

# Minute of Meeting

Midlothian Council  
Tuesday 27 February 2024  
Item No 5.1



## Midlothian Council

Date	Time	Venue
Tuesday, 19 December 2023	11:00 am	Council Chambers, Midlothian House/Hybrid

### Present:

Provost McCall (Chair)	Depute Provost Bowen
Councillor Parry (Council Leader)	Councillor Cassidy (Depute Council Leader)
Councillor Alexander	Councillor Curran
Councillor Drummond	Councillor Imrie
Councillor McEwan	Councillor McKenzie
Councillor McManus	Councillor Milligan
Councillor Pottinger	Councillor Russell
Councillor Scott (virtual)	Councillor Smail
Councillor Winchester	Councillor Virgo

### Religious Representatives:

Anne-Theresa Lawrie	Elizabeth Morton
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### In attendance:

Dr Grace Vickers, Chief Executive	Kevin Anderson, Executive Director Place
Morag Barrow, Director of Health & Social Care: Midlothian HSCP / Chief Officer to Midlothian IJB	Fiona Robertson, Executive Director Children, Young People & Partnerships
Alan Turpie, Legal and Governance Manager / Monitoring Officer	David Gladwin, Chief Financial Officer (Section 95 Officer)
Derek Oliver, Chief Officer Place	Saty Kaur, Chief Officer Corporate Solutions

Joan Tranent, Chief Officer Children's Services, Partnerships and Communities	Fiona Clandillon, Head of Development
Michelle Strong, Education Chief Operating Officer	Myra Forsyth, Continuous Improvement Manager
Claire Gardiner, Audit Scotland, External Auditors (Virtual) (Left at 11:23am)	Lynn Cochrane, Communications Team Leader
Gordon Pollock, Project Director Zero Waste Edinburgh and Midlothian	Gary Leadbetter, Democratic Services Officer
Lucy Roddie, Democratic Services Officer	Janet Ritchie, Democratic Services Officer

## **1. Welcome and Apology for Absence**

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The Provost welcomed everyone to this meeting of the Midlothian Council. A choir from King's Park Primary School was noted as being in attendance to sing Christmas carols, which they went on to do and were subsequently applauded before leaving the meeting.

The Provost advised that this meeting was open to the public and would be webcast live.

The Provost informed the meeting that this was the last meeting that Elizabeth Morton, Religious Representative, would be attending and wished them all the best in their retirement from Midlothian Council duties.

## **2. Order of Business**

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The Monitoring Officer, advised that per Standing Order 7.8, notices of meetings, which specifically includes the reports and reports to be considered, are to be published not less than 3 working days before the meeting. Reports were issued on Friday, 15 December 2023, for Items 8.1, 9.4 and 9.5 which therefore did not meet the test. In terms of Standing Orders, the Chair (the Provost) has the final decision as to whether the Items should be allowed as urgent business.

The Provost confirmed that Item 8.1 would be accepted as urgent business, but after consultation with the Group Leaders, prior to the meeting, chose not to accept Item 9.4 or Item 9.5.

Discussion from Members - It was raised that whilst Item 8.1 was circulated around Elected Members previously for the purposes of other Committees, there were then changes to this report before it was issued for the purposes of this meeting. It was raised that not enough time was provided to Elected Members to fully read and digest reports and papers prior to the meeting. It was requested that the number of reports and papers coming before the full Council meetings is controlled going forward, and that the Council Leader and the Chief Executive review this.

The Council Leader agreed with the above and stated that they had spoken with the Chair of the Standing Orders Working Group on this matter to determine if there is a way to formalise this and ensure Elected Members have sufficient time to consider reports and papers.

### **3. Declarations of interest**

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No declarations of interest were intimated at this stage of the proceedings.

### **4. Deputations**

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None received.

### **5. Minutes of Previous Meetings**

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Item No.	Report Title	Submitted by:
5.1	Minute of Meeting of Midlothian Council 21 November 2023	Executive Director Place
<b>Outline and Summary of Discussion</b>		
The Minute of Meeting and Private Addendum of Midlothian Council held on 21 November 2023 was submitted and approved as a correct record.		
Councillor Parry moved. Councillor McManus seconded.		
<b>Decision</b>		
Minute of Meeting and Private Addendum of Midlothian Council held on 21 November 2023 was approved.		
<b>Action</b>		
Democratic Services		

Item No.	Report Title	Submitted by:
5.2	Minute Volume Index	Executive Director Place
<b>Outline and Summary of Discussion</b>		
The following minutes were previously circulated to Elected Members and subsequently noted and/or the recommendations contained therein approved:		
<ul style="list-style-type: none"><li>• Minute of Police, Fire and Rescue Board of 21 August 2023</li><li>• Minute of Local Review Boady of 25 September 2023</li><li>• Minute of General Purposes Committee of 3 October 2023</li><li>• Minute of Cabinet of 24 October 2023</li><li>• Minute of Planning Committee of 31 October 2023</li></ul>		
Moved by Councillor Parry. Seconded by Councillor Cassidy.		

