (Scotland) Act 2010, and the responses to that consultation, the requirement to provide an appropriate secondary education solution in the Musselburgh area to enable the delivery of the Local Development Plan, and the educational and community benefits that would result from the proposed secondary education solution. She also highlighted key aspects of the

Consultation Report (available in the Members' Library, Ref: 235/16, December 2016 Bulletin). Ms Robertson warned of the implications should the proposal for the new school be withdrawn, as well as the medium-term negative impacts on education should the Council choose to consult on an alternative proposal. She believed that the proposal set out in the report would provide clear educational benefits in a high-quality learning environment.

Ms Robertson responded to a series of questions from Councillor Akhtar in relation to engagement with stakeholders, the consultation period and process, the main issues raised during the consultation (set out at Section 3.10 in the report), and Education Scotland's views on the consultation process and proposals. As regards concerns raised about the future of education provision at Musselburgh Grammar School (MGS), Ms Robertson spoke of the plans for school clusters to work more collaboratively, of proposals to broaden the curriculum for the senior phase, and of recent and planned investment for educational facilities at MGS.

Councillor Caldwell asked if all options in terms of the location of the new secondary school had been exhausted. Douglas Proudfoot, Head of Development, confirmed this to be the case. He further advised that there would be a consistent approach applied to both Musselburgh secondary schools as regards facilities and buildings.

Ms Robertson confirmed that the head teacher and senior management team would be in post prior to the opening of the school, which would allow for a smooth transition and joint planning with MGS. The costs associated with this would be included in the overall costs of delivering the school.

Responding to a question from Councillor Berry concerning alleviating concerns raised by MGS Parent and Carer Council and Musselburgh and Inveresk Community Council, Ms Robertson advised of the proposal to establish a user reference group, with involvement from both those groups and other stakeholders. She noted that those groups were concerned about possible community division and the future quality of education at MGS. She also commented on her desire to see the various community councils working together.

Councillor Currie raised questions in relation to safe routes to school, capital investment plans for MGS and the possibility of ending the PPP contract for MGS. Ms Robertson confirmed that officers in Transportation were exploring safe routes to school for those children living within two miles of the proposed school site (who would not be entitled to home-to-school transport). As regards capital investment, she commented that any required investment would be carried out as part of a planned approach, adding that discussions had taken place with the head teacher about future curriculum provision which may require additional investment. The Chief Executive also made reference to developing closer links between the senior phase and other education establishments. As regards the PPP contract, Jim Lamond, Head of Council Resources advised that this was being explored and that there would be a progress report presented to the Audit & Governance Committee in January.

In response to a question from Councillor Currie as regards the impact of a planning application for housing at Goshen, Mr Proudfoot advised that it was important to take a decision about the secondary school provision today to support the sites approved as part of the Local Development Plan process, and that any future planning applications would have to take account of education provision.

Councillor Forrest asked a number of questions in relation to maintenance and investment at MGS. Ms Robertson pointed out that by 2035 (the end of the PPP contract), the school should be at the same standard as at the beginning of the contract. She noted that maintenance was carried out on an ongoing basis – there was £417,000 of planned

maintenance for 2016/17 – and that there had been considerable investment in IT equipment at the school in recent years.

On the issue of developer contributions, Mr Proudfoot explained that this was a complicated matter, and that the Council was looking to establish a fair, open and transparent process. He advised that all developments in the Musselburgh cluster would have to make contributions to increase both primary and secondary provision. He added that there was no change in this regard to the position as set out at the Council meeting of 6 September 2016.

Ms Robertson confirmed that the Council was committed to continued engagement with all stakeholders.

Councillor McNeil opened the debate, emphasising the scale of the proposal and the benefits that the new school would bring to the community. He recognised that there were concerns in some areas of the community, but believed that the standard of education at Musselburgh Grammar School would not be adversely affected. He called on Members to support the proposals.

Councillor Akhtar thanked all those involved in the process and commended staff for the way in which the consultation had been conducted. She also thanked the Musselburgh community for engaging in the consultation process. She spoke of the advantages of both secondary schools working together, providing a curriculum to meet the needs of pupils, adding that additional investment would be made in MGS if this was required.

Councillor Currie remarked that the concerns raised by the community as regards catchment areas and investment in MGS should not be dismissed. He voiced concern about safe routes to school for some pupils, anticipating that it would lead to an increase in pupils travelling to school by car. He also referred to a view expressed by some people in the community that the consultation process had been flawed. In addition, he had concerns that developer contributions for developments in the MGS catchment area would be used to fund the new school. On balance, he felt that he could not support the recommendations, but noted that he would not vote against them.

Councillor Hampshire commented that the Administration had to make difficult decisions in order to deliver the Local Development Plan, one aspect of which was to provide education facilities to meet the demand. He believed that proposal set out in the report would provide high quality secondary school facilities in the Musselburgh area.

Councillor Williamson expressed his disappointment at the number of responses received during the consultation. He was concerned at the impact that the projected population growth would have on Musselburgh. He also suggested that the Council should consider its consultation processes, particular as regards the ability to verify responses.

