

# Minute of Meeting



## Midlothian Council

Date	Time	Venue
21 March 2023	11.00 am	Council Chambers, Midlothian House

### 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	Councillor Smaill
Councillor Virgo	Councillor Winchester

### In attendance:

Dr Grace Vickers, Chief Executive	Kevin Anderson, Executive Director Place
Morag Barrow, Joint Director Health and Social Care	Fiona Robertson, Executive Director Children, Young People and Partnerships
Alan Turpie, Monitoring Officer	David Gladwin, Acting Chief Financial Officer (Section 95 Officer)
Joan Tranent, Chief Officer Children's Services, Partnerships and Communities	Fiona Clandillon, Head of Development
Derek Oliver, Chief Officer Place	Saty Kaur, Acting Chief Officer Corporate Solutions

Ross Neill, Democratic Services Team Leader (Minutes)
Hannah Forbes, Assistant Democratic Services Officer

### Religious Representatives:

## 1. Welcome and Apology for Absence

The Provost welcomed everyone to the meeting, advising that this meeting was a public meeting and would be webcast live. Democratic Services confirmed no apologies had been received.

## 2. Order of Business

Order of business as per the agenda.

## 3. Declarations of interest

No declarations of interest.

## 4. Deputations

None.

## 5. Minutes of Previous Meetings

Report No.	Report Title	Report by:
5.1	Minute of Council 21 February 2023 for approval	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
Moved by Councillor Parry Seconded by Councillor McKenzie		
<b>Decision</b>		
The Minute was unanimously approved and the Provost was authorised to sign as a true record of the meeting.		
<b>Action</b>		
None		

Report No.	Report Title	Report by:
5.2	Minute Volume Index Midlothian Council 21 February 2023	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<b>Meeting</b>		<b>Date of Meeting</b>
Audit Committee		07 February 2023
Cabinet		29 November 2022

Planning	10 January 2023
Local Review Body	23 January 2023
Midlothian Integration Joint Board	13 October 2022
Midlothian Integration Joint Board	15 December 2022
<p>Responding to matters arising from members in relation to Audit Committee, Mr Gladwin confirmed Midlothian Council was not exposed to any Swiss Banks.</p> <p>Moved Councillor Parry Seconded Councillor McKenzie</p>	
<b>Decision</b>	
N/a	
<b>Action</b>	
N/a	

Report No.	Report Title	Report by:
5.3	Action Log	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
Action log was agreed by all Councillors		
<b>Decision</b>		
All to note.		
<b>Action</b>		
N/a		

## **6. Questions to the Leader of the Council**

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None received

## **7. Notices of Motion**

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Report No.	Report Title	Report by:
7.1	Gorebridge and District Environmental Group [GADEG]	Councillor Scott and Councillor Bowen
<b>Outline of Report and Summary of Discussion</b>		
<p>The Motion was in the following terms:-</p> <p>Midlothian Council would like to thank Gorebridge and District Environmental Group [GADEG] for all their hard work since 2004 in litter picking in the Gorebridge area. Special thanks is given to Lorna and Bill Crook and to all the members of the</p>		

group who have kept litter picking in all weathers since 2014 when Mr Bill Innes the founder of the group retired.

The group have also been responsible for maintaining the Circular Walk around Gorebridge and although it is therefore with sadness Midlothian Council notes the group has recently dissolved, Midlothian Council notes with gratitude all they have done.

Councillors Scott and Bowen spoke to the terms of the Motion which was thereafter unanimously approved.

Members agreed unanimously to support the motion as outlined.

#### Decision

None.

#### Action

None.

