



**MINUTES OF THE MEETING OF
THE CABINET**

**TUESDAY 12 JUNE 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

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

Other Councillors Present:

Councillor S Currie
Councillor F Dugdale
Councillor N Gilbert
Councillor J Henderson
Councillor C McGinn
Councillor K McLeod
Councillor B Small

Council Officials Present:

Mrs A Leitch, Chief Executive
Mr A McCrorie, Depute Chief Executive – Resources and People Services
Mr D Small, Director, East Lothian Health and Social Care Partnership
Mr J Lamond, Head of Council Resources
Mr T Shearer, Head of Infrastructure
Ms S Saunders, Head of Communities and Partnerships
Mr D Proudfoot, Head of Development
Mr P Vestri, Service Manager – Corporate Policy and Improvement
Mrs K MacNeill, Service Manager – Licensing, Administration and Democratic Services
Mr R Parker, Service Manager – Education (Strategy and Operations)
Mr A Stubbs, Service Manager – Roads
Mr I McFarlane, Service Manager – Planning
Mr C Grilli, Service Manager – Legal and Procurement
Ms W McGuire, Acting Service Manager – Strategic Investment
Ms N Sandford, Senior Strategy Officer
Ms Z Rathe, Team Manager – Information Governance
Ms R Colston, Commercial Development Officer

Clerk:

Ms A Smith

Visitors Present:

Ms M King & Ms C Noon

Apologies:

Councillor W Innes

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – CABINET 8 MAY 2018

The minutes of the meeting of the Cabinet of 8 May 2018 were approved.

2. SUMMARY OF CONTRACTS AWARDED BY EAST LoTHIAN COUNCIL, 26 APRIL TO 30 MAY 2018

A report was submitted by the Depute Chief Executive (Resources and People Services) advising Members of all contracts awarded by the Council from 26 April to 20 May 2018, with a value of over £150,000.

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 AND REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000 – STATISTICS

A report was submitted by the Depute Chief Executive (Resources and People Services) on:

- the Council's compliance with the 20 working day timescale laid down by the Freedom of Information (Scotland) Act 2002 for the calendar year 2017 (i.e. from 1 January 2017 to 31 December 2017);
- the Council's compliance with the 40 calendar day timescale laid down by the Data Protection Act 1998 for the calendar year 2017 (i.e. from 1 January 2017 to 31 December 2017); and
- the Council's use of the Regulation of Investigatory Powers (Scotland) Act 2000 for the calendar year 2017 (i.e. from 1 January 2017 to 31 December 2017).

Kirstie MacNeill, Service Manager – Licensing, Administration and Democratic Services, presented the report, outlining the statutory requirements. She drew attention to the breakdown of response timescales for Freedom of Information (FOI) and Environmental Information (Scotland) Regulations requests for review. She highlighted the top three enquirers in 2017. As regards Data Protection, she detailed the number of requests received for personal information. Mrs MacNeill also drew attention to surveillance requests authorised under the Regulation of Investigatory Powers (Scotland) Act.

Responding to Councillor O'Donnell's questions about resources, Mrs MacNeill advised that the team had been restructured to align with the Feedback team. She added that there was an increased awareness by the public as regards their entitlement to ask for information; staff were facing additional pressure due to the increase in FOI requests.

Mrs MacNeill responded to questions from Councillor Small. She confirmed that the trend for FOI requests was upward, increasing every year. She clarified that the complexity of FOIs had not changed. As regards how much it cost the Council to provide the information, the

average cost of processing each request was £45 but this did not take into account the centralised administration process; she advised there was one full time FOI officer.

Decision

The Cabinet agreed to note the report and that whilst staff were dealing with more Freedom of Information requests, fewer cases progressed to internal review in 2017 than in 2016.

4. DATA PROTECTION POLICY: UPDATES IN LINE WITH GENERAL DATA PROTECTION REGULATION (GDPR)

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval for the new Council Data Protection Policy.

