



## MINUTES OF THE MEETING OF THE CABINET

**TUESDAY 12 SEPTEMBER 2023  
VIA A DIGITAL MEETING FACILITY**

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### **Cabinet Members Present:**

Councillor S Akhtar	Councillor F Dugdale
Councillor A Forrest	Councillor N Hampshire (Convener)
Councillor C McGinn	Councillor J McMillan

### **Other Councillors Present:**

Councillor C Cassini	Councillor L Jardine
Councillor C McFarlane	Councillor S McIntosh
Councillor L Menzies	Councillor C Yorkston

### **Council Officials Present:**

Mrs M Patterson, Chief Executive  
Ms L Brown, Executive Director for Education and Children's Services  
Ms S Fortune, Executive Director for Council Resources  
Mr D Proudfoot, Executive Director for Place  
Ms L Byrne, Head of Children's Services & Chief Social Work Officer  
Ms E Dunnet, Head of Finance  
Ms M Ferguson, Head of Corporate Support  
Ms N McDowell, Head of Education  
Ms W McGuire, Head of Housing  
Mr T Reid, Head of Infrastructure  
M S Saunders, Head of Communities  
Mr S Cooper, Service Manager - Communications  
Mr J Coutts, Service Manager – Community Housing & Homelessness  
Ms M Coyle, Service Manager for Procurement, Transformation & Digital Portfolio  
Mr C Grilli, Service Manager – Governance  
Mr B Moffat, Service Manager – Transport & Waste  
Mr P Ritchie, Service Manager – People & Council Support  
Mr I Lennox, Team Manager – Assets and Regulatory  
Ms R Pringle, Team Manager – Housing Strategy  
Ms Z Rathe, Team Manager – Information Governance  
Mr R Robertson, Roads Asset Officer - EV  
Ms R Crichton, Committees Officer

### **Clerk:**

Ms F Currie

### **Apologies:**

None

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – CABINET 9 MAY 2023**

The minutes of the meeting of the Cabinet of 9 May 2023 were approved.

**2. FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 AND DATA PROTECTION ACT 2018 (GDPR) – COMPLIANCE STATISTICS IN 2022**

A report was submitted by the Executive Director for Council Resources reporting 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 2022 (i.e.: from 1 January 2022 to 31 December 2022); and the Council's compliance with the timescale laid down by the Data Protection Act 2018 (GDPR) for the calendar year 2022 (i.e.: from 1 January 2022 to 31 December 2022).

The Team Manager – Information Governance, Zarya Rathe, presented the report. She highlighted an increase in the number of Freedom of Information (FOI) requests and Subject Access Requests during 2022 and advised that the complexity of requests was also increasing. She provided a breakdown of the statistics relating to FOIs, to requests under the Environmental Information (Scotland) Regulations 2004 (EIR) and Subject Access Requests. She outlined some of the challenges in responding to more complex requests, including where to apply exemptions. She added that increasing pressure on services had contributed to delays in responses along with other factors. However, overall, compliance with statutory response timescales had remained high.

Ms Rathe responded to questions from Councillors McIntosh, Councillor McGinn and Councillor Dugdale. She advised that charging for EIR requests had been discussed at length by the Council's management team and while it had been agreed to continue the current regime, this decision could be reviewed at any time. She explained the difference between invalid and vexatious requests and agreed that figures relating to the latter could be included in future reports. She said that the Council did not track costs associated with FOI requests as no charges were made for these requests and the Council had never used the legal discretion to levy a fee for costs over £600.

Replying to further questions from Councillors Forrest and Jardine, Ms Rathe confirmed that where requests were received for information already available on the Council's website, the appropriate exemption could be used and individuals would be provided with a link to the relevant page on the website. She also reminded Members of the Publication Scheme which was used as a more proactive means of making information available to the public. Ms Rathe provided an explanation of the information covered by different types of requests – FOI, EIR and Subject Access Requests – and that each was covered by a different piece of legislation. She acknowledged that there were pros and cons to this, or any, regime.