## 8. Reports

Report No.	Report Title	Report by:
8.1	Appointment of Depute Provost of Midlothian	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<p>This report seeks the election of a replacement Depute Provost. It is understood that the Administration propose to nominate Councillor Bowen to the role. Should Councillor Bowen be appointed the Administration there would then be a number of consequent amendments, as detailed in paragraphs 3.2 and 3.3 of the report, to ensure there is no gap in the governance of the Council.</p> <p>Mr Anderson announced the resignation of Councillor McManus as Depute Provost.</p> <p>Councillor Parry nominated Councillor Bowen. Councillor Cassidy seconded the nomination.</p> <p>No further nominations.</p> <p>Councillor Bowen was appointed as Depute Provost.</p> <p>Councillor McManus thanked everyone for their support.</p>		
<b>Decision</b>		
<p>The Council agreed to :-</p> <ul style="list-style-type: none"><li>• note the resignation of Councillor McManus from the role of Depute Provost;</li><li>• appoint a replacement Depute Provost of Midlothian; and</li><li>• dependent on the identity of the new Depute Provost, consider the consequent appointments proposed by the Administration.</li></ul>		

Councillor Bowen unanimously appointed as Depute Provost

**Action**

Amend changes to Councillor responsibilities and membership of outside bodies – Democratic Services

Report No.	Report Title	Report by:
8.2	Midlothian Licensing Board – Appointment of Member	Executive Director Place

**Outline of Report and Summary of Discussion**

This report seeks the election of a replacement member of Midlothian Licensing Board to replace Councillor McManus who has had to resign following his appointment to the Newbattle Abbey College Trust.

Mr Anderson spoke to the report and invited members to nominate a replacement for the Licensing Board.

Councillor Parry nominated Councillor Cassidy.  
Councillor McKenzie seconded the nomination.

No further nominations.

Council Cassidy was appointed to the Licensing Board.

**Decision**

The Council agreed to :-

- note that Councillor McManus has had to resign from the Licensing Board; and
- elect a replacement member to the Licensing Board.

Councillor Cassidy appointed to the Licensing Board.

**Action**

Update Licensing Board membership – Democratic Services.

Report No.	Report Title	Report by:
8.3	Proposed Revised Schedule of Meeting Dates for August – December 2023	Executive Director Place

**Outline of Report and Summary of Discussion**

Good governance requires that the Council forward plan the dates of its governance meetings. The schedule of dates has been developed taking into consideration school holidays and this schedule is now presented to Council for approval.

Councillor Parry moved the report.  
Councillor Curran seconded.

#### Decision

The Council agreed to approve the schedule of meeting dates from August to December 2023.

#### Action

None.

Report No.	Report Title	Report by:
8.4	Fees and Charges 2023	Executive Director Place

#### Outline of Report and Summary of Discussion

This report details the fees and charges that the Council will implement from 1 April 2023.

Ms Kaur spoke to the report noting that normally this report would be issued with the Medium Term Financial Strategy, however it was delayed to this month to take account of the decisions made at February Council.

Members are asked to approve the recommendations as noted in the report, including the creation of a one year transition fund for gala days, increased parking charges and future income generation charges. Further reports will be presented to the Council in the future.

Councillor Milligan declared a declaration of transparency as he holds a public entertainment licence.

Councillor Parry moved the report and all of its recommendations.  
Councillor Cassidy seconded.

#### Decision

The Council agreed to:-

- Approve the fees and charges register with all changes to come into effect from 1 April 2023 (Appendix B), noting that the implementation date will be delayed for those at 3.11, 3.13, 3.14, 3.15, 3.17 and 3.18 for the reasons explained;
- Agree to the publication of the approved fees and charges register on the Council's website;
- Note the fees and charges that were agreed at Council on 21 February 2023 as part of the Medium Term Financial Strategy which are listed at 3.3;
- Note the supplementary information on implementation of the fees and charges agreed at Council on 21 February 2023 (as outlined in 3.4 – 3.12);

- Agree to establish a one year Transition Fund to support the increased licence costs for community events (as detailed in 3.5-3.7), and agree that this will be administered by the Executive Director Place;
- Agree to adopt the revised guidance from Scottish Ministers to increase the penalty charge notices to the prices detailed at 3.13 and 3.14;
- Agree to receive an events charging policy in Q2 2023/24 for consideration and approval as detailed at 3.17; and
- Agree to receive a sponsorship and advertising policy for consideration and approval in Q2 2023/24 as detailed at 3.18.