Mrs MacNeill presented the report. She outlined the background to implementation of GDPR and the requirement for the Council's Data Protection Policy to be revised and updated in line with this legislation change. She summarised the most significant changes to the Policy.

Responding to Councillor Dugdale, Mrs MacNeill confirmed that training would be arranged for elected members, probably at the end of the summer recess.

In response to Councillor Small's questions, Mrs MacNeill stated there was no additional budget resource; the cost would be met from existing budgets.

Decision

The Cabinet agreed to approve the new Council Data Protection Policy.

5. PROPOSED EAST LoTHIAN LOCAL HOUSING STRATEGY 2018-2023

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) seeking approval for the Proposed East Lothian Local Housing Strategy 2018-2023.

Nicky Sandford, Senior Strategy Officer, presented the report. She informed Members that the Local Housing Strategy (LHS) was the sole strategic document for housing, bringing together a wide range of housing related priorities into one place and enabling a co-ordinated response in terms of action. She outlined the important roles of the LHS. She drew attention to the key areas for development and to priority outcomes identified to underpin the strategic vision. Many actions were wide and shared across different service areas of the Council. Ms Sandford added that the Scottish Government had praised the Council's LHS as one of the best strategies they had reviewed.

In response to Councillor O'Donnell, Ms Sandford advised that Appendix 1 of the report contained a summary of the LHS priority outcomes and key actions. A full and detailed Action Plan with corresponding milestones, timescales and indicators could be found at Appendix 3 of the LHS, which had been lodged in the Members' Library.

Councillor Goodfellow welcomed this important report, adding that the background papers were very comprehensive and the LHS was an extremely detailed document.

Councillor Currie commented on the importance of the location in respect of the wider range of specialist housing that would be provided.

Councillor Akhtar drew attention to the impact housing had on children and young people. She referred to the issues facing young people leaving care and welcomed that this would be looked at in the LHS.

Councillor McMillan highlighted the theme of supporting the town centre first principle, which was hugely important in relation to the vibrancy of communities. He also remarked on the need/demand of rural areas.

The Convener stressed the importance of the LHS, which had to meet all the needs of all the people in East Lothian.

Members acknowledged the amount of work involved in preparation of this LHS.

Decision

The Cabinet agreed:

- i. to approve the Proposed East Lothian Local Housing Strategy 2018 – 2023, to agree the priority outcomes identified in the Proposed Strategy and to support the work towards achieving these outcomes; and
- ii. to note the recommendation that the Proposed Strategy would be updated annually as required, following a review in August of each year during the period 2018-23 and any changes reported through the Members' Library Service.

6. EAST Lothian COUNCIL WORKFORCE PLAN

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) presenting the East Lothian Council Workforce Plan 2018-2022 to Cabinet for approval.

Paolo Vestri, Service Manager – Corporate Policy and Improvement, presented the report, thanking all service areas for their involvement. The Workforce Plan had an ambitious agenda for the next four years; the aim was to have a capable, flexible, motivated workforce. He drew attention to the analysis carried out, the Plan's vision and values and actions proposed to support the vision. He referred to consultation with staff and Trade Unions. He advised that work to take forward some of the actions had already begun; he outlined these. He informed Members that Action Plans would be put in place over the summer.

Mr Vestri responded to questions. Regarding the review of terms and conditions, queried by Councillor Currie, he stated these were reviewed on a regular basis adding that there would be opportunity for the Trade Unions to participate in the consultation at the review stage.

In response to Councillor Gilbert, the Chief Executive, Angela Leitch, advised that monitoring of both overtime and agency staff was carried out, on a quarterly basis. She added that overtime paid at time and a half or double time was only permitted if there were significant resource issues within a particular service area.

Councillor O'Donnell asked what was being done in respect of migrant workers from EU countries, stating it was important these people were aware they were welcome in East Lothian. Mr Vestri said this was highlighted in the Workforce Plan. More information was required and a survey was planned. Specific service areas were being monitored closely. The Health and Social Care Partnership and all service areas would be looking at this.

