



MINUTES OF THE MEETING OF THE CABINET

**TUESDAY 12 SEPTEMBER 2017
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor S Akhtar
Councillor J Goodfellow
Councillor N Hampshire (Convener)
Councillor J McMillan
Councillor O'Donnell

Other Councillors Present:

Councillor L Bruce
Councillor S Currie
Councillor F Dugdale
Councillor A Forrest
Councillor N Gilbert
Councillor J Henderson
Councillor K McLeod

Council Officials Present:

Ms M Patterson, Depute Chief Executive – Partnerships and Community Services
Mr A McCrorie, Depute Chief Executive – Resources and People Services
Mr J Lamond, Head of Council Resources
Mr R Montgomery, Head of Infrastructure
Mr D Proudfoot, Head of Development
Ms F Robertson, Head of Education
Mrs K MacNeill, Service Manager – Licensing, Administration and Democratic Services
Mr P Vestri, Service Manager – Corporate Policy and Improvement
Ms L McLean, Service Manager – Strategic Asset & Capital Plan Management
Mr C Grilli, Service Manager – Legal and Procurement
Mr S Cooper, Team Manager – Communications
Ms S Kennedy, Risk Officer
Ms C Dora, Policy Officer

Clerk:

Ms A Smith

Apologies:

Councillor W Innes

Declarations of Interest:

None

1. SUMMARY OF CONTRACTS AWARDED BY EAST LoTHIAN COUNCIL, 1 FEBRUARY TO 31 AUGUST 2017

A report was submitted by the Depute Chief Executive (Resources and People Services) advising Members of all contracts awarded by the Council from 1 February to 31 August 2017, with a value of over £150,000.

Councillor Currie noted that no East Lothian based companies had been awarded any of these contracts, nor had any local companies been appointed as sub-contractors. He queried whether, in relation to sub-contractors, if the Council could specify that local companies should be appointed. Jim Lamond, Head of Council Resources, advised that the same provisions that applied to the appointment of contractors also applied to sub-contractors; the Council was not able to apply any direction to contractors regarding the appointment of sub-contractors. The Convenor noted this frequently raised issue and gave an assurance that if anything could be done in this regard it would be, but procurement provisions had to be adhered to.

Councillor Akhtar welcomed the contracts detailed in the report, adding that refurbishment work to the Red School in Prestonpans had now been completed.

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.

2. FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 AND DATA PROTECTION ACT 1998 – COMPLIANCE STATISTICS, REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000 – STATISTICS

A report was submitted by the Depute Chief Executive (Resources and People Services) regarding 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 October 2016 to 30 June 2017. The report also detailed the Council's use of the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) for the period 1 April 2016 to 30 June 2017.

The Service Manager – Licensing, Administration and Democratic Services, Kirstie MacNeill, presented the report. She informed Members that in future a report would be brought forward on an annual basis. With respect to Fol, including those requests made under Environmental Information (Scotland) Regulations (EIR), the number of requests made upon the Council for the period had been 1,039. 87% of Fol requests had been serviced within the timescale. 86% of Data Protection requests had been completed on time. Regarding RIPSA statistics, 4 surveillance requests had been authorised during the period stated.

Mrs MacNeill responded to questions from Councillor McLeod advising that the suspended category related to where a Fol had been received but further clarification was required. An invalid Fol was where the request was not specifically requesting information but asking a question. An Internal Review was a statutory process carried out when an individual was not satisfied with the response; it would be escalated to the relevant Head of Service, then, if still unsatisfied, the individual could go to the Information Commissioner.

In response to Councillor Currie's query about commercial organisations, specifically relating to insurance companies, Mrs MacNeill advised that enquiries from these companies continued to be at a high level and had always been so.

Councillor Akhtar asked how many requests went forward to the Information Commissioner; Mrs MacNeill indicated she did not have this data to hand but would ensure it was provided.