#### Action

Events charging policy to be presented to Council in Q2 2023/24 – Chief Officer Place  
 Sponsorship and advertising policy to be presented to Council in Q2 2023/24 – Chief Officer Place

Report No.	Report Title	Report by:
8.5	Covert Surveillance	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<p>This report is the requirement of the Investigatory Powers Commissioner's Office (IPCO) to advise the Council of covert surveillance actions in terms of the Regulation of Investigatory Powers (Scotland) Act 2000 ("RIPSA") by the Council during 2021 and 2022.</p> <p>Mr Anderson spoke to the report and the recommendations within, noting a significant reduction RIPSA authorisations.</p> <p>Councillor McKenzie moved the report.            Councillor Virgo seconded.</p>		
<b>Decision</b>		
The Council noted the terms of the report.		
<b>Action</b>		
None.		

Report No.	Report Title	Report by:
8.6	Mavisbank House	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<p>The purpose of this report is to update the Council on progress with the proposed restoration of Mavisbank House by The Landmark Trust.</p> <p>Mr Anderson spoke to the report and asked the Council to note the paper.</p>		

A discussion took place amongst members concerning the relationship of Mavisbank Trust and Landmark Trust. In response Mr Anderson and Ms Hay confirmed that both Trusts were different and the concordant continues and was reaffirmed in 2019.

Responding to further questions from members Mr Anderson confirmed that there would be no financial commitment and it was very unlikely that the Council would end up with ownership. Mr Turpie explained the Compulsory Purchase Order (CPO) and that the Landmark Trust are happy with the back to back agreements.

Councillor Cassidy moved the paper.

Councillor Alexander seconded adding that it would be a great asset to Midlothian.

#### Decision

The Council noted:-

- The Landmark Trust are pursuing the restoration of Mavisbank House as a two stage process, beginning with the purchase of the House and carrying out of works to secure the building as a “consolidated ruin”;
- This Landmark Trust project is considered viable in terms of the May 2012 Mavisbank Concordat, therefore the Council will use its compulsory purchase powers as set out in the Concordat if The Landmark Trust can secure the necessary funding;
- Costs incurred by the Council in carrying out the compulsory purchase process will be covered by The Landmark Trust; and
- The Council will continue to supply no financial support to The Landmark Trust restoration project at Mavisbank House.

#### Action

None.

Report No.	Report Title	Report by:
8.7	Tender Returns – Temporary Units (various)	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<p>To obtain governance for the provision of Modular Units for four primary schools and one high school in Midlothian, where capacity is projected to be exceeded by August 2023. Four of these will be procured through a direct acquisition following a competitive tender exercise, with the fifth to be rented over a period of 16 months.</p> <p>Ms Clandillon spoke to the paper that proposed the expansion the capacity of the schools noted (Kings Park, Woodburn, Rosewell and Roslin primary). There is no net cost to the General Services Capital Plan. Council was asked to delegate authority to the Executive Director Place to purchase the units.</p> <p>Councillors debated the merits of purchasing the units as opposed to leasing them, and they also queried developer contributions. Ms Clandillon responded to</p>		



questions confirming a 16 month short term lease was more economical than purchase for the fifth unit and also confirmed that some of the requirements are not covered by developer contributions.

Further discussion between members concerning whether a purchase as opposed to a lease would cause a delay in delivery. Ms Clandillon and Mr Anderson advised that the change from lease to purchase may cause a delay due to different tendering processes; however officers would explore the option to convert the leasing arrangement to a purchasing arrangement and action if feasible.

Councillor Parry moved the report.  
Councillor Cassidy seconded.