<b>Decision</b>
Minute Volume Index noted.
<b>Action</b>
Democratic Services

Item No.	Report Title	Submitted by:
5.3	Action Log	Executive Director Place
<b>Outline and Summary of Discussion</b>		
It was requested that Action 4 – Capital Plan Prioritisation, remain open.		
<b>Decision</b>		
The Action Log was noted, with all actions recommended for closure to be closed except Action 4 which remains open.		
<b>Action</b>		
Democratic Services		

## 6. Questions to the Leader of the Council

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None received.

## 7. Motions

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None received.

## 8. Reports

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Report No.	Report Title	Submitted by:
8.1	Annual Audit Report to Members and the Controller of Audit – year ended 31 March 2023	Audit Scotland, External Auditors, and Chief Financial Officer & Section 95 Officer
<b>Outline and Summary of Discussion</b>		
<p>The Chief Financial Officer &amp; Section 95 Officer introduced the report and explained that Claire Gardiner, Audit Scotland, would present the report. Midlothian Council has primary responsibility for ensuring the proper financial stewardship of public funds. This includes preparing annual accounts that are in accordance with proper accounting practices. This report summarises the findings from the 2022/23 annual audit of Midlothian Council. The scope of the audit was set out in an annual audit plan presented to the June 2023 meeting of the Audit Committee.</p> <p>The Annual Audit Report comprises:</p> <ul style="list-style-type: none"> <li>Significant matters arising from an audit of Midlothian Council's annual accounts.</li> </ul>		

- Conclusions on the following wider scope areas that frame public audit as set out in the Code of Audit Practice:
  - Financial Management
  - Financial Sustainability
  - Vision, Leadership, and Governance
  - Use of Resources to Improve Outcomes
- Conclusions on Midlothian Council's performance in meeting its Best Value duties.

Claire Gardiner highlighted that Audit Scotland issued a clean audit opinion in October 2023 and the accounts were signed at that point to meet publication deadlines. Claire Gardiner noted that there were some significant adjustments made to the accounts, with the most significant being in relation to treatment of unfunded pensions, following the application of the asset ceiling which related to the unusual event of having a pension fund surplus.

Claire Gardiner further highlighted that there are ongoing challenges in relation to financial sustainability. In particular, it was noted that although reserves are increasing, a significant proportion of these is earmarked for specific purposes and therefore not necessarily usable.

The Provost thanked the Chief Financial Officer and Claire Gardiner for the report and opened it up to questions.

Councillor Parry thanked the External Auditors, the Chief Financial Officer, finance team and all Council Officers for the tremendous amount of work that was undertaken to complete the annual audit.

#### Decision

Elected Members noted the Annual Audit Report.

#### Action

Claire Gardiner, External Auditor, Audit Scotland, left the meeting at 11:23am.

Report No.	Report Title	Submitted by:
8.2	Treasury Management Mid-Year Review Report 2023/24	Chief Financial Officer & Section 95 Officer
Outline and Summary of Discussion		
<p>The Chief Financial Officer &amp; Section 95 Officer presented the report. The purpose of this report is to inform Council of the Treasury Management activity undertaken during the first half of 2023/24 and the forecast activity for the second half of 2023/24 in accordance with the Treasury Management and Annual Investment Strategy approved in February 2023. It also provides an update to the Treasury and Prudential Indicators for 2023/24. Council should note that in accordance with the Prudential Code, a draft of the report was considered by Audit Committee on 5 December 2023, with the report approved by Audit Committee as presented.</p> <p>Council is recommended to:</p>		

- a) Note the report and the treasury activity undertaken in the period to 30 September 2023, as outlined in Section 5;
- b) Note the actual and forecast activity during the second-half of the year as outlined in Section 6;
- c) Approve the technical revisions to the Prudential Indicators in Section 7 of this report;
- d) Note the loans fund rate performance relative to other Scottish Local authorities, as outlined in Section 8, and the cash saving (compared to the Scottish Average) that the Treasury Management function brings to support the Council's in-year revenue budget.

The Provost thanked the Chief Financial Officer for the report and opened it up to questions.

Councillor Parry thanked the Chief Financial Officer and the finance team for the work undertaken on the activities outlined.

Councillor Parry moved the report. Councillor Cassidy seconded.

#### Decision

Recommendations, as outlined above, were approved in full.