Responding to the Convener's enquiry about whether the Council could charge commercial organisations, Mrs MacNeill advised that charging these bodies specifically was not allowed; a charging regime applied, depending on volume - the Council did charge where it could and did charge for EIR requests, as permitted.

Councillor Currie stated, in relation to commercial organisations, that it was unfortunate that even some general charge could not be applied. He thanked officers for their work, carried out to very tight timescales.

Councillor O'Donnell stated that FoI was an important part of democracy; she also thanked all departments for carrying out their duties in this regard so diligently.

Decision

The Cabinet agreed to note the report

3. CORPORATE RISK REGISTER 2017

A report was submitted by the Chief Executive presenting the Corporate Risk Register 2017 to Cabinet for discussion, comment and approval.

The Risk Officer, Scott Kennedy, presented the report. He informed Members that the Council Management Team had carried out a full review of the Corporate Risk Register. He gave an explanation of the method used to evaluate risk and outlined the Council's response in relation to adverse risk or its risk appetite. He stated that those risks identified as 'very high' or 'high' would be subject to closer scrutiny.

Councillor O'Donnell, referring to welfare reform, the highest risk in the Register, asked if advice services/voluntary sectors could be included. Mr Kennedy confirmed he would take this back for inclusion in the next version. Councillor O'Donnell raised issues around numerous street closures along the coast for recent events and lack of notice to local residents, which may be connected to the requirement for a TTRO. Mr Kennedy gave an assurance that this would be looked into.

In respect of Councillor O'Donnell's questions about the health and social care budget and associated resource implications, Mr Lamond advised that partnership working was taking on new significance in this regard with NHS Lothian and the Integration Joint Board looking at mitigation measures.

Responding to Councillor McMillan, Mr Kennedy advised that after scrutiny and review this Register would be amended and the next time it was presented to Cabinet that version would contain the updates. The Register was a live document. Information on the review of risks was detailed in the Register (final column) and where the context of a risk was changeable risk and control measures were kept under review and appropriate action taken.

Councillor Akhtar asked if the rights of carers in the workplace, in relation to the equality risk category, could be looked at. Mr Kennedy confirmed he would pursue this.

Councillor Currie, referring to legislative changes specifically the review of business rates and the potential effect on financial pressures, noted that one of the likely recommendations was rates relief for leisure trusts. He asked if these legislative changes would be looked at. Mr Lamond confirmed they would be. He advised that the Scottish Government had

instructed an independent review, their response was awaited; it was presumed that part of that response would provide examples of the expectations on local councils.

Councillor Akhtar voiced concerns about funding levels and the effect on local authorities of public sector reform, particularly in relation to the Council's ability to support children and young people. She stated that the biggest risks were all external risks, risks arising from Scottish Government decisions.

Councillor McMillan, in relation to developing a highly skilled workforce, made reference to two recent events; the Young People's Seminar organised by East Lothian Works and Tomorrow's Young Drivers, organised in conjunction with partner organisations.

The Convener thanked all officers and remarked on the challenges and risks to be dealt with by the Council with reduced numbers of staff.

Decision

The Cabinet agreed to approve the Corporate Risk Register for 2017, and in doing so agreed:

- i. that the relevant risks had been identified;
- ii. that the significance of each risk was appropriate to the current nature of the risk;
- iii. that the total profile of corporate risk could be borne by the Council at this time in relation to the Council's appetite for risk;
- iv. to recognise that, although corporate risks required close monitoring and scrutiny throughout 2017, many were in fact long term corporate risks for the Council that were likely to be a feature of the risk register over a number of years; and
- v. to note that the Council Management Team would review all risks in the Corporate Risk Register on a regular basis.

4. EAST LOTHIAN RESIDENTS SURVEY 2017

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) presenting a summary of the main findings of the 2017 East Lothian Residents Survey and identifying some of the planned and potential uses of the survey data.