### Decision

The Council agreed to:-

- Note the requirement for Modular Units at King's Park Primary School, Roslin Primary School, Rosewell Primary School and Woodburn Primary School, to address projected capacity being exceeded in August 2023/24.
- Note the requirement for a Modular Unit at Lasswade High School, to address the requirement for suitable space for pupils with Additional Support Needs.
- Approve granting of delegated authority to Executive Director Place for acquisition of units up to value of £1.772 million, to finalise tender assessment to deliver best value to the Council for the acquisition of the units at King's Park Primary School, Roslin Primary School, Rosewell Primary School and Lasswade High School.
- Approve a capital expenditure budget of £1.998 million in the General Services Capital Plan for the acquisition and installation of the Modular Units at King's Park, Roslin and Rosewell Primary Schools, to allow the timely procurement and delivery of these units, with the budget value to be reduced accordingly following the completion of the tender assessment process;
- Note that the capital costs of £1.998 million for the acquisition of the Modular Units at King's Park, Roslin and Rosewell Primary Schools will be funded in full by the application of developer contributions for primary school provision in Rosewell, Dalkeith and Roslin, and thereby have no additional net cost implications for the General Services Capital Plan;
- Approve the allocation of a fully approved capital expenditure budget of £0.506 million for the Modular Unit at Lasswade High School, which will partially replace the current 'in principle' capital expenditure budgetary allocation for the provision of accommodation for ASN pupils at Lasswade High School of £1.333m in the General Services Capital Plan.
- Approve the proposed rental of the Modular Unit at Woodburn for the period August 2023 to December 2024, noting that the forecast rental costs are expected to be able to be funded in full by already received developer contributions for primary school provision in Dalkeith. A report will be brought back to Council to request a supplementary budget estimate for these rental costs in 2023/24 and inclusion in the base budget in 2024/25,

along with confirmation that these costs will be funded in full by developer contributions.

#### Action

Councillor visit to temporary units - Head of Development.  
To review unit purchases - Executive Director Place.  
To report back to Council to request a supplementary budget estimate for these rental costs in 2023/24 and inclusion in the base budget in 2024/25, along with confirmation that these costs will be funded in full by developer contributions – Executive Director Place.

Report No.	Report Title	Report by:
8.8	Midlothian Pupil Intake August 2023	Executive Director, Children, Young People and Partnerships

#### Outline of Report and Summary of Discussion

This report provides Council with an update on the enrolment of pupils and intake for the school session 2023/24. The report identifies a number of schools where there is pressure on school capacity and the need to apply intake limits to safeguard places for catchment children and to manage placing requests.

Ms Robertson spoke to the report referring to the modular units in the previous item. She added that since publication of the report there had been an increase to the intake of Dalkeith High School.

Members discussed various aspects of the report including the number of deferrals, the reasons behind them and the impact they have in the future. Ms Robertson confirmed that the policy has been adjusted and this takes into account community feedback on school placements, she added that there are on-going discussions with the Scottish Government concerning what age children should start primary school.

Councillors queried student figures for Beeslack and Penicuik schools. Dr Urquhart explained the figures in question and how students are split between schools.

Councillor Scott moved the paper.  
Councillor Parry seconded.

#### Decision

The Council agreed to :-

- The requirement to apply intake limits, as detailed in the report, at a number of schools in order to safeguard places for pupils to be able to attend their catchment school.

And to note :-

- The estimated intake figures for primary and secondary schools in Section 3, tables 1 – 3.

#### Action

None.

Provost adjourned the meeting at 12.07 pm

Meeting resumed at 12.20 pm

Report No.	Report Title	Report by:
8.9	Scottish Child Abuse Inquiry	Chief Social Work Officer and Chief Officer Children's Services, Partnerships and Communities

#### Outline of Report and Summary of Discussion

This report provides the background to, and remit of, the Scottish Child Abuse Inquiry. It covers the work in relation to the Inquiry that has been carried out to date by Midlothian Council. The Inquiry's proceedings, particularly the most recent phase focusing on local authority foster care. The findings in relation to the abuse of children in care for whom Midlothian Council and its predecessor bodies were responsible and actions being taken by Midlothian Council to respond effectively to the concerns and issues raised in the course of the Inquiry's proceedings.

Ms Tranent spoke to the report noting the amount of work involved and the exceptional work by Midlothian to contribute to the Inquiry.

Responding to questions Ms Tranent confirmed that Midlothian's local arrangements are to carry out 4 weekly visits to foster carers if on a supervision order, rather than the minimum 6 week visits (this is dependant if the placement is settled), and two unannounced visits are carried out per year to a foster care home from the supervising Social Worker.