#### Action

Chief Financial Officer & Section 95 Officer

Report No.	Report Title	Submitted by:
8.3	Medium Term Financial Strategy 2024/25 – 2028/29	Chief Financial Officer & Section 95 Officer
Outline and Summary of Discussion		
<p>The Chief Financial Officer &amp; Section 95 Officer presented the report. This report provides Council with an update on development of the 2024/25 revenue budget, building on the report presented to Council on 10<sup>th</sup> October 2023 and looking ahead to Member engagement early in 2024 culminating in Council setting a balanced budget on Tuesday 27<sup>th</sup> February 2024. Key messages from recent UK and Scottish Government fiscal events are outlined along with the possible implications of these on the Scottish Government Budget for 2024/25 which is scheduled for Tuesday 19<sup>th</sup> December 2023. Recent developments relating to Employers Pension contributions for all groups of workers is discussed and the implications of these will be reflected in the projected 2024/25 base budget position and the remainder of the existing MTFS.</p> <p>Council is recommended to:</p> <ul style="list-style-type: none"> <li>a) Note that the Business Transformation Steering Group (BTSG) will continue to consider necessary measures to support delivery of a balanced Medium Term Financial Strategy (MTFS) before any policy recommendations are presented to Council.</li> <li>b) Note that the financial outlook remains challenging for this term of Council and recall the recommendation in the External Auditors report in 2022 that <i>“as a matter of urgency, officers and elected members need to work together</i></li> </ul>		

*to develop and agree the medium-term financial strategy and progress the Council's transformation plans".*

- c) Note that the projected budget gap for 2024/25, as presented to Council on 10<sup>th</sup> October 2023, incorporating planned use of service concession retrospection was projected to be £7.272 million, rising to a projected £34.677 million by 2028/29.
- d) Note the position relating to the UK Government's Autumn Statement and the expected impact on the Scottish Budget.
- e) Note the update on Employer Pension contributions.
- f) Otherwise, note the remainder of the report.

The Provost thanked the Chief Financial Officer for the report and opened it up to questions.

Discussion from Members - it was requested that briefing sessions are set up in January, on a cross-party basis, to look at the financial settlement and the capital plan prioritisation.

It was stated that consideration should be given to setting a target for when decisions on the capital plan prioritisation need to be taken and noted that a decision was needed on the capital plan prioritisation before a budget can be set.

It was stated that a lot of the budget is non-recurring funding and that it is important to clearly understand what the budget challenges are for this year and for future years.

It was stated that at the last Audit Committee there was a useful discussion on the lag between Midlothian's population increasing and the Scottish Government recognising this in terms of the payments received. The Chief Financial Officer was asked to speak to this, particularly in relation to when the settlement from the Scottish Government will catch up in real terms with the population increase. The Chief Financial Officer noted that some of the census data will be reflected in the calculation of the settlement, and that the expectation is that this will increase Midlothian's share. How this relates to the floor is unclear. The Chief Financial Officer noted that another increase is expected in 2024/25 when the rest of the census data is reflected.

The Council Leader noted that they recently sent a letter to the Deputy First Minister making representations on this matter.

#### Decision

- Elected Members noted the report.
- Briefing Sessions on financial settlement and capital plan prioritisation to be set up in January.

#### Action

Chief Financial Officer & Section 95 Officer

Report No.

Report Title

Submitted by:

8.4	Non-Domestic Rates Relief Policy	Chief Officer Corporate Solutions
<b>Outline and Summary of Discussion</b>		
<p>The Chief Officer Corporate Solutions presented the report. Following the devolvement of powers to Local Authorities, from 1 April 2023 Midlothian Council can change its existing policy to potentially generate more revenue. This report sets out the proposal for a revised policy effective from 1 April 2024.</p> <p>Council is recommended to agree to implement the new policy with effect from 1 April 2024.</p> <p>The Chief Officer Corporate Solutions noted that Edinburgh Council administer the policy on Midlothian Council's behalf and their own policy has been changed, which may pose issues if Midlothian Council does not change their own.</p> <p>The Provost thanked the Chief Officer Corporate Solutions for the report and opened it up to questions.</p> <p>Councillor Parry moved the report. It was also requested that a review of the policy is undertaken in 6 months to 1 year to mitigate any unforeseen circumstances.</p> <p>Councillor McManus seconded the report.</p>		
<b>Decision</b>		
<ul style="list-style-type: none"> <li>• Recommendation, as outlined above, was approved in full.</li> <li>• Review of policy to be undertaken in 6 months – 1 year.</li> </ul>		
<b>Action</b>		
Chief Officer Corporate Solutions		

Report No.	Report Title	Submitted by:
8.5	Rent Pressure Zone	Executive Director Place
<b>Outline and Summary of Discussion</b>		
<p>The Executive Director Place presented the report. At the Council meeting held on 10 October 2023 members requested a report to be brought forward on rent pressure zones. To date, no Rent Pressure Zones (RPZ) have been established in Scotland despite several local authorities expressing interest in making use of the powers. Due to the level of data required to be submitted in a RPZ application local authorities have indicated that it may take several years to collate this evidence base. There is also a concern that the legislation does not sufficiently control rents as a RPZ would still allow increases above inflation and between tenancies changing.</p> <p>Council is recommended to note the report and to consider:</p> <p>a) if there is a requirement to progress additional work to establish a case for a Rent Pressure Zone as any administering of RPZ within Midlothian Council</p>		



- would require resource and potentially a software solution to be procured and configured, with resource implications to be assessed for full costings, or
- b) decide that there is no present requirement to progress further.