**Decision**

The Cabinet agreed to note the report and Members provided feedback on the compliance statistics.

### **3. MENOPAUSE AND HORMONAL CONDITIONS POLICY**

A report was submitted by the Executive Director for Council Resources seeking endorsement of the Menopause and Hormonal Conditions Policy, following full employee and Trade Union consultation and Council Management Team approval.

The Head of Corporate Support, Morag Ferguson, presented the report. She outlined the background to the development of the policy and highlighted the significant interest and support shown by staff, managers and trade unions during the consultation, which had resulted in a number of suggested changes being incorporated into the final draft. She advised that the Council was one of the early adopters of a menopause and hormonal conditions policy, and that it had been designed to be as inclusive as possible, covering a range of debilitating symptoms of hormonal conditions and signposting staff to internal and external support. If approved, managerial guidance would be developed, and a formal launch of the policy would take place to coincide with World Menopause Day in October.

Ms Ferguson responded to questions from Councillor Akhtar and Councillor McIntosh. She acknowledged that there were challenges in delivering a policy across a range of services and different working environments. However, this policy had been designed to be flexible and to allow members of staff to agree with their managers the type and level of support required to meet their individual needs. All HR policies were kept under regular review as part of efforts to continue improving working environments for all staff. Ms Ferguson said that the Council had tried to develop the policy in as broad a way as possible and the training provided to managers would reflect this; avoiding making assumptions about who is affected by conditions such as menopause and encouraging a focus on individual circumstances. She said that the Council would be consulting with a range of organisations on the development of a standalone transgender policy and would welcome input from staff.

Councillor Akhtar welcomed the policy and emphasised the importance of having a supportive and inclusive working environment. She said that menopause was not always an easy transition, and it was important to encourage open discussion, where staff could ask for and receive support. She also welcomed the fact that the staff survey would include questions on the menopause.

Councillor Dugdale also welcomed the policy and the recognition of the mental and physical impacts of these conditions, especially as they affected a large proportion of the Council's workforce. She welcomed the inclusion of a range of conditions, and she hoped that this policy demonstrated the Council's commitment to its staff.

Councillor McGinn echoed his colleague's remarks. He emphasised the importance of having discussions around these issues and of ensuring that the policy is as effective as possible.

#### **Decision**

The Cabinet agreed, by roll call vote, to note and endorse the Menopause and Hormonal Conditions Policy.

### **4. ANNUAL PENSIONS REPORT 2022/23**

A report was submitted by the Executive Director for Council Resources summarising the early retirement activity within the financial year 2022/23, in accordance with External Audit requirements and Council Policy.

The Service Manager – People & Council Support, Paul Ritchie, presented the report. He drew Members' attention to the summary of the Council's retirement activity in the financial year 2022/23, its liability to pay deferred pension costs and ex gratia payments.

Responding to a question from Councillor McGinn, Mr Ritchie explained that flexible retirement allowed staff over 55 to partially retire and draw part of their benefits. He said it was not easy to predict the likely numbers in future years but there had been a slow increase as the age profile of the Council's staff had come closer to this category.

The Executive Director for Council Resources, Sarah Fortune, responded to a question from the Convener. She advised that any application for flexible retirement required a business case and sign off by Finance colleagues. She agreed that there was a need for the Council to understand its ongoing financial liabilities in this respect but pointed out that flexible retirement could also offer opportunities for review and redesign of services going forward.

Councillor McMillan said that this was a complex issue which needed to be kept under review, and the report had helped to clarify the Council's commitments in this area.

The Convener agreed that this was an issue which should be monitored closely going forward.

### **Decision**

The Cabinet agreed to note the content of the report with regard to the pension activity in respect of early retirements in the financial year 2022/23.