Councillor Smail requested assurance that there are no data breaches under the General Data Protection Regulations (GDPR) or any other considerations for the confidentiality of anyone affected by the enquiry. Ms Tranent confirmed Midlothian follows all confidentiality and data protection requirements when submitting information to the inquiry.

Councillor Scott moved the report  
Councillor Virgo seconded

#### Decision

The Council agreed to :-

- Acknowledge the exceptional work undertaken by the independent social worker and legal team who worked tirelessly to bring together their findings from the reading of historical files and present our submission to the Scottish Child Abuse Inquiry

- Note the actions taken by Midlothian Council in response to the requirements of the Inquiry
- Agree to work arising from the evidence presented to the Inquiry and the concluding statements of Lady Smith, the Inquiry chair, in relation to foster care being taken forward as outlined below
- Receive a further report of any additional action needed to progress the findings of the foster care phase of the Inquiry when Lady Smith's findings are published

#### Action

Scottish Child Abuse Inquiry future update report - Chief Social Work Officer and Chief Officer Children's Services, Partnerships and Communities

Report No.	Report Title	Report by:
8.10	Midlothian Council Football Pitch Needs Assessment	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<p>The purpose of this report is for Council to note the revised football pitch needs across the county and the corresponding actions that are being taken by Council Officers.</p> <p>Mr Oliver introduced the report noting that the original assessment was presented in 2017 and the current report focused on the football assessment was requested in 2022. Mr Oliver confirmed that 76% of registered clubs responded. He also assured members that his team would work with all parties to progress pitch improvements and seek access to funding where possible.</p> <p>Councillors discussed the talented footballers within Midlothian and the need to use the pitches for all sports. All members noted the tireless work and contribution volunteers provide for all sports in Midlothian.</p> <p>Councillor Virgo announced a transparency declaration in relation to the volunteer football coaching he is involved with.</p> <p>Members discussed the possibility of using developer contributions and Sports Scotland funding to fund pitch renewals. Mr Oliver confirmed his team are always seeking funding opportunities, he added that some funding has strict criteria.</p>		
<b>Decision</b>		
The Council notes the Football Pitch Needs Assessment Report and actions that are currently being taken.		
<b>Action</b>		
None.		

Report No.	Report Title	Report by:
8.11	Gladhouse Reservoir - Clearway Order	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<p>The purpose of this report is to provide Council with feedback from partners on the Clearway Order implemented from April to October 2022, as an operational matter, and advise that a Clearway Order will be implemented from 3rd April to 1st October 2023.</p> <p>Councillor Cassidy declared an interest concerning his son's business. Councillor Virgo also declared an interest concerning his secondary area of employment. Both Councillor Cassidy and Councillor Virgo left the meeting for this item.</p> <p>Mr Oliver spoke to the report. He confirmed Scottish Water had funded a seasonal ranger and had a current planning application for a visitor carpark. He confirmed planning had received the tree survey report. He added that both Police Scotland and the Scottish Ambulance service were supportive of the carpark.</p> <p>Members discussed a number of issues including consultation with landowners but an apparent lack with the public. It was a suggestion the new powers be held in abeyance to allow a review of the sits use in a years' time.</p> <p>Councillor Alexander moved the report Councillor Drummond seconded the report</p>		
<b>Decision</b>		
<p>The Council :-</p> <ul style="list-style-type: none"> <li>• Notes the outcomes of the Clearway Order implemented from 11th April 2022 to 2nd October 2022;</li> <li>• Notes that a Clearway Order will be implemented from 3rd April 2023 to 1st October 2023 and will be published in early course.</li> </ul>		
<b>Action</b>		
None.		

Councillors Cassidy and Virgo returned to the Chamber at 1pm.

