

**Resignation of Councillor Peter Boyes****Report by Kenneth Lawrie, Chief Executive****1 Purpose of Report**

In my capacity as proper officer for receiving resignations of Midlothian Councillors, I have today (Monday, 11 August 2014) received the attached letter from Councillor Peter Boyes, advising of his resignation from Midlothian Council due to ill health. This report advises of the arrangements to fill the resulting casual vacancy.

**2 Background****2.1** In terms of section 34 of the Local Government (Scotland) Act 1973:-

“A member of a local authority may, at any time, resign his office as member by a notice in writing signed by him and delivered to the proper officer of the authority, and his resignation shall take effect upon the expiration of three weeks after the date of delivery of the notice or upon such earlier date, if any, as may be stated in the notice as the date on which the resignation is to take effect.”

**2.2** After allowing for the three week period referred to at paragraph 2.1 above, this means that the date from which the vacancy will be deemed to have occurred for the purpose of filling the resulting casual vacancy will be Tuesday, 2 September 2014.**2.3** Section 37(1) of the Local Government (Scotland) Act 1973 also states that:-

“On a casual vacancy occurring in the office of councillor, an election to fill the vacancy shall be held within three months from the date on which the vacancy is deemed to have occurred, and the day on which the poll is to be held at the election to fill the vacancy shall be fixed by the returning officer.”

**2.4** Therefore, the election to fill the resulting vacancy will require to be held on or before Tuesday 2 December 2014.**2.5** In terms of the normal timetable for holding a by-election and the logistics for doing so, it will not be possible to combine the by-election to fill the casual vacancy created by Councillor Boyes' resignation with the forthcoming Scottish Independence Referendum on Thursday 18 September 2014. Accordingly, as returning officer, I will consider the matter and determine a suitable date.**3 Report Implications****3.1/**

**3.1 Resource**

There will be a very modest saving in the elected members' remuneration budget for the period between the resignation taking effect and the casual vacancy being filled.

**3.2 Risk**

There are no risk issues arising directly from this report. However, democracy and governance will best be served by having the full complement of 18 councillors elected to serve on Midlothian Council.

**3.3 Single Midlothian Plan and Business Transformation**

Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child
- ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☐ Business transformation and Best Value
- ☒ None of the above

**3.4 Key Priorities within the Single Midlothian Plan**

Not applicable.

**3.5 Impact on Performance and Outcomes**

Not applicable.

**3.6 Adopting a Preventative Approach**

Not applicable.

**3.7 Involving Communities and Other Stakeholders**

Not applicable.

**3.8 Ensuring Equalities**

Not applicable.

**3.9 Supporting Sustainable Development**

Not applicable.

**3.10 IT Issues**

Not applicable.

**4 Recommendation**

The Council is invited to note:-

- (a) the resignation of Councillor Peter Boyes, effective from 2 September 2014; and
- (b) that the date of the resulting by-election will be fixed by the returning officer.

**11 August 2014**

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