In relation to Councillor Henderson's query about timelines, Mr Vestri reiterated this was a four-year Plan; a detailed Action Plan, which would specify timelines, was being prepared.

Responding to Councillor Akhtar, Fiona Robertson, Head of Education, advised that a Recruitment and Retention Working Group had been established to look at teacher recruitment; promotional work was also being carried out with universities.

Councillor Akhtar stated that staff were the Council's biggest asset. Health and wellbeing of staff was important, she acknowledged the support from CMT, particularly in relation to mental health measures and would welcome feedback on these aspects. Referring to the new schools, she welcomed the proactive measures being taken by the Authority.

Councillor Currie noted from the report that the Trade Unions did not support the proposal to review terms and conditions. He stated this proposal did not accord with the general praise expressed for staff. The review was a detrimental step; the SNP Group did not support a review of the terms and conditions.

Councillor Goodfellow, in response to Councillor Currie, said this Administration was supportive of the Trade Unions and would work with them. Referring to the Workforce Vision and Values, he said the Council was an employer of choice, reflected in the low level of staff turnover. Regarding terms and conditions, the National Living Wage had been introduced, benefitting over 80% of employees. Councillor O'Donnell supported these comments.

The Convener highlighted the huge challenges facing the Council over the next few years and the significant cuts to the budget imposed by the Scottish Government.

Decision

The Cabinet agreed:

- i. to approve the East Lothian Council Workforce Plan 2018-2022;
- ii. to note that the HR service and Organisational Development team were developing action plans to take forward and implement the 38 actions detailed in the Plan and that they would continue to engage with, and consult, Council Trade Unions and staff in developing and delivering these plans and their actions; and
- iii. to note that progress in implementing the Workforce Plan would be reported to Council via the Annual Performance Report.

7. REVIEW OF BYLAWS PROHIBITING CONSUMPTION OF ALCOHOL IN PUBLIC PLACES IN EAST LOTHIAN

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking authorisation for the continuation of the existing byelaws as presently constituted until such time as a proposed replacement byelaw was in a position to be promoted for confirmation.

Carlo Grilli, Service Manager – Legal and Procurement, presented the report. He outlined the background, explaining that in tandem with the requirement to review Police Scotland had requested that the various bylaws for the different areas be replaced by a single bylaw covering the whole county. The draft bylaw was currently with Scottish Ministers and on receipt of comments a further report would be brought to Cabinet.

Mr Grilli responded to questions from Members. In relation to comments from community councils, he stated the majority were generally supportive of the future proposal. As regards applying the penalty, he said that only the Police could do this. As to whether enforcement of the new bylaw would extend to Community Wardens, he indicated he would check into this.

Councillor O'Donnell welcomed a review to look at a countywide bylaw, adding that there were health benefits to be gained by this introduction.

Councillor McMillan indicated that Garvald and Morham Community Council had asked for their view that this was not necessary for their small community to be stated at this meeting.

Decision

The Cabinet agreed:

- i. that the present byelaws in place in various towns and villages throughout East Lothian should continue in effect as presently constituted; and
- ii. that a further report be accepted in due course regarding a proposed county-wide byelaw which would replace the present byelaws in due course.

8. PROPOSAL TO INTRODUCE A COMMON SECONDARY SCHOOL DAY

A report was submitted by the Depute Chief Executive (Resources and People Services) requesting consideration of the introduction of a common secondary school day and the potential resultant benefits for primary education.

Ms Robertson presented the report, outlining the purpose of the proposal. She gave details of the aspects the feasibility study and consultation would explore. She highlighted the current variation across the secondary schools. Creating a common secondary school day and a common curricular structure would create a more equitable educational experience. She drew attention to changes that would be required to the primary school day to deliver this proposal. Ms Robertson informed Members that the proposals would support the delivery of a number of objectives of the Council Plan.