## **5. ELC PROCUREMENT ANNUAL REPORT**

A report was submitted by the Executive Director for Council Resources informing Cabinet of East Lothian Council's Annual Procurement Report 2022-2023.

The Service Manager for Procurement, Transformation & Digital Portfolio, Michelle Coyle, presented the report. She outlined the background to the annual report for 2022/23 and the areas covered in the report. She drew attention to the higher than usual in-year spend on contracts awarded explaining that this was due to a higher spend on building and construction works. She highlighted how procurement activity had supported delivery of the Council Plan, including community benefits, and she outlined the cash savings and details of collaborative procurements, e.g., with Scotland Excel.

Ms Coyle responded to questions from Councillor McGinn, Councillor McMillan and Councillor Akhtar. She agreed to provide further details of work with third sector organisations. She outlined contract management procedures for monitoring payments between main and sub-contractors, and the arrangements in place to support local businesses to tender for non-regulated contracts (those under £50,000) and to access national frameworks. She indicated that the community wealth building plan would be coming forward shortly to support this approach and to provide more opportunities for local businesses.

In reply to further questions from Councillor Cassini and the Convener, she outlined the scoring mechanism and other procedures in place to measure environmental impact and sustainability. She also confirmed that best value would always be considered as part of the contract award. While prices were often fixed throughout the life of the contract, some included benchmarking to ensure the Council continued to receive best value. Any price increases were managed within the terms and conditions of the contract and minimised wherever possible.

Councillor McMillan commended the annual report noting that the Charter built on the Council's Values. He highlighted a forthcoming event which would allow businesses interested

in working in East Lothian the chance to find out more about the opportunities in the county and the support available from the Council.

Councillor Dugdale welcomed the annual report as a really important and interesting document. She highlighted the sustainable procurement duty placed on the Council and the East Lothian schools healthy and sustainable food provision which included locally and organically sourced products.

Councillor Forrest also welcomed the report and, as Housing Spokesperson, he was pleased to see that the procurement activity was supporting local businesses, while also ensuring the availability of quality materials for housing works.

The Convener welcomed the community benefits and job creation delivered through the procurement strategy. He said that the Council would continue to do all it could to support local businesses to secure contracts, and he noted the costs savings which were particularly welcome in the current financial circumstances. With this strategy in place, he hoped to see continued benefits for East Lothian in the future.

## **Decision**

The Cabinet agreed to note the report.

## **6. EAST Lothian CONSULTATIVE DRAFT LOCAL HOUSING STRATEGY 2024-29**

A report was submitted by the Executive Director for Place outlining the key elements of the consultative draft Local Housing Strategy 2024-29 and seeking approval to consult formally on this draft for an eight-week consultation period.

The Team Manager – Housing Strategy, Rebecca Pringle, presented the report. She outlined the background and content of the consultative draft LHS; the range of engagement which had taken place in last year and the range of stakeholders involved. She outlined plans for further consultation, which would include local events for stakeholders, staff and Elected Members. A range of impact assessments had been carried out, with an additional Health Impact Assessment to be completed with Public Health colleagues. Following the consultation, a revised strategy would be presented to Cabinet in January 2024 prior to its submission to the Scottish Government.

Responding to questions from Councillor Forrest, Ms Pringle said she was committed to making the engagement process as accessible as possible. The comments gathered to date had resulted in an overall vision and the next round of consultation would outline key challenges and why the Council was proposing the actions it had set out. The strategy would then be revised based on the feedback received. She acknowledged that the proposals were ambitious but necessary to support the Council's commitment to deliver affordable homes; and in particular the pressure for small and large homes, and for accessible houses.

Ms Pringle replied to further questions from Members. She confirmed that high level outputs from the recent census were expected shortly and would be taken into account in the final LHS. However, detailed figures would not be available until April 2024 and these would factor in the annual update of the LHS. She advised that there was a specialist team within the housing service to support Ukrainian refugees. No families had presented as homeless, and all were in private sector housing or were with sponsors.