The Executive Director Place noted that, in addition to the details provided in the report, they can further advise Elected Members that the secondary legislation for the new rental control measures will be published after the New Housing (Scotland) Bill receives assent. This Bill is to deliver stronger rights for tenants, greater protection from eviction and a national system of rent controls for the private rented sector (PRS). All Local Authorities will be required to carry out mandatory PRS rent screening, regardless of whether rent control is required.

The Executive Director Place noted that, in this respect, the Scottish Government have contacted Midlothian Council to ascertain whether it would be interested in participating in a pathfinder project to test the initial PRS rent screening process. The Scottish Government would then fund a 6-month post to test the broad rental market area. Those findings would help form legislation and guidance for the initial screening stage of rent controlled measures. Some exploratory discussions have taken place with the Scottish Government in this respect and agreed tentatively that Midlothian Council may be interested in taking part, although further information is required before a final decision can be taken. The Executive Director Place explained that officers will meet with the Scottish Government again in the new year and that the Scottish Government are hoping to start the project in the early months of 2024.

The Provost thanked the Executive Director Place for the report and queried whether they should have submitted a declaration of interest, given that they are a registered private landlord in Midlothian. The Monitoring Officer explained that the Provost should have declared an interest and that they should excuse themselves for the remainder of this Item.

The Provost left the meeting. The Deputy Provost took over as Chair for the remainder of this Item.

Discussion from Members – it was queried whether there was an obligation to carry out profiling of PRS, which will potentially be funded by a government-funded post. It was queried if a decision on whether Midlothian Council should do an RPZ is dependent on understanding the profile of the PRS, then perhaps it is best to wait until this is undertaken before a decision is taken. The Executive Director Place noted that there is no current requirement in terms of existing legislation for RPZ or data collection in terms of rent control. The Executive Director Place clarified that the Scottish Government are offering a temporary funded post as part of the 6-month pilot pathway project, which in turn would allow Midlothian Council to establish the baseline information for Midlothian. Thereafter, funding this would likely default to the Local Authority.

It was raised that in the report, 4.1 states that authorities must provide a profile of the PRS. The Executive Director Place noted that once the legislation is passed, this will become a requirement, but it is not currently.

Councillor McKenzie moved recommendation B in the report. Councillor Curran seconded.

#### Decision

Recommendation B, as outlined above, was approved.

#### Action

Executive Director Place

The Provost rejoined the meeting and took back over as the Chair.

Report No.	Report Title	Submitted by:
8.6	Annual Road Works Performance Report 2022/23	Chief Officer Place
<b>Outline and Summary of Discussion</b>		
<p>The Chief Officer Place presented the report. The purpose of this report is to highlight the excellent performance of the Council's Roads &amp; Transportation team in relation to their statutory functions for the co-ordination of all road works on the Council's public road network, and to acknowledge the consistently high level of performance achieved from the perspective of the Scottish Road Works Commissioner. The latest Annual Performance Report 2022/23 for all 32 Scottish Local Authorities from the Scottish Road Works Commissioner shows that Midlothian Council's Roads &amp; Transportation Service has again achieved the top rating of "Well Managed" for the third year in a row.</p> <p>Council is recommended to note and welcome the contents of the report.</p> <p>The Provost thanked the Chief Officer Place for the report and opened it up to questions.</p> <p>Discussion from Members – it was suggested that further investment in the road services plan and maintenance is required, going forward.</p> <p>A question was raised whether Midlothian Council has ever considered using an identifying mark on potholes, if it has not been fixed immediately, to allow people to see it and understand that the Council are aware of it. The Chief Officer Place stated that they will take this away and look at this as part of the continuous improvement of road services and come back on this.</p> <p>The Provost noted that gritters are on the national programme and can be tracked, and queried whether the pothole pro can be put on the national programme to monitor it.</p> <p>It was raised that the public should report potholes on the Council website to get them fixed.</p>		
<b>Decision</b>		
<ul style="list-style-type: none"><li>• Elected Members noted the report.</li><li>• Consider identifying marks for potholes as part of the continuous improvement of road services.</li></ul>		

Action
Chief Officer Place

Report No.	Report Title	Submitted by:
8.7	Waste and Recycling Service Standards	Chief Officer Place

#### Outline and Summary of Discussion

The Chief Officer Place presented the report and outlined the salient points. The Chief Officer Place commended the Waste and Recycling Service team for their performance.