The Service Manager – Corporate Policy and Improvement, Paolo Vestri, presented the report. He informed Members that the full report and individual reports for each ward were available on the Council's website and he would be happy to go over these in detail with Members outwith the meeting. He drew attention to a number of survey responses specifically in relation to Neighbourhood and Quality of Life, Perceptions of the Council and Public Services and Council Priorities. The survey responses provided a reassurance that the Council was performing well and providing well for the county's residents.

In response to a question from Councillor McLeod regarding tenants' dissatisfaction with council house repairs, Mr Vestri stated that respondents had not been given the opportunity to provide reasons for their low response on any of the issues; that level of detail had not been gone into in this survey. However, the Community Housing service carried out more detailed surveys and he would ask the Service Manager if she could provide this information.

Councillor Akhtar asked to what extent Local Area Partnerships used these results; she also asked about use by health services. Mr Vestri advised that the results had been shared with the Local Area Partnership Managers. In relation to responses to health service issues it was hoped that the Health and Social Care Partnership and NHS Lothian would look at these further. He confirmed that the results of the survey would be shared with all service areas and those areas with a higher level of concern would be expected to take appropriate action.

Responding to Councillor Goodfellow, Mr Vestri advised that the comparison with the Scottish Household survey was contained in the main report which was lodged in the Members' Library Service and also on the consultation pages of the website.

Councillor Currie noted that this survey formed part of a range of survey information to be taken into account. The key issue was trying to differentiate between the perception and the reality of people receiving Council services; the Council's priorities had to reflect the aspirations of survey respondents.

Councillor Goodfellow commended the individual ward profiles to other Members.

Councillor McMillan remarked that often the perception was the reality. He made reference to the Keep Scotland Beautiful awards last week where a number of East Lothian towns had won various awards; he congratulated all officers in the Council involved in this.

The Convener echoed the usefulness of the data provided and thanked all staff involved.

Decision

The Cabinet agreed to welcome the results from the 2017 Residents Survey and noted the main findings of the Survey presented in the report.

5. COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 – POLICIES

A report was submitted by the Chief Executive making Cabinet aware of progress in implementing the Community Empowerment (Scotland) Act 2015 and seeking approval of relevant policy statements.

Mr Vestri presented the report. He informed Members that the Act's various sections had been brought into force at differing times since the granting of Royal Assent in 2015, along with associated Scottish Government statutory guidance. He highlighted the key aspects of the report. He made reference to the Community Planning and Participation Requests aspects. He drew specific attention to the Community Asset Transfer and the suggested policy and guidance, stating this was a key and potentially very significant part of the Act.

Councillor Akhtar asked if extra funds would be allocated to deal with the implications of this Act; Mr Vestri stated there would be no additional funding from the Scottish Government.

Councillor Currie asked about the process in relation to Common Good properties. The Act included the requirement for a Common Good register. Liz McLean, Service Manager – Strategic Asset & Capital Plan Management, advised that the Scottish Government was currently consulting on guidance relating to Common Good assets; the consultation was open until the end of September. The Council published a register of all its land and building assets, including Common Good assets, but these were not yet detailed specifically. Mrs MacNeill added that although Common Good properties appeared in the Act as assets that could be transferred the underlying Common Good Act prevented this. The Scottish Government recognised this problem hence the consultation to try and find a way forward. At present, if an application came forward for a Common Good asset the Council would have to

reject such a request. Responding to further questions from Councillor Currie, Mr Vestri clarified that community asset transfer did not apply to private organisations; it had to be a community organisation that applied.

The Convener asked if a community organisation acquired an asset if they could then transfer and borrow against that asset. Ms McLean advised that the Act did contain provision for onward transfer of assets; there was a prescribed range of requirements but how this would be patrolled further on was not clear yet.

In response to questions from Councillor Gilbert, Ms McLean stated that the Council already leased a large number of properties to community groups at market value.

Ms McLean, in reply to Councillor McMillan's query about providing case studies, cautioned against going into that level of detail in a policy. The process sought local authority engagement with community bodies; the presumption within the Act was for issues to be addressed positively. She advised that assistance the Council would provide would include guidance, assessment and valuation.

