



## **MINUTES OF THE MEETING OF THE CABINET**

**TUESDAY 19 JANUARY 2021  
VIA A DIGITAL MEETING FACILITY**

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### **Committee Members Present:**

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

### **Other Councillors Present:**

Councillor L Bruce  
Councillor F Dugdale  
Councillor J Findlay  
Councillor A Forrest  
Councillor C Hoy  
Councillor C McGinn  
Councillor P McLennan

### **Council Officials Present:**

Mrs M Patterson, Chief Executive  
Mr J Lamond, Executive Director for Council Resources  
Mr D Proudfoot, Executive Director of Place  
Ms L Brown, Executive Director for Education and Children's Services  
Mr T Reid, Head of Infrastructure  
Ms S Saunders, Head of Communities  
Ms J Tait, Head of Children's Services  
Ms S Fortune, Head of Finance  
Mr C Grilli, Service Manager – Legal  
Ms K MacNeill, Service Manager – People and Governance  
Ms W McGuire, Service Manager – Strategy and Development  
Mr P Vestri, Service Manager – Improvement, Policy and Communications  
Mr E John, Service Manager – Sport, Leisure and Countryside  
Mr J Cunningham, Interim Service Manager – Economic Development  
Ms L Kerr, Interim General Manager, Planning and Performance (HSCP)  
Ms J Lothian, Sustainable Energy and Climate Change Officer  
Mr S Cooper, Team Manager – Communications  
Ms R Crichton, Committees Officer

### **Clerk:**

Ms A Smith

### **Apologies:**

Councillor Innes

**Declarations of Interest:**

None

**Order of Business:**

The Convener announced a change to the order of business, Item 5 (*Annual Pensions Report – 2019/20 and Policy Statement on the Application of Regulatory Pension Discretions*) would be taken as the final agenda item. All Chief Officers would be asked to leave the meeting for this item.

**1. MINUTES FOR APPROVAL – CABINET 10 NOVEMBER 2020**

The minutes of the meeting of the Cabinet of 10 November 2020 were approved.

**2. DISABILITY RELATED EXPENDITURE**

A report was submitted by the Director of the Health and Social Care Partnership (HSCP) advising Cabinet of the proposed process for calculating Disability Related Expenditure (DRE) for non-residential charging of social care services at the Financial Assessment stage of charging.

Laura Kerr, Interim General Manager, Planning and Performance, presented the report. She informed Cabinet that COSLA had asked local authorities to ensure that the extra costs of DRE were taken into account by charging policies. As this had not been done before a process to calculate DRE was required. She outlined the two proposals put forward. She highlighted the benefits of the second proposal, the process ensured equity in the application of DRE. Once the DRE process was agreed, it would be applied to all new Financial Assessments and to all existing assessments at point of review in August 2021.

In response to Councillor O'Donnell's query, Ms Kerr confirmed there would still be an appeals process going forward. Councillor McLennan asked about the Charging Group's views on this paper. Ms Kerr stated that the group had asked for alignment with COSLA's guidance; she added that although the group had not seen this report, it had seen the draft policy and discussions had also taken place regarding the DRE process and this report. Responding to further points, Ms Kerr reiterated that discussions had taken place with the Charging Group regarding the content of this report.

Councillor O'Donnell welcomed this paper. She informed Cabinet that the remit and membership of the Charging Group was being reviewed, in line with COSLA's guidance regarding the need for local authorities to be more proactive. This policy met this criterion. In terms of supporting people, a financial assessment process was in place; this was the right course of action to make sure no one was pushed into poverty.

**Decision**

The Cabinet agreed, unanimously by roll call vote, to approve the process for calculation of Disability Related Expenditure as outlined in paragraphs 3.10 to 3.13 of the report by considering an individual's actual spend on Disability Related Expenditure, applying parameters to the expenditure considered, and disregarding the expenditure from the individual's available income at the Financial Assessment stage.

### **3. GRANT FUNDING OF EAST LOTHIAN MID-MARKET RENT HOMES LLP FROM THE COUNCIL'S SECOND HOMES COUNCIL TAX FUND**

A joint report was submitted by the Executive Director of Place and the Executive Director for Council Resources seeking formal approval of the decision to grant East Lothian Mid-Market Homes LLP, funding from the Council's Second Homes Council Tax budget to enable the LLP to purchase a discounted property for sale in Haddington. This had ensured that this unit was retained as an affordable intermediate tenure home by renting as a mid-market property.