Report No.	Report Title	Report by:
8.12	Roads Operations	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<p>This report provides an update to roads maintenance policy. It seeks approval to embargo roadworks on certain designated traffic sensitive routes at times of expected high traffic volume, including holiday periods, such as Christmas. The report lays out Council's policy to repair road defects, including potholes, using the newly acquired equipment, Pothole Pro, to best effect. This report details the residential streets that have been resurfaced so far as part of a capital investment</p>		

programme, as previously approved at Council, to improve user safety and visual amenity of local areas, which has received positive resident feedback.

Mr Oliver introduced the report and invited questions.

Members welcomed the report and the new pothole repair vehicle. In response to queries pertaining to rural roads, clarification was provided by Mr Oliver on the category of repairs and response period. Members also discussed the impact utility companies have in Midlothian and the disruption temporary traffic lighting/management causes to the population. Mr Oliver confirmed that traffic management systems used by utility companies must comply with health and safety legislation.

Councillor Alexander moved the report.  
Councillor Cassidy seconded.

#### Decision

The Council agrees to:-

- Note the process and scope of designating embargoed road works on traffic sensitive roads;
- Note the recent investment in resources, including apprentices, to improve the efficiency and effectiveness of the Roads Operations team;
- Approve the Pothole Repair Policy, making fullest use of the new Pothole Pro equipment;
- Note the progress to date of the capital funded Residential Streets Resurfacing programme.

#### Action

N/a

Report No.	Report Title	Report by:
8.13	Midlothian Orbital Route - Case for Change & Preliminary Options Appraisal	Executive Director Place

#### Outline of Report and Summary of Discussion

This report is to provide Council with an update on the Midlothian Orbital Bus Scottish Transport Appraisal Guidance process by way of an executive summary on the Case for Change and Preliminary Options Appraisal stages.

Mr Oliver spoke to the paper before inviting questions.

Members acknowledged that since Covid restrictions bus companies have struggled to attract customers. Mr Oliver was asked if there would be further consultation to which he replied that there would not. He confirmed the exercise was now complete and the four corridors had been identified.

**Decision**

The Council notes the executive summary report detailing the outcomes from the Case for Change and Preliminary Options Appraisal stages of the Scottish Transport Appraisal Guidance (STAG) process.

**Action**

N/a

Report No.	Report Title	Report by:
8.14	Building Maintenance Service	Executive Director Place

**Outline of Report and Summary of Discussion**

This report is to seek Council approval for Policies to assist operational activity, specifically in Protective Services and Building Maintenance Service, and to protect the health and wellbeing of our tenants and the structural integrity of our assets.

Mr Oliver introduced the report noting the recommendations.

Members felt this report provided a good balance between tenant and Council responsibilities. Councillor Curran suggested that any white goods left by previous tenants, after successful safety tests, could be left for new tenants. Mr Oliver agreed to look into this.

Councillor McKenzie moved the paper  
Councillor Curran seconded.

**Decision**

The Council agrees to:-

- Approves the Repairs & Maintenance Service Standards
- Approves the Common Repairs Policy
- Approves the Minimum Let Standard
- Approves HRA cost recovery pest control treatments within domestic tenancies

**Action**

Investigate the possibility of transferring white goods from departing tenants to new tenants – Chief Officer Place

Report No.	Report Title	Report by:
8.15	Beeslack CHS and Penicuik HS, Learning Estate Investment Programme (LEIP)	Executive Director Place
<b>Outline of Report and Summary of Discussion</b>		
<p>To update to Midlothian Council on the status of the LEIP National Programme and also the local priority projects from the previously approved Learning Estate Strategy.</p> <p>Mr Anderson spoke to the paper noting that there would be an elected member seminar to be scheduled at the earliest opportunity</p> <p>Councillor Parry moved the report. Councillor Scott seconded.</p>		
<b>Decision</b>		
The Council agree to convene an Elected Member Seminar for an update presentation in respect of the Learning Estate Investment Programme (LEIP) and specifically the funded projects in Midlothian.		
<b>Action</b>		
Arrange a LEIP Seminar – Executive Director Place		

Public section of the meeting concluded at 1.40 pm

## **9. Private**

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No business to discuss

## **Date of Next Meeting**

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The next meeting will be held on Tuesday 9 May 2023 at 11am