Mr Lamond indicated that if Cabinet approved this report the Scheme of Administration would require modification because, as required by the Act, the review of an asset transfer decision had to be carried out by Elected Members. A report would be brought forward regarding this and the appointments to such a review sub-committee.

Councillor O'Donnell commented that this was another piece of legislation with resource implications and no financial assistance forthcoming from the Scottish Government.

Councillor Currie stated this was an important report with wide and far ranging implications. In respect of Common Good assets this was clearly an extremely complex area and the outcome of the consultation was awaited with interest. He agreed that additional funding would be needed to provide some assistance to local authorities. This was an opportunity for the Council and its communities; there would be Council assets, which, for various reasons, were not being used to full capacity that community organisations could take forward.

The Convener stated that this Council had been supportive of community groups over many years. The Council would try where there was an aspiration in a community regarding transfer of an asset, to see if this could be taken forward for the benefit of the whole community and would look to see if the request was viable.

Decision

The Cabinet agreed:

- i. to approve the draft overarching Policy Statement in relation to how the Council planned to implement the Act (Appendix A);
- ii. note the document about Participation Opportunities which had been placed on the Council's website (Appendix B);
- iii. to approve the draft Asset Transfer Request policy and guidance (Appendix C); and
- iv. note that the Council's Asset register had been published on the Council's website in accordance with the Act.

6. EQUALITY PLAN 2017–2021

A report was submitted by the Chief Executive seeking approval for the Council's draft Equality Plan 2017-2021.

Mr Vestri presented the report. He informed Members that the Plan identified the key priorities for achieving improved equality outcomes in a targeted and consistent way across the Council. He stated that equality was at the heart of everything the Council did, he drew Members' attention to the 8 equality outcomes. The range of outcomes was detailed in the actual Action Plan, which he advised would be regularly monitored.

Responding to a question from Councillor Akhtar, Mr Vestri advised that the Action Plan was produced by officers; the Council Management Team would overview the Plan and a report would be brought forward every two years. He added that most of the actions in the Action Plan were already in the Council Plan so there would not be anything substantially new but all the information would be contained within one document.

Mr Vestri, in response to a query from Councillor O'Donnell about hate crime figures and conflict with information she had from Police Scotland, indicated he would check the data and respond.

Councillor Currie questioned the report statement that no additional financial resources were required. He also asked if the Plan covered who the Council contracted/sub-contracted to, citing the example of the Council paying the living wage so was the same requirement applied. Mr Vestri advised that this report did not have any financial implications as such but obviously many of the actions would have, this would be reflected in the Council Plan and would come through the budget process. In relation to the second question all organisations had to follow relevant legislation. Regarding the living wage, he advised that his understanding was that this could not be made a condition of a contract.

Councillor Currie welcomed the report and the detailed Equality Plan. There would be resource implications for mainstreaming equalities into services. This was a positive report; the Equality Act did place extra duties on local authorities but this was the right way forward and it would be interesting to see how this progressed.

Councillor O'Donnell strongly welcomed this report; the Council had an excellent record of progressing equality across all parts of the Council. Regarding developing the Equality Plan she stressed that the Council could not do this in isolation and needed third sector involvement. She highlighted the welcome Syrian refugees had received from the local community stating she was proud that East Lothian was a county of sanctuary. Referring to adults with dementia, she referred to the importance of the Council in working with organisations such as the Dementia Friendly Movement.

Councillor Akhtar echoed Councillor O'Donnell's comments; this was a hugely important document. The Council had a good track record over the last 5 years of devolving powers to local communities. As stated by her colleague there was a collective responsibility for other bodies outwith the Council.

Decision

The Cabinet agreed to approve the Equality Plan 2017-2021, agreed the outcomes identified in the Plan and to support the work towards achieving these outcomes.

Signed

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Councillor Norman Hampshire
Depute Council Leader and Cabinet Convener