Council is recommended to approve the:

- i. adoption of the proposed Waste Service Standards and Waste Service Policies; and
- ii. acceptance of £2.2m grant funding offered by the Scottish Government's Recycling Improvement Fund, administered by Zero Waste Scotland.

The Provost thanked the Chief Officer Place for the report and opened it up to questions.

Discussion from Members – it was commented on the importance of contributing to achieving net zero targets and highlighted the possibility of creating income streams via waste recycling.

Councillor Alexander moved the report. Councillor Cassidy seconded the report, noting that the policies would become statutory in 2025.

In responding to a query from Members, the Chief Officer Place reported that changes to collection dates and opening times for recycling centres over the Christmas period were available on the Council website and communicated via social media.

It was queried if there were any plans to adopt vehicle registration recognition technology. The Chief Officer Place reported that a proposal would be brought forward for Elected Member consideration via the ongoing waste services transformation work.

Elected Members commended the team for their performance and gave thanks for their hard work.

#### Decision

Council approved:

- i. adoption of the proposed Waste Service Standards and Waste Service Policies; and
- ii. acceptance of £2.2m grant funding offered by the Scottish Government's Recycling Improvement Fund, administered by Zero Waste Scotland.

#### Action

Chief Officer Place
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Report No.	Report Title	Submitted by:
8.8	Fleet and Plant Asset Replacement Plan	Chief Officer Place
<b>Outline and Summary of Discussion</b>		
<p>The Chief Officer Place presented the report. This report details the on-going fleet and plant requirements and an accelerated replacement plan to deliver the Council's operational activities whilst aiming to ensure its fleet is modern, efficient and fit for purpose mitigating significant current maintenance liabilities.</p> <p>Council is recommended to note:</p> <ul style="list-style-type: none"> <li>i. an accelerated capital investment of £4.67m from existing and future fleet capital budget allocations, to address a funding gap of £3.51m, for 2023-25.</li> </ul> <p>The Provost thanked the Chief Officer Place for the report and opened it up to questions.</p> <p>Councillor Alexander moved the report.</p> <p>Discussion from Members – the acceleration of the capital investment was queried, in particular as to how this will allow operational planning if the funds are not there for future years at this moment in time, given that a lot of these vehicles are likely specialist with long lead-in times. The Chief Officer Place explained that this was to enable officers to mobilise the procurement of vehicles quickly to address the short-term impact currently being experienced on the revenue repairs budget. In terms of moving forward and returning to Council for additional capital allocation, this would be subject to the decisions made in relation to the Climate Action Plan.</p> <p>It was queried whether financing methods are open to the Council to reduce the depreciation risk of vehicles. The Chief Financial Officer noted that depreciation is not a primary concern, as the charges that hit the General Fund are through the Loans Fund. The Chief Financial Officer noted that it is the financing method that is more pertinent to the budget deliberations. The Chief Financial Officer noted that there are options to lease vehicles, also explaining that there is change in the accounting code for leasing that can effectively capitalise elements of the lease, and this is being looked at as part of the financing options for the piece of work being discussed.</p> <p>Concerns were raised in relation to whether the fleet will be sufficient to meet increased needs coming from the expansion of Midlothian through housebuilding, and whether the funds for expanding the fleet will be available, if needed. The Chief Officer Place noted that this would be looked at on a needs analysis and requests made through the appropriate internal governance arrangements, ultimately arriving at the capital plan and asset management board to then come back. As this would be additionality to the fleet as opposed to replacement, the Chief Officer Place explained that they would need to go through these channels to procure additional</p>		

vehicles. The Chief Officer Place further explained that the current need was to look at replacing fleet vehicles.

Councillor Cassidy seconded the report.

It was queried whether the long-term running cost of running electric refuse collection vehicles and net zero ambitions had been considered. The Chief Officer Place noted that the consideration right now was that vehicles need replaced now, as maintenance costs were unsustainable. The Chief Officer Place explained that they would return with the report on the future fleet, which would be aligned to climate action goals.

It was raised that the fleet budget had not been increased for many years, stating this is the reason this issue has arisen. It was queried whether it would be prudent to add additionality at this stage.

The Chief Financial Officer responded that Elected Members are free to increase any budget through an amendment or the processes in place to consider the Council's budgets. The Chief Financial Officer further explained that the work needs to be done quickly and whilst the budget could be increased, the solution is unknown and so more work would need to be done, which does not address the need to replace fleet vehicles now.

Councillor Milligan moved an amendment to the report to add £3.5 million additionality to the fleet capital budget allocation from the reserves, rather than drawing it forward. Councillor Imrie seconded.