In response to Councillor Small, Ms Robertson advised that some other local authorities had already done this and officers were working with them to learn from their experience.

Councillor O'Donnell referred to section 6.1 of the report, stating that in relation to home to school transport this Administration had been very clear in the budget that it did not support any reduction to this service.

Councillor Akhtar commended the report and the considerable amount of work carried out. The proposals would help raise attainment and achievement and help reduce inequalities across communities and implement recommendations of the Poverty Commission. She looked forward to the results of the feasibility study and consultation.

Councillor McMillan, referring to section 3.1.9 of the report, stressed the importance of partnership working as regards young people being able to access vocational opportunities.

Decision

The Cabinet agreed to approve the launch of a feasibility study and consultation on the introduction of a common secondary school day and the potential resultant benefits for primary education.

9. INTRODUCTION OF NEW CHARGES

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) and the Depute Chief Executive (Resources and People Services) seeking approval for a group of new charges within the Education, Planning and Roads Services.

Deputation – Mollie Kerr and Charlotte Noon made a presentation in respect of Instrumental Music Instruction (IMI). Ms Noon, an ex-Ross High School pupil going on to study music at university, said she would not have been able to do this if there had not been free music tuition. If charges were imposed many pupils would not be able to take or continue with music. Ms Kerr detailed the number of people who had signed an IMI online survey, her understanding of the number of pupils receiving IMI and her estimate of a number of jobs at risk. In her opinion this report, the business case and the budget were all flawed. Service users had not been informed, no one had been aware of this. There were other options: charge zero, set the decision aside and have full consultation, or charge a nominal fee. If the Council did not continue to supply free instruction then future chances would be taken away from many pupils. She urged Members not to impose these charges.

Jim Lamond, Head of Council Resources, presented the report. He referred to budget decisions taken by Council in February and within that detail to two specific approved proposals as regards this report, introducing charging for IMI and generating efficiencies through a programme of Transformational Change and generation of new income streams. Further context was also provided within the Council's approved Charging Policy. In line with the specific budget decision introduction of a charge for IMI was recommended along with the introduction of new charges for the street naming and numbering function within the Planning Service and for two areas of Road Services operations. The appendices contained further details. He outlined the resource implications for the various service areas.

Mr Lamond, Ms Robertson and Ruth Colston, Commercial Development Manager, responded to questions from Members.

In response to Councillor Small, Ms Robertson gave further details of aspects the service review would cover, outlining the key priorities for 2018/19. She indicated that equality of experience across schools and expanding the range of, and access to, instruments, would also be looked at.

Responding to Councillor Akhtar, Ms Robertson confirmed it was not the intention to reduce the service but rather to grow it and make it more accessible. Ms Colston drew attention to the Improvement Service survey, which found no correlation between level of charges and uptake of IMI.

Councillor Currie asked a series of questions. Mr Lamond responded to points raised in relation to the Council budget-setting meeting. Regarding consultation, Ms Robertson advised there had been informal discussions at Parent Council meetings but no formal consultation; this would take place next session as part of the service review. Head Teachers had been consulted during the budget process. There had been no engagement with pupils nor the Education Committee. Councillor Currie referred to the financial implications set out in the report asking if this meant that higher charges could be imposed if the target was not met. Ms Colston advised that this was not within the service review programme. She clarified that a reduction in uptake was initially expected but some of this would be related to natural transition from primary school to secondary school and any short term changes in engagement due to leavers in the senior phase and new engagement through primary uptake. Renewed efforts were being carried out to make the service more equitable and more accessible. She reported that twenty-two local authorities in Scotland currently charged for IMI.