Councillor Innes concluded the debate by reminding Members that the majority of new housing had to be delivered in the Musselburgh area due to the approval of the compact growth strategy by the previous Administration. He referred to the results of the consultation, with over 60% of respondents agreeing with the proposal, and to the endorsement of the process by Education Scotland. He believed that the new school would benefit the people of Musselburgh.

The Provost then moved to the vote on the recommendations of the report:

For:	14
Against:	0
Abstentions:	7

## 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. a new additional secondary school would 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 would 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 would 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 would 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 would 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, would 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.

## 4. ELECTIONS: APPOINTMENT OF RETURNING OFFICER

A report was submitted by the Depute Chief Executive (Resources and People Services) advising of the Council's 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.

**Declaration of Interest:** having declared an interest in this appointment, the Chief Executive left the meeting.

The Head of Council Resources, Jim Lamond, presented the report, advising of the obligation on the Council to appoint a Returning Officer for each election of councillors to the Authority. He noted that this role was usually offered to chief executives of local authorities, and that this had been the custom and practice of East Lothian Council.

Councillor Berry asked why there was no recruitment process for the role of Returning Officer. Mr Lamond explained that it was custom and practice to appoint the Chief Executive to the role of Returning Officer, and that he was not aware of a different recruitment process being adopted by other local authorities.

Councillor Currie asked if sufficient funding was made available to cover the staff costs associated with elections. He also made reference to the ongoing investigation by the Scottish Parliament's Local Government Committee into the remuneration of Returning Officers, and asked about the potential impact of this. Mr Lamond advised that not all election costs were covered by national funding. He felt it was premature to speculate on the impact of changes to Returning Officer remuneration.

### **Decision**

The Council agreed to approve the appointment of the Chief Executive, Angela Leitch, to carry out the role of Returning Officer within the East Lothian area.

**Sederunt:** the Chief Executive returned to the meeting.

## **5. RISK MANAGEMENT STRATEGY**

A report was submitted by the Chief Executive presenting the Risk Management Strategy to the Council.

Paolo Vestri, Service Manager – Corporate Policy and Improvement, presented the report. He informed Members that no major changes were being proposed as a result of the review, and suggested that, going forward, the Strategy should be reviewed every three years.

Responding to questions from Councillor Berry regarding the need to review the Strategy, Mr Vestri commented that the Council's auditors would be concerned if the Strategy was not reviewed. The Chief Executive added that the Council Management Team assessed the Strategy periodically. She highlighted the importance of managing risk.

Councillor McMillan asked if the Council had any involvement in the risk management processes of partner/external organisations. Mr Vestri made reference to a number of organisations where the Council had an oversight of risk management. The Chief Executive also mentioned the partnership working with Police Scotland, the Fire and Rescue Service, the NHS and the Coastguard, noting that risk management was an important aspect of that partnership working.

Councillor Berry suggested that reviews of such strategies every 4–5 years would be sufficient.

### **Decision**

The Council agreed to approve the Risk Management Strategy, noting that it was a live document which would be reviewed by the Corporate Risk Management Group.

## **6. RATIFICATION OF THE SESPLAN BUDGET**

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) seeking ratification of 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.

The Service Manager – Planning, Iain McFarlane, presented the report. He drew attention to changes within the SESplan administrative structure and noted that there would be a review of the SESplan budget in March 2017. He added that there was a statutory requirement for the SESplan core team to continue their work to deliver SESplan2, regardless of the Scottish Government's independent review of the planning system.

In response to a question from Councillor Berry, Mr McFarlane advised that the SESplan core team fulfilled the Council's statutory requirements in relation to strategic planning, and that the Council should continue to support that function.

Councillor Veitch spoke in support of the report recommendation, but pointed out that the Conservative Group remained concerned about possible future development of land in the east of the county, as per the report to the Council meeting in August 2016.

Councillor Hampshire spoke of the importance of SESplan's role as a link between the Scottish Government and local authorities in strategic planning matters, particularly as regards the development of required infrastructure.

### **Decision**

The Council agreed to ratify SESplan's Operating Budget for 2017/18 in the terms of the decision of the SESplan Joint Committee.

## **7. UPDATE ON WELFARE REFORM AND UNIVERSAL CREDIT**

A report was submitted by the Depute Chief Executive (Resources and People Services) providing an update on the rollout of various elements of the UK Government's welfare reforms and their impact on East Lothian Council services.

The Service Manager – Benefits, John Cunningham, presented the report in detail, providing an update on the key points and impact of the rollout of Universal Credit (UC). He also drew attention to recent changes to the Benefit Cap and to further devolution of Social Security powers to the Scottish Government.

Councillor MacKenzie asked what action was being taken by the UK Government and the Department for Work and Pensions (DWP) in respect of the increase in rent arrears for UC claimants. Mr Cunningham advised that the Director General of the DWP had acknowledged there had been an impact on rent collection rates, which was due mainly to a six-week delay in claimants receiving their first UC payment. He noted that claimants could apply for direct payments, but he did not think that these alone would resolve the problem; he believed that early intervention by Council officers may provide a better solution.