A query was raised in relation to the purpose of the amendment, as opposed to agreeing to the recommendation outlined within the report. The Chief Financial Officer explained that their understanding of the amendment is that the fleet asset management replacement budget would be increased by a figure contained within the table at section 3.7, although clarity would need to be given on what figure. This would be to reflect the potential incoming cost.

It was suggested to take this matter to BTSG to map out some of the financial needs of how the fleet might change and look at how to address the funding gap. The Chief Officer Place welcomed this, although noted that there is a significant need for the current matter to progress to offset the ongoing revenue impacts on maintenance and hire costs. The Chief Officer Place explained that after this matter is dealt with, they could come back to BTSG with climate options to be able to discuss and look at future funding mechanisms.

Councillor Virgo moved an amendment that the matter about increasing fleet capacity should be brought back to BTSG. Councillor Smail seconded.

Councillor Alexander and Councillor Cassidy accepted Councillor Virgo's amendment and as such it became part of the substantive motion.

A vote was taken on the substantive motion (with Councillor's Virgo amendment included) and the amendment proposed by Councillor Milligan, with 11 votes for the motion and 7 votes for the amendment.

Decision
Recommendation, as outlined above, was approved, with the addition that considerations around increasing fleet capacity are brought to BTSG.
Action
Chief Officer Place

Report No.	Report Title	Submitted by:
8.9	Scottish Government Consultation Response - Education Reform: A Consultation on the provisions of the Education Bill	Executive Director Children, Young People and Partnerships
Outline and Summary of Discussion		
<p>The Executive Director Children, Young People and Partnerships presented the report. The purpose of this report is to advise Council on the consultation on the provisions of the Education Bill and how key stakeholders have informed the response on behalf of Midlothian Council.</p> <p>Council is requested to delegate authority to the Executive Director Children, Young People and Partnerships to submit the Education Reform Consultation Response to the Scottish Government, on behalf of Midlothian Council.</p> <p>The Provost thanked the Executive Director Children, Young People and Partnerships for the report.</p> <p>The Monitoring Officer noted that although the report has been included in the pack from the date of issue, the consultation response itself which is annexed to the report, was only circulated on the morning of the meeting. The Monitoring Officer explained that it would therefore need to be accepted for consideration as urgent business under standing order 7.8. The Chair accepted the consultation response as urgent business.</p> <p>Councillor Scott moved the report.</p> <p>Discussion from Members - concerns were raised around the inadequate timeline allowed to complete the consultation and that there was a discussion at the cross-party group that responding to this consultation would be delegated to the cross-party group. It was raised that the draft consultation response was submitted without any Elected Members having had sight of it until the morning of the meeting. It was requested that, in relation to where the new education authority would be located, the wording should not be to seek clarity but to seek assurance that it will remain within Midlothian.</p> <p>The Executive Director Children, Young People and Partnerships explained that, in regard to the cross-party group delegation point, they had advised that they would be seeking legal advice in terms of whether it was appropriate for cross-party group to sign off the response. The Executive Director Children, Young People and Partnerships explained that they were advised that report should come to Council and seek delegated authority to sign off the report.</p>		

Councillor Alexander seconded the report.

It was requested that officers feed back to the Scottish Government about the brevity of the consultation time. It was stated that it would have been preferable if the cross-party group had been advised about the legal advice received.

The Executive Director Children, Young People and Partnerships explained that the draft response had to be drafted quickly, as comments were able to be given up until the Wednesday/Thursday the week before this meeting. The Executive Director Children, Young People and Partnerships further explained that they had informed the Scottish Government about concerns with the brevity of the consultation period, although noted that they are mindful that parents, carers, staff and young people did participate in the national discussion. The Executive Director Children, Young People and Partnerships informed Elected Members that they had asked Head Teachers to work with their respective schools and submit individual school responses, and that they would follow up on this and confirm with Council that these have been submitted.

The Executive Director Children, Young People and Partnerships confirmed they would be happy to strengthen the language in the consultation response. The Executive Director Children, Young People and Partnerships also explained that there was no intent to exclude the cross-party group and explained that they seek every opportunity to engage with them and ensure their voice is heard.

It was also stated that there has been a larger scale consultation with a significant response to it.

It was queried what the legal impediment of circulating the draft response to the cross-party group was, stating that the draft response was submitted the previous day but circulated to Elected Members on the morning of this meeting. The Monitoring Officer explained that the legal impediment of the cross-party group signing this off was that the group is not a statutory body of the Council.

Councillor Drummond moved that the language in the draft response is changed to seek assurances that the qualifications authority would remain in Midlothian. Councillor Pottinger seconded.

#### Decision

- Recommendation, as outlined above, was approved with the addition that the language in the consultation response should be strengthened to seek assurances that the qualifications authority would remain in Midlothian.