Officers responded to several queries from Councillor Akhtar. Ms Robertson confirmed that entitlement to music education was a statutory duty, which would continue to be delivered in schools by primary and secondary music specialists. She outlined the various concessions. She clarified that the budget was a standing item on Parent Council meeting agendas and budget pressures were discussed at these meetings. Ms Robertson also gave details about access of this service by pupils with special needs and those with entitlement to free school meals. She, and Ms Colston, gave details of the percentage uptake, stating that the discrepancy between the IMI uptake and the school roll was what the service review would be trying to address, however; it would take more than a single school year to do so. She added that the music therapy budget had increased and this service was working well across schools and the enhanced support bases.

Responding to Councillor O'Donnell, Mr Lamond confirmed that the Council had sought flexibility from the Scottish Government regarding how the Council Tax limit was applied but this flexibility had not been granted.

Opening the debate, Councillor Akhtar stressed this was not about the service diminishing; music education would continue across schools, the Council would continue to meet its statutory duty. IMI was a discretionary service separate to music education. Local authority budgets had been severely cut; the budget process had been very challenging. Many local authorities had already introduced charges for IMI; the charges proposed were around the average. Safeguards and concessions would be in place. A review of the service would be carried out, measures to increase uptake would be looked at. She had started to lobby the Scottish Government, as it was important that local authorities were funded appropriately.

Councillor Currie drew attention to the number of people that had signed the petition. He stated that IMI charges had been one of the five most objected to options identified during the budget consultation process. This decision would have a detrimental impact on children. The Cabinet had a choice; it did not have to approve the recommendations today. The service review should take place, there should be consultation with Parent Councils and the Education Committee then a report should come forward to full Council. He added that he would be requesting a roll call vote as per Standing Order 10.2.

Councillor O'Donnell pointed out that East Lothian would be the twenty-third local authority to have to make the decision to introduce charges for IMI. There had been deeper cuts to local authority budgets than to any other public service in Scotland. Responsibility lay with a Scottish Government that would not fund this. She stressed that the only way to protect services was to introduce charges.

Councillor McMillan agreed that the onus lay with central government and along with colleagues he would lobby the Scottish Government. He commented that for some people the charges would be affordable, for some not; he stressed this would be monitored. He also highlighted the concessions. This was a huge change, it was transformational, but it was about managing resources and keeping music service provision.

Councillor Goodfellow indicated that the service review would look at a number of aspects including how to increase uptake and deliver for more pupils. He drew attention to the mitigating factors as outlined; there were a number of concessions. A dedicated bursary scheme was proposed for low income families, which should increase uptake. There was a need to look at instrument loan and grants to low income families to access this service.

The Convener stressed it was the role of the Administration to manage the budget for the people of the county. The budget process had been difficult; consultation had taken place across East Lothian, followed by a full consideration of options. Decisions had then been made at the Council budget-setting meeting in February. In relation to IMI, the charges

proposed were around the average for Scottish local authorities. He emphasised that the recommendation in the report was the only choice Cabinet could make.

Decision

As requested, the vote took place by roll call.

For: Councillors Akhtar, Goodfellow, McMillan, O'Donnell and Hampshire

Against: No one

The Cabinet agreed:

- i. to approve the undernoted charges at the following rates in line with East Lothian's Charging Policy and to support the delivery of the Council's annual budget;
- ii. **Education:** Introduce a contributory charge of £280 per annum towards the costs of providing Instrumental Music Instruction (IMI) to pupils in receipt of the service from August 2018 as detailed within Appendix 1, noting this proposal contains a range of concessions;
- iii. **Planning:** With effect from 1 July 2018, introduce charges as set out in Appendix 2, to developers, householders, commercial organisations and Registered Social Landlords (or any other individual or body who require this service) associated with requests to name a street, number, name or rename a property; and
- iv. **Roads:** Introduce charges to contractors and utilities companies (plus any other individual, organisation or body who requires the service) from 1 July 2018 onwards, for a range of permissions as detailed within Appendix 3.

Signed

Councillor Norman Hampshire
Depute Council Leader and Convener of the Cabinet