Responding to a question by Councillor Brown on the UC process, Mr Cunningham indicated that combining six different benefits should simplify the process; however, in reality, the process itself was under-developed and service users were requiring a significant amount of support to use the system. He noted that there were particular difficulties with the housing elements of the system. The Chief Executive referred to feedback given to DWP as regards

the complexities of the process, and the high level of support being provided to Universal Credit claimants by Council staff.

Councillor McNeil asked if the increase in rent arrears would have an impact on the Housing Revenue Account (HRA). Jim Lamond, Head of Council Resources, advised that, although the Council made provision for bad debt, continued increases in rent arrears would have an adverse impact on the HRA, and that it was unlikely that the Council would be reimbursed by the DWP.

In response to a question from Councillor Caldwell concerning the Benefit Cap, Mr Cunningham pointed out that there was no specific provision made for single parents who did not provide the main residence for their children and were not in receipt of child benefit.

Councillor Goodfellow asked how the Council was publicising changes to Council Tax Reduction (CTR). Mr Cunningham advised that this had to be claimed separately, and referred to the recommendation calling for the Scottish Government to redesign the CTR scheme to better align with UC. He added that the Council had produced leaflets and other publicity about the change.

Councillor McMillan suggested that increasing the number of coaches supporting claimants would be of benefit. Mr Cunningham noted that this was a matter for the DWP, but that he could explore this possibility. The Chief Executive commented that the Council would continue to try and mitigate the impact of the changes, working in partnership with the DWP; however, she stressed that UC was a DWP initiative and that the delivery of the system was their responsibility.

Councillor Currie expressed concern at the rent arrears levels, remarking that rent debt could exceed annual rent increases, which would have a significant impact on the Council. He paid tribute to Council staff who were providing support to claimants, and was critical of the sanctions being imposed by the DWP, as well as the appeals system. He hoped that the Council's views would be taken into account.

Councillor Veitch welcomed the work being done by the Benefits Team and the ongoing dialogue between the Council and the DWP. He spoke in support of a number of the recommendations; however, he was not supportive of Recommendations 2.4–2.7, and indicated that he would therefore abstain from voting.

Councillor Hampshire warned that Universal Credit could have a significant impact on the Council's housing service if the rent arrears issue could not be resolved. Referring to comments made by Councillor Veitch, he pointed out that the recommendations were requesting, rather than instructing, the UK Government to take action, in order that changes could be made to the system to minimise the impact on claimants and the Council.

Councillor Innes concluded the debate by highlighting the Council's responsibility in identifying areas of the system that were not working as they should and asking the UK and Scottish Governments to rectify these issues. He also stated that the Council had a responsibility to tenants to collect rent, and he believed that direct payments would make a difference in this regard.

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

For:	18
Against:	0
Abstentions:	3



## **Decision**

The Council agreed:

- i. to note the growing impact of welfare reform on individuals and families when taking decisions about service development and to consider as part of budget deliberations;
- ii. to take 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;
- iii. to continue 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;
- iv. to ask 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;
- v. to ask the UK Government to suspend the housing cost element of Universal Credit until this investigation has taken place;
- vi. to ask 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).
- vii. to seek financial recompense from the UK Government for the loss of Council Tax and Council house rent income as a result of Universal Credit;
- viii. to ask the Scottish Government to take immediate steps to use its powers to have the housing cost element of Universal Credit paid direct to landlords;
- ix. to ask the Scottish Government to take immediate steps to redesign the Council Tax Reduction Scheme to better align with Universal Credit; and
- x. to ask 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.

## **8. APPOINTMENT TO THE POST OF HEAD OF SERVICE (EDUCATION)**

A report was submitted by the Chief Executive advising the 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)

The Chief Executive presented the report, advising that the Council's established recruitment process for Chief Officers had been adopted as regards this appointment, and that Fiona Robertson had been selected to take up the post of Head of Service (Education)

Members welcomed the appointment of Ms Robertson.

## **Decision**

The Council agreed:

- i. to note the decision of the Chief Officer and Head Teacher Appointments Sub-Committee to appoint Fiona Robertson as Head of Service (Education);
- ii. to note that following receipt of satisfactory pre-employment checks, Fiona Robertson was offered the post and subsequently confirmed her acceptance, with a commencement date to be agreed with her current employer; and
- iii. to note the minute of the meeting of the Chief Officer and Head Teacher Appointments Sub-Committee held on 29 November 2016 for the appointment of Head of Service (Education) (attached at Appendix 1 to the report).

## **9. SUBMISSIONS TO THE MEMBERS' LIBRARY, 13 OCTOBER – 7 DECEMBER 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.

### **Decision**

The Council agreed to note the reports submitted to the Members' Library Services between 13 October and 7 December 2016, as listed in Appendix 1 to the report.

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

## **SUMMARY OF PROCEEDINGS**

### **Committee Matters**

A private report submitted by the Depute Chief Executive (Resources and People Services) seeking approval to allow a financial assessment dispute to proceed to the Social Work Complaints Review Committee was approved.

### **Property/Land Matters**

The Head of Infrastructure provided an update in relation to the proposed purchase of the former Cockenzie Power Station site.