#### Action

Executive Director Children, Young People & Partnerships

The Provost adjourned the meeting at 13:00pm for lunch and reconvened the meeting at 13:20pm.

Report No.

Report Title

Submitted by:

8.10	Attainment Update for Midlothian in Primary and Secondary schools	Education Chief Operating Officer
<b>Outline and Summary of Discussion</b>		
<p>The Education Chief Operating Officer presented the report. The purpose of this report is to present the annual update on attainment for Midlothian on two key datasets: Achievement of Curriculum for Excellence Levels (ACEL) and Senior Phase Insight update. The Education Chief Operating Officer highlighted the salient points and noted there had been some improvement in attainment for most year groups for 2022/23 in comparison to last year and pre-pandemic levels. The Education Chief Operating Officer reiterated Midlothian Education Service's commitment to raising attainment for all learners. The Education Chief Operating Officer reported that an Elected Member briefing was planned for January 2024.</p> <p>Council is recommended:</p> <ol style="list-style-type: none"> <li>to note the progress, strengths and improvements of our children and young people's attainment in both primary and secondary schools as outlined in this Report.</li> <li>to note and acknowledge the strategies adopted to address areas for continuous improvement outlined in this Report.</li> <li>to congratulate all pupils, parents and staff on the significant improvements in attainment and achievement during session 2022/23.</li> </ol> <p>The Provost thanked the Education Chief Operating Officer for the report and opened it up to questions.</p> <p>Discussion from Members – Congratulations was extended to all parents, pupils and staff for the improvements in attainment and achievement during 2022/23, highlighting the context of the Covid-19 pandemic, cost of living crisis, the significant number of children living in poverty and the extensive waiting lists for access to child mental health support. It was noted that measures of attainment should not be based solely on academic performance. It was commented that leaving school at 16 may be appropriate for some young people and noted that it was possible to return to education in later life. It was suggested a longitudinal study from Primary 1 through to leaving school would be a useful indication of attainment.</p> <p>There was positive comments on improvements made but also concerns regarding Midlothian's performance against comparators.</p> <p>It was reported that recent school visits that had been undertaken by Elected Members had been overwhelmingly positive. It was commented that further work was required to improve parent engagement. It was acknowledged that there was room for improvement but there was confidence that appropriate strategies were in place to achieve this.</p> <p>It was queried whether any tangible impact on reducing the attainment gap had been identified in relation to the Council's investment in digital technologies. In response, the Education Chief Operating Officer commented that the Council was reaping the rewards of investment in digital technologies. A number of inspections across both primary and secondary schools had commended the use of digital technologies and digital skills within the classroom. The Education Chief Operating</p>		



Officer spoke about the Council's ongoing investment in accessibility tools, such as Read and Write, to assist young people in overcoming literacy barriers. The Education Chief Operating Officer reported that the Read and Write tool had been rolled out to all families free of charge in October 2023, with high uptake.

In response to a comment from Elected Members regarding the reduction in attainment in S5 and S6, the Education Chief Operating Officer acknowledged further improvement was required and commented that scrutiny was being given to available datasets, including the correlation between attendance and performance.

Comments were made on the relationship between attainment and home life and noted the impact of child poverty and the cost of living crisis, and on the importance of viewing attainment holistically and partnership working across services.

#### Decision

Council:

- i. noted the progress, strengths and improvements of our children and young people's attainment in both primary and secondary schools as outlined in this Report.
- ii. noted and acknowledged the strategies adopted to address areas for continuous improvement outlined in this Report.
- iii. congratulated all pupils, parents and staff on the significant improvements in attainment and achievement during session 2022/23.

#### Action

Education Chief Operating Officer

Report No.	Report Title	Submitted by:
8.11	Annual Procurement Report 2022/23	Legal and Governance Manager / Monitoring Officer
<b>Outline and Summary of Discussion</b>		
<p>The Legal and Governance Manager / Monitoring Officer introduced the report and outlined the salient points.</p> <p>Council is asked to:</p> <ol style="list-style-type: none"><li>i. note the Annual Procurement Report on regulated procurements during 2022/23 to be published on the Council's website; and</li><li>ii. note the current and planned strategy development and transformation activity for 2023/24.</li></ol> <p>The Provost thanked the Legal and Governance Manager for the report and opened it up to questions.</p> <p>Discussion from Members – it was commented that the Council could do more to benefit the community in relation to the awarding of contracts.</p>		
<b>Decision</b>		
Council:		

- i. noted the Annual Procurement Report on regulated procurements during 2022/23 to be published on the Council's website; and
- ii. noted the current and planned strategy development and transformation activity for 2023/24.