She confirmed that the service worked closely with Health & Social Care Partnership colleagues to look at the need for accessible homes and to develop the appropriate level of

provision. She said that the Scottish Government required a wheelchair accessible housing target in the private sector, ensuring the affordable housing sector did not take the full weight of this need. The housing service would be working with planning colleagues through the development of LDP 2 to deliver this provision.

The Head of Housing, Wendy McGuire, replied to a question from the Convener. She advised that there were currently over 4000 people on the housing waiting list and over 400 people in temporary accommodation and she agreed to provide up-to-date figures to the Convener.

Councillor McMillan welcomed the report which he said demonstrated the professionalism and commitment of staff. He commented on the vision statement and aspirational goals for the next five years and commended the clarity of the consultation paper. He noted that good quality housing contributed so much to the health and wellbeing of individuals and communities.

Councillor Dugdale highlighted the role housing had for children and young people and welcomed the children's rights and screening impact assessment and the consultation around this aspect of the strategy.

The Convener commented on the importance of housing as a Council service. While significant development had taken place in every community, the demand on housing continued to grow, as did the need to deliver a range of housing types. This model supported the Council to deliver its own rented properties and to work with partners to deliver housing association and mid market rent properties. It allowed people who were unable to buy to gain a footing in the rental market. However, he said that the Council needed more financial support from government if it was going to meet demand and prevent more people being housed in temporary accommodation or becoming homeless.

Councillor Forrest endorsed Councillor McMillan's comments and welcomed the report. He said he was looking forward to attending local events to hear constituents' views and how they could feed these into the consultation.

## **Decision**

The Cabinet agreed, by roll call vote, to:

- i. Approve the consultative draft Local Housing Strategy 2024-29; and
- ii. Approve an eight-week consultation period from 13<sup>th</sup> September to 3<sup>rd</sup> November 2023, with a final document presented to cabinet in January 2024.

## **7. RENT CONSULTATION 2024/25**

A report was submitted by the Executive Director for Place seeking Cabinet approval to consult with Council tenants on a range of options in respect of a potential rent increase for 2024/25; setting out the continued changes impacting on the Council's investment programme; and explaining the context, legal position and rationale for this approach.

The Service Manager – Community Housing & Homelessness, James Coutts, presented the report. He outlined the background, context and rationale for the proposed consultation on rent increases. He said it was currently unclear whether any further amendments would be made to legislation relating to the rent increase cap, however, there had been an agreement reached with Scottish Government and CoSLA regarding local authority rent increases. AS a result of the continuing challenging financial circumstances for the Council, the intention was to consult tenants on 3 options for rent increases, as well as the potential impacts of each.

The consultation would run from early November to mid-December with the outcome presented to Council in February 2024.

Mr Coutts responded to questions from Councillor Forrest and Councillor Cassini. He confirmed that East Lothian's rents were the fourth lowest in Scotland and significantly lower than its neighbouring authorities. He acknowledged that the Council had decisions to make regarding investment in the modernisation programme and a reduction in the new build programme, which would result in detriment to tenants. While it was dependant on a range of factors, the proposed 5, 6 or 7% increase in rents would have the most acute impact on those outwith the benefits system, which was around 30-35% of tenants. He confirmed that there would be discussion with ELTRAP on how to frame the consultation document but that, in line with previous years, the proposed increases would be detailed in cash sums as well as percentages.

Replying to a question from the Convener, Ms Fortune explained that the Council's financial strategy had approved two limits for the Housing Revenue Account (HRA): a 40% debt to income ratio; and to keep a minimum of £1 million in reserves. She advised that exceeding the 40% limit would have a sustained impact on the Council's strategy for managing debt over the longer term. This would mean that a greater percentage of monies would be required to repay debt charges, leaving less to invest in existing and new housing stock and to support tenants.