Wendy McGuire, Service Manager – Strategy and Development, presented the report. She pointed out an error in the numbering, 3.7 had been overlooked but she clarified there was no missing paragraph in the report. She gave details of the terms of the discounted sale model and restrictions regarding future sales advising that if an eligible purchaser was not found within a 13 week period then the Council had first refusal. This was the first property to reach this deadline without a buyer, possibly due to the current pandemic. She informed Members that another property in Wallyford had just reached this deadline and she asked Cabinet to accept an amendment to the recommendation to also include this property.

Councillor Goodfellow, referring to the additional dwelling tax, asked if other housing providers of properties for social rent also faced this tax. Ms McGuire thought that Registered Social Landlords (RSLs) were exempt. Carlo Grilli, Service Manager – Legal, confirmed that RSL's were exempt, local authorities were not. He said that there had been some discussion at an early stage of the Bill to include local authorities in the exemption category but this had not happened. This would be raised with the Scottish Government.

Responding to the Convener's query, Ms McGuire confirmed that funds were available for the other property in Wallyford.

Councillor Goodfellow said this model had been an excellent initiative. East Lothian had a shortage of affordable homes, due in part to the number of second homes in the county, so being able to use that Council Tax to fund this initiative had been welcomed. It was unfortunate that sales of these properties had fallen through; mortgage lenders should be looking at these properties as a priority, they were very low risk. It was disappointing that the Scottish Government had not decided to make local authorities exempt from the additional dwelling tax; it was never meant to penalise people wishing to rent these homes, it should be about providing affordable housing for the citizens of East Lothian.

Jim Lamond, Executive Director for Council Resources, stated, in relation to the amendment to the report recommendation to include the additional purchase of a second property that a caveat should be added - that it be subject to the agreement of the Chief Financial Officer.

Douglas Proudfoot, Executive Director of Place, added a further caveat - that it should also be subject to approval by the company itself.

The Convener stated that establishment of the East Lothian Mid-Market Homes company had been a huge success. These homes were very popular, made a difference to the private rented sector in East Lothian and also had an impact on levels of rent. They helped many families and he would like to see more of this type of development.

He asked Cabinet Members when voting to take into account the amendment outlined by Ms McGuire and the caveats outlined by Mr Lamond and Mr Proudfoot.

#### **Decision**

The Cabinet agreed, unanimously by roll call vote:

- i to endorse the decision taken by the Executive Director for Council Resources to grant the sum of £147,155 (£136,255 discounted sales price plus £10,900 additional dwelling tax) from East Lothian Council's Second Homes Council Tax Fund to East Lothian Mid-Market Homes LLP to purchase one unit at the discounted sale price and rent as a mid-market unit in accordance with the Council's Mid-Market rent criteria; and
- ii to grant the sum of £142,794.96 (£132,326 discounted sales price plus £10,468.96 additional dwelling tax) from East Lothian Council's Second Homes Council Tax Fund to East Lothian Mid-Market Homes to facilitate the purchase of a second affordable housing unit by East Lothian Mid-Market Homes LLP as outlined at the discounted sale price and rent as a mid-market unit in accordance with the Council's Mid-Market rent criteria, subject to the two caveats.

#### **4. CLIMATE CHANGE STRATEGY ANNUAL UPDATE**

A report was submitted by the Executive Director of Place providing the first annual update to Cabinet on progress with delivering the actions and commitments in East Lothian Council's Climate Change Strategy 2020–2025.

Mr Proudfoot presented the report advising that the 2019/20 Public Sector report on Climate Change had been lodged in the Members' Library. The Climate Change Planning and Monitoring Group continued to meet 3 times a year and engaged with young people from primary and secondary schools. He gave details of some of the key achievements to date. The Council's overall carbon footprint continued to reduce, there had been a 29.5% reduction since the baseline year of 2014/15 and a reduction of 2.5% from last year. He drew attention to achievements in embedding tackling climate change throughout the Council since approval of the Strategy. Appendix 1 contained the Action Plan annual update and Appendix 2 detailed the amended actions, for approval. He outlined some of the key risks that had been identified. He drew attention to work on a proposal for an East Lothian Climate Forest, an exciting opportunity, which would enhance communities. He also referred to the UN COP26 Climate Summit in November. The Council would continue to work closely with the Scottish Government and other national, regional and local bodies. The challenges were great but so too were the opportunities.

Mr Proudfoot and other officers responded to questions. Councillor Akhtar asked if engagement with young people would continue given the current circumstances. Jennifer Lothian, Sustainable Energy and Climate Change Officer, confirmed that engagement continued, stressing that getting young peoples' views was crucial. An East Lothian Youth Council virtual meeting would be taking place in March. Mr Proudfoot clarified, in response to a further question that the Scottish Government's updated policies and proposals (Climate Change Plan update) had been published on 16 December 2020. Officers were reflecting on the detail of that national Plan and any material implications would be reported to Cabinet.