#### Action

Legal and Governance Manager / Monitoring Officer

Report No.	Report Title	Submitted by:
8.12	Rosewell to Auchendinny NCN 196 Pathway Upgrade	Chief Officer Place
<b>Outline and Summary of Discussion</b>		
<p>The Chief Officer Place introduced the report and outlined the salient points. The purpose of the report is to update Council on the outcome of the public consultation and next steps to progress the upgrade of the Rosewell to Auchendinny NCN 196 Pathway.</p> <p>Council is recommended to note:</p> <ul style="list-style-type: none"> <li>i. the significant numbers of responses to the public consultation; and</li> <li>ii. the decision of Cabinet at its meeting of 28 November 2023 to approve the upgrade of the Rosewell to Auchendinny NCN 196 Pathway.</li> </ul> <p>The Provost thanked the Chief Officer Place for the report and opened it up to questions.</p> <p>Discussion from Members - the minute of Midlothian Council of 27 June 2023 was referred to and it was questioned whether when a public consultation had taken place that a further report was to be brought back to Midlothian Council for decision. It was suggested that as the report presented to the meeting of Midlothian Council today was for noting, that due democratic process had not been followed.</p> <p>Councillor Milligan moved to reject the recommendations as outlined in the report and called for a full report to be brought back to the next meeting of Midlothian Council in February 2024. Councillor Imrie echoed Councillor Milligan's concerns and seconded the motion.</p> <p>It was highlighted that the report had been presented to Cabinet and could have been 'called-in' to the Performance Review and Scrutiny Committee in accordance with the Council's Scheme of Administration.</p> <p>Councillor Parry, seconded by Councillor Alexander, moved the report. The importance of moving the project forward for the benefit of Midlothian's residents was raised.</p> <p>In response to a request for clarity on the governance position, the Monitoring Officer reported that at the meeting of Midlothian Council of 27 June 2023, Elected Members had approved a public consultation with a further report to be presented to a future meeting of Midlothian Council. The minute of the meeting of Midlothian</p>		

Council of 27 June 2023 was approved at the meeting of Midlothian Council on 29 August 2023. The minute as approved does not specifically retain the final decision to Council. The Monitoring Officer explained that the meeting webcast had been reviewed and confirmed that there was no specific reference to the report being brought back to Council for decision. As per the Council's Scheme of Administration, it is the remit of Cabinet to make decisions such as this. The outcome of the consultation was duly presented to the meeting of Cabinet on 28 November 2023. It is therefore the governance position that the wording of the minute of the meeting of Midlothian Council of 27 June 2023 does not specifically retain the decision making to Council, but rather that the outcome would be reported to Council. The reference to Cabinet was therefore competent.

It was suggested establishing a cross-party working group to review governance processes.

Councillor Milligan, seconded by Councillor Imrie, moved to reject the recommendations as outlined in the report and called for a full report, including options, to be brought back to the next meeting of Midlothian Council.

On an amendment to the motion, Councillor Parry, seconded by Councillor Alexander, moved to note the report.

On an amendment to the motion, Councillor Virgo, seconded by Councillor Parry, moved to note the report and to add a further recommendation, namely, that a cross-party working group be established to review governance processes. Councillor Alexander accepted Councillor Virgo's amendment and as such it became part of the substantive motion.

The Monitoring Officer confirmed that the amendment was competent, citing Standing Order 12.1, which states:

*When the minutes of a Committee come before the Council it shall be competent for the Council, in respect of any matter referred but not delegated, to change that decision or refer the matter in whole or in part back to the Committee for further consideration.*

On a vote being taken, 9 Elected Members voted for the motion and 9 Elected Members voted for the amendment. The Monitoring Officer advised that, in accordance with Standing Order 11.2 (iv), the Chair (the Provost) would have the casting vote. The Chair (the Provost) voted for the amendment. This then became the decision of the Council.

#### Decision

Council:

- i. noted the significant numbers of responses to the public consultation; and
- ii. noted the decision of Cabinet at its meeting of 28 November 2023 to approve the upgrade of the Rosewell to Auchendinny NCN 196 Pathway; and
- iii. agreed to establish a cross-party working group to review governance processes.

Action
Chief Officer Place

The Public section of the meeting concluded at 14:16pm.

## 9. Private

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### Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Committee agreed that the public be excluded from the meeting during discussion of the undernoted item, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraphs 3, 6 and 14 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

- 9.1 Midlothian Energy Limited – Business Plan 2024-28, report by Executive Director Place
- 9.2 Acquisition of Land for an All through School Campus in Shawfair Town Centre from Network Rail, report by Executive Director Place
- 9.3 A701 Relief Road and A702 Spur Road – Phasing, report by Executive Director Place

### Date of Next Meeting

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The next meeting will be held on Tuesday, 27 February 2024 at 11:00am.

The meeting concluded at 15:06pm.