Responding to a further question from the Convener, Ms McGuire advised that the funding benchmark had been reviewed last year and this had helped to bring local authority investment more in line with RSLs, although local authorities continued to receive £10-15,000 less.

Councillor Forrest thanked staff and ELTRAP and local housing tenants and residents' panels for their contributions to the consultation and noted its importance in supporting the work of housing teams going forward.

## **Decision**

The Cabinet agreed, by roll call vote, to:

- i. approve a consultation exercise with Council tenants on a range of potential rent increase options;
- ii. note the context, legal position and rationale for this approach;
- iii. note the modelling impacts as set out in paragraph 3.11 of the report; and
- iv. note that meaningful consideration of the consultation results are a key element in setting rents for 2024/25 and beyond.

## **8. INTRODUCTION OF CHARGING DEVELOPERS FOR THE PROVISION OF WASTE AND RECYCLING CONTAINERS TO NEW PROPERTIES**

A report was submitted by the Executive Director for Place setting out the proposal for introducing a charge to housing developers for refuse and recycling containers which are required for new properties.

The Service Manager – Transport & Waste, Bruce Moffat, presented the report. He outlined the background and detail of the proposed charges as set out in the report.

Responding to questions from Councillor Jardine and Councillor Akhtar, Mr Moffat advised that cost recovery was based on purchase price plus a small amount for delivery. The costs

had been kept on low side to make the Council's containers attractive to developers and to ensure their use of preferred containers. He added that while it was possible to provide specifications to developers for them to source their own products, it was preferred that they use the Council's containers. He indicated that the charges would be reviewed on an annual basis and would be dictated by manufacturer costs increases and controlled through procurement mechanisms, currently Scotland Excel.

Mr Moffat replied to further questions from Councillor McMillan and the Convener. He explained that regular updates on residential construction allowed his team to manage stock levels and that it was safer for the Council's collection vehicles if developers used the Council's containers.

Councillor McMillan thanked officers for bringing forward this report and emphasised the continuing need for the Council to look at all options available to address its ongoing financial challenges.

### **Decision**

The Cabinet agreed, by roll call vote:

- i. That a direct charge of £67.00 (exc VAT) per property, applicable to all future housing developers, be introduced to cover the supply and delivery of a full set of waste and recycling containers to new properties, with the exception of a brown bin for garden waste, which would be provided through an annual subscription service that properties must apply for separately.
- ii. That the charge would be payable when the developer applies for street naming and/or property numbering, this will be included in the application charge as part of the registration process. Once the property has been formally registered and the charge has been paid, the waste and recycling containers would be delivered to the developer on a call off basis for them to distribute to properties as they become occupied.

## **9. OPTIONS FOR EAST LoTHIAN'S CAR CHARGING ESTATE**

A report was submitted by the Executive Director for Place to review the independent evaluation by Cenex (a not-for-profit consultancy specialising in charging infrastructure) of the options for the future of the car charging network in East Lothian; and seeking Cabinet approval for its recommendations.

The Team Manager – Assets and Regulatory, Ian Lennox, presented the report. He outlined the background to the Council's EV network and the requirement to expand to meet increasing demand. He summarised the options brought forward as a result of the consultation work and the external grant funding required to put in place the preferred option.

Mr Lennox replied to questions from Councillor Jardine and Councillor McGinn. He confirmed that the majority of monies generated would be reinvested to pay for staffing and future proofing of the service. He agreed that communication would be key to the success of the service and would require a variety of methods including the involvement of area partnerships and public consultation. He added that this service was for the benefit of people who did not have the option to park and charge at home, and communicating information to them was an important consideration.

Councillor McMillan commended the professional and technical advice and said it was good to have reassurance around community engagement. He welcomed the work that had been done and the efforts to identify government and grant funding. He hoped that this would allow



the expansion of expertise and provision in a way that improved quantity and quality of service, while partnering with stakeholders and communities to address the climate change challenge.