Councillor Hoy raised several questions about the impact of Covid-19, he also asked about the Scottish Government update and their deposit return scheme. Mr Proudfoot said the Council was very much still in Covid-19 response. It had changed perceptions of the world of work; there were positives and negatives resulting from these changes. It was important to consider how the Council played into the regional economy, there were huge opportunities to do things differently and better. It was also important to look at the asset base, to reduce it but also optimise it. Ms Lothian agree that the impact of the pandemic had changed the way people worked. She was going through the Scottish Government's update but was not in a position yet to provide any analysis. The Council's Working Differently Short Life Working Group was looking at how work could be done differently. Officers were liaising with other

local authorities through the Sustainable Scotland Network. Tom Reid, Head of Infrastructure, advised in relation to assets, that some had been mothballed and would be brought back into use when required. In the longer term proposals would be brought to CMT and the wider Council regarding asset rationalisation, bearing in mind service delivery. He outlined some of the issues in relation to transport. On waste, he reported that the kerbside model would be enhanced. There was no definitive date for the deposit return scheme although 2022 had previously been mentioned.

Councillor O'Donnell asked if, in relation to buildings and contents insurance, there was evidence of any residential and/or business properties having problems with flood risk insurance. Mr Proudfoot indicated he would need to take this offline for a response. Mr Reid referred to the Musselburgh Flood Protection Scheme, which was advancing at pace and stated that hopefully further reports would be brought forward this year. Project work was also being carried out in Haddington. He added that across the county Road Services were working on ground level water levels.

Councillor McLennan asked about increasing cycling provision, he also queried measures to reduce car usage, a Scottish Government focus, referring to budget requirements nationally and locally. Ms Lothian said there had been an increase in walking and cycling locally during the pandemic; this would be built on as part of the active travel network throughout East Lothian. Responding to a further query about persuading people to make the shift from car to public transport for longer distances, Mr Reid said a national and regional strategic influence was required. Rail and road infrastructure was being looked at; frequency, timing and affordability were all key. Locally, the Council continued to work with bus networks and provide cycle lanes and more cycle racks. He referred to the Spaces for People initiative. He stressed that all connectivity was being looked at. Budget allocation would be pivotal. Engagement with Sustrans was taking place regarding routes that previously could not be opened up. The Network Team were looking at grants available to take forward a better infrastructure development to further promote walking, cycling and use of public transport.

Councillor McMillan welcomed the report, it was a statement of intent for the future. He welcomed the high level strategy plans but also all the lower level initiatives taking place. He acknowledged all the work carried out by officers and by partners. Keep Scotland Beautiful had acknowledged the work done across the county. There was nonetheless still work to do. Continuing to promote walking and cycling was vital. Better broadband provision was also essential. The paper set out a clear sense of direction for East Lothian going forward.

Councillor Akhtar acknowledged the public's support for the Climate Change Strategy. Engagement with young people was key and she commended work done by officers with the Youth Climate Change Forum and was pleased that this would continue. The Climate Forest was an excellent initiative. Covid-19 had thrown a sharp focus on some previous practices and building on successful changes made once the pandemic was over would be essential. Progress made to date showed the success of the One Council joined up approach.

Councillor Goodfellow praised this very forward looking report, steps taken and proposed were commendable. In respect of electric vehicle provision East Lothian now had the most comprehensive range of charging points of any non-city local authority in Scotland. He particularly commended the provision at Wallyford Park and Ride.

Councillor O'Donnell also welcomed progress and the ambition of the Strategy. She made reference to the impact of climate change on vulnerable people within the county's communities. She echoed comments by Councillor Akhtar regarding engagement with young people. She commended all service areas for the work done. East Lothian was beautiful and this Strategy would ensure it was kept as such.

The Convener welcomed this hugely important paper. He hoped that when people looked back on 2020/21 they would see that the Council did all it could as fast as it could in relation to tackling climate change. He remarked that many of the changes made since approval of the Strategy last January would probably not have been done if the pandemic had not occurred; these were changes that had needed to be made and it was vital that regression to previous practices did not happen when this was over. Working in partnership with the public, young people, communities, farmers, landowners, was crucial. He highlighted a number of achievements including recycling efforts, the Climate Forest initiative and enhancement of biodiversity. It was a huge challenge but the targets could be achieved.