Councillor McGinn agreed with Councillor McMillan. He said that the Council was ahead of game in this area but that it could not keep up the pace of change if it didn't take communities along with it. He welcomed the commitment to a communications strategy, acknowledging that officers were striving to do their best for local communities.

Councillor Akhtar also echoed her colleagues' remarks. She reflected that when looking at meeting agenda the Council was, as an authority, making significant contributions to the Programme for Government in areas such as tackling poverty through the local housing strategy, ensuring that procurement supported local communities and making the just transition to an electric future, and doing so in a way that was self-funding.

The Convener also concurred with these remarks. He reiterated that the Council was facing real financial challenges in meeting demands for services. Electric charging facilities was one area where the Council needed to work with partners to deliver future requirements and to seek different ways of doing things.

## **Decision**

The Cabinet agreed, by roll call vote, to:

- i. approve the recommendation to fully investigate leveraging the Council's existing charging assets to attract the best private investment available in the network, while retaining sufficient control over locations, pricing and access; and
- ii. approve the production and publication of a detailed Electric Vehicle Infrastructure strategy.

## **10. VARIOUS ROADS EAST LOTHIAN, INTRODUCTION AND AMENDMENTS TO TRAFFIC REGULATION ORDERS, SEPTEMBER 2023**

A report was submitted by the Executive Director for Place seeking Cabinet approval of the statutory procedures necessary to make and amend various Traffic Regulation Orders (TROs) to prohibit waiting, loading and unloading, introduce new speed limits, Quiet Roads NCN 76 Haddington and close off a lay-by.

Mr Lennox, presented the report, advising Members of further changes required to existing TROs and the introduction of new TROs relating to parking and speed restrictions, as set out in appendices to the report.

Responding to questions from Councillor Jardine and Councillor Cassini, Mr Lennox advised that the ban on overnight parking in beach car parks had been put in place to address camping in unauthorised areas. However, he acknowledged that there could be unintended consequences from restrictions and a review of car parking and restrictions, in the round, would be undertaken at the end of the season. He stated that while the Council did not use CCTV for enforcement, it did have a very proactive team of mobile patrol officers who targeted areas where new restrictions had come into force.

In response to a further question from Councillor Akhtar, Mr Lennox outlined the process and timeframe for the introduction of TROs, including a period for public consultation, and said that, on average, it took 6 months to complete.

Councillor McMillan welcomed the report but observed that so much of what had been discussed would depend on the behaviour and attitudes of drivers and other road users. These measures would promote safety but he urged people to think and drive carefully. He noted that many of the restrictions would be welcomed by community councils; and he welcomed the proposals.

Councillor Dugdale said she was pleased to see a plan for double yellow lines on Winton Place in Tranent, which would assist those using the dropped kerb.

Councillor McGinn echoed Councillor Dugdale's remarks about the use of dropped kerbs and said he was delighted to see proposals for a TRO which came about because of an issue raised by a young person within his Ward.

Councillor Forrest welcomed the proposed restrictions in Musselburgh and said it was important for people to park sensibly to help ensure the safety of pedestrians and cyclists.

The Convener agreed that the Council should do whatever it could to make communities safer and these restrictions would help to do that. Commenting on coastal parking restrictions, he acknowledged that these could have implications elsewhere for communities and he noted that a review of the restrictions would be taking place. He added that the Council had to find ways of accommodating visitors while protecting sensitive sites.

### **Decision**

The Cabinet agreed, by roll call vote, to approve the statutory procedure necessary to initiate, consider any objections and make or amend Traffic Regulation Orders in accordance with the relevant legislation in respect of locations and proposals listed in the appendices to the report.

### **SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION**

The Cabinet agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

#### **Mid-Market rent Proposal – Hallhill North**

A private report submitted by the Executive Director for Place regarding a Mid-Market Rent proposal at Hallhill North was approved.