### **Decision**

The Cabinet agreed, unanimously by roll call vote:

- i. to note the progress made this year across Council Service Areas to tackle the Climate Emergency locally and deliver actions in the East Lothian Council Climate Change Strategy 2020–2025, despite the significant challenges of COVID-19;
- ii. to approve the updates to the Climate Change Strategy Action Plan, set out in Appendix 2 to the report;
- iii. to note the Key Achievements and Key Risks set out in the report, and the engagement with young people in East Lothian schools to gather their views and feedback on the Climate Change Strategy; and
- iv. to approve the policy intention for an East Lothian Climate Forest, as set out in paragraph 3.20 of the report.

### **5. EAST LOTHIAN FOOD AND DRINK BUSINESS IMPROVEMENT DISTRICT (BID)**

A report was submitted by the Executive Director of Place informing Cabinet of the continuation of the East Lothian Food and Drink Business Improvement District (BID).

John Cunningham, Interim Service Manager – Economic Development, presented the report. He informed Members that the initial BID had been successful and an enabler for the food and drink sector. Further links with the hospitality sector were being developed. He drew attention to the aims and objectives of the BID. He highlighted some of the achievements. There was an appetite within the industry to take this forward. The ballot timetable, which detailed the procedure to be followed, was attached as Appendix 1.

Councillor McMillan, referring to the initial BID, stated this had been unique, approved very quickly and the innovation recognised by the Scottish Government at ministerial level. It had helped businesses across the county and enabled a significant number of achievements. He praised the massive response and innovations shown by businesses during this pandemic. He was proud to support this paper and the continuation of this initiative.

### **Decision**

The Cabinet agreed, unanimously by roll call vote, to support the initiative and agreed a financial commitment of £25,000 a year for 3 years, subject to a further successful ballot of the County's food and drink producers.

## 6. BUDGET DEVELOPMENT

A report was submitted by the Executive Director for Council Resources, presenting to Cabinet an update on matters affecting development of budgets including the draft budget proposals prepared on behalf of the Administration.

Sarah Fortune, Head of Finance, presented the report. She informed Cabinet that the Scottish Government budget and related finance settlement for Local Government would be delayed until the end of January 2021, with the final Stage 3 of the Scottish Government budget expected to take place during the first week in March 2021. A Finance Circular setting out details of the Local Government Settlement would now be issued to all Councils on 1 February 2021. This circular would set out the draft individual local authority grant allocations for 2021-22 only. Turning to section 3.9 of the report she outlined the Administration's Draft Budget Proposals which, given that the draft Scottish Government allocations were not yet available, had been developed on a number of key assumptions. She drew attention to Appendix 2 (General Services Revenue), Appendix 3 (General Services Capital) and Appendix 4 (Housing Revenue Account – Revenue and Capital).

Ms Fortune then outlined the next steps, reminding Members of the dates for lodging budget amendments. The HRA Budget and rent levels for 2020-21 would be considered by Council on 23 February 2021. The General Services Budget and Council Tax levels for 2020-21 would be considered by Council on 2 March 2021.

Councillor O'Donnell, referring to funding for the HSCP, asked, given progress made in relation to delayed discharge, if NHS Lothian would be providing more funding for this. Ms Kerr advised that this area had one of the lowest delayed discharge figures in Scotland; the NHS had provided more finance for a number of projects but she was not aware of any further commitment in this regard.

Councillor Akhtar asked if there was any indication that notification of local authority budgets may be provided earlier than the date stated, referring to action taken by the Welsh Assembly. Ms Fortune said she had not heard anything about a possible earlier announcement and this was not expected. Responding to a further query about 1140 hours funding, Ms Fortune stated that in terms of revenue the figure had been revised based on current requirements within the existing funding envelope. On capital terms it was less certain, some areas were still going through the tender process, tenders were returning with significantly higher costs than before. She added that capital costs exceeded the grant available by up to £2m; she did not have definitive clarity at the moment.

Councillor McLennan asked, in relation to review of Council assets, service provision and the HSCP, what the figures were based on. Ms Fortune advised that in respect of assets, the initial position reflected the existing 3 year budget, so related to previous debates within the Council Chamber. On service provision, again this was within year 3; a wide range had been looked at, the timeline gave enough rationale to deliver the proposals. Regarding the HSCP, again this was based largely on the previous budget position and in the spirit and intent of that earlier budget and hence competent from an officer's perspective. Responding to further points raised, Ms Fortune advised that the figure Councillor McLennan referred to was ultimately a balancing figure taking through to a balancing budget, underpinned by the elements indicated. She stressed that the budget had to be competent and deliverable and in the professional opinion of officers and the suite of options presented it was deliverable.

Councillor O'Donnell opened the debate. She outlined the budget process as regards the HSCP. She expressed confidence that the HSCP could manage within the proposed draft budget. She thanked all staff, volunteer organisations and individuals involved with the nine Older People's Day Centres in East Lothian for their work with the Council in protecting the most vulnerable in local communities during this pandemic. She highlighted the innovative

multi award winning Well Wynd Hub in Tranent and welcomed plans to extend this excellent work. She welcomed the Capital Budget, particularly play park equipment replacement.

Councillor McMillan drew attention to the excellent COSLA paper attached as Appendix 1. He acknowledged the increased burden on staff as a result of Covid-19, praising their response. This draft budget tried to allocate scarce resources to those areas greatest in need; it tried to plan for an uncertain future in a very complex environment. The Council was clearly in response mode but also thinking of recovery. This budget was a statement of commitment to East Lothian. He added that better support was needed from the Scottish Government for local authorities to enable to provide continued support to communities.

Councillor Akhtar echoed those comments. She praised the effective mobilisation by the Council and communities from day one of this pandemic; the effort and work done had been phenomenal. It was disappointing to see that whilst the Welsh Assembly had done the right thing the Scottish Government had not followed their example, so local authorities here did not know where they stood. Officers had outlined the increased level of support needed now. She expressed support for COSLA and UNISON's campaign for a fair funding settlement.

Councillor Goodfellow commented on the unprecedented year and the financial struggles facing many Council tenants. Taking this into account, the proposal for rent rises next year was to go forward with a 2% rise followed by the normal 5% from then on; this was a change from the usual practice. He reported that £175m was allocated in the Capital Programme for modernisation and for new council houses. He recommended these proposals.

The Convener, on behalf of the Administration, thanked officers for preparation of the draft budget. He praised staff for keeping services running effectively during the pandemic. He hoped the Scottish Government would ensure that the estimated 4% increase was passed on to local authorities. The Council had made significant investment in services under severe pressures. The county faced significant growth against a reduction in budgets. The Administration was open to discussions with the other political groups and hopefully some form of agreement could be reached. This method tried to give some security to East Lothian residents but he stressed that a lot of what could happen was outwith the Council's control.

## **Decision**

The Cabinet agreed:

- i. to note the current position relating to the national Local Government Finance Settlement and the implications for East Lothian Council;
- ii. to approve the draft budget proposals as contained within the report appendices noting the intention of the Council Leader to invite further discussion with other political groups via Group Leaders between now and the formal budget setting meeting; and
- iii. to request that any formal amendments to the draft proposals be submitted in accordance with the timeline set out in para 3.14 of this report.

*Sederunt – All Chief Officers left the meeting*

## **7. ANNUAL PENSIONS REPORT – 2019/20 AND POLICY STATEMENT ON THE APPLICATION OF REGULATORY PENSION DISCRETIONS**

A report was submitted by the Executive Director for Council Resources, the purpose being:



- to summarise the early retirement activity within the financial year 2019/20, in accordance with External Audit requirements and Council Policy;
- to set out proposal in relation to the adoption of discretionary powers under the Local Government Pensions Scheme (Scotland) Regulations 2014 and seek Cabinet approval for the Council’s Policy Statement on the exercise of these discretions; and
- for Cabinet to determine whether East Lothian Council should exercise its discretion to have Lothian Pension Fund pay some or all of the annual tax charge on behalf of members of staff whose pension contributions exceeded the tapered annual tax allowance in respect of the tax year 2019/20.

Kirstie MacNeill, Service Manager – People and Governance, presented the report. She drew attention to the Council’s retirement activity in financial year 2019/20, highlighting the three types of pensionable retirements available to employees and the figures within each category. She provided details of the background to the Pensions Discretion Policy. Turning to report recommendation 2.3, she took Members through the background to this, highlighting the obligation on employers by the Local Government Pension Scheme. Ms McNeill outlined the details of the two options presented to Cabinet, explaining why unusually in this case there was not an officer recommendation.

The Convener proposed, in respect of the options outlined in 3.7, that Option One be supported under report recommendation 2.3; this was seconded by Councillor McMillan.

**Decision**

The Cabinet agreed, unanimously by roll call vote:

- i. to note the content of the report with regard to the pension activity in the financial year 2019/20;
- ii. to approve the revised Pension Discretion Policy Statement attached to the report replacing the existing version approved at Cabinet on 13 September 2016; and
- iii. after considering the options at Paragraph 3.7 to adopt Option One and authorised officers to communicate that decision to the Lothian Pension Fund.

Signed .....

Councillor Norman Hampshire  
Depute Council Leader and Depute Convener of the Cabinet