

MINUTES of MEETING of the MIDLOTHIAN COUNCIL CABINET held in the Council Chamber, Midlothian House, Buccleuch Street, Dalkeith on Tuesday, 18 November 2014 at 11.00am.

Present:- Councillors Constable (Depute Convener) and Councillors Bryant, Johnstone (11.03am) and Rosie.

Apologies for Absence:- Councillor Thompson and Mr V Bourne, Mr P Hayes and Mrs M Harkness.

1 Declarations of Interest

No declarations of interest were intimated.

2 Minutes

The Minutes of Meeting of 7 October 2014 were submitted and approved as a correct record.

3 Education Advisory Group

With reference to paragraph 6 of the Minutes of 25 February 2014, there was submitted report, dated 7 November 2014, by the Director, Resources, inviting the Cabinet to consider arrangements for the possible establishment of an Education Advisory Group, and outlining relevant issues pertaining to this.

The report recalled that the Council had previously endorsed the Future Models of Service Delivery approach whereby communities were recognised as key stakeholders in the design, delivery, evaluation and improvement of the services they received. It was considered by the Political Administration that within Education this could be reflected by working in partnership, at a policy and strategy level, with those stakeholders who were crucial to the Midlothian school communities, including pupils, parents and staff. In so doing the capacity of communities could be recognised, acknowledged and harnessed to take forward improved delivery of Midlothian's educational services.

Against this background, a proposal had been developed by the Political Administration regarding the possible establishment of an Education Advisory Group to replace the existing Education Convener Advisory Group. It was proposed that this new Group would provide stakeholders with an opportunity to focus on and debate key aspects of the education provision in Midlothian. Key principles would include:-

- working together in an open forum to help secure continuous improvements;
- discussing and reviewing key developments within education;
- scrutinising and evaluating performance; and
- providing advice to the Director, Education, Communities and Economy.

The report also commented on the key drivers in Education and suggested that the Education Advisory Group should meet four times per year with each meeting focussing on one or more of these drivers, which would then provide a clear theme for each meeting.

It was intended that the Education Advisory Group would operate informally and that it would have no formal governance status. Membership would include:-

- Cabinet Portfolio-holder for Education (Chair);
- Head of Education;
- Religious representation;
- 3 young people, to include representation from the Youth Parliament and Looked After Young People;
- 3 parents/parent representatives of pupils attending Midlothian; educational establishments;
- 2 representatives of Midlothian school staff (i.e. one from each of the Primary and Secondary sectors);
- a representative from the business community; and
- invitees at the discretion of the Cabinet Portfolio-holder for Education.

Administrative support for the Advisory Group would be provided from within the Education, Communities and Economy Directorate.

Decision

- (a) To authorise the Director, Education, Communities and Economy to proceed with the establishment of an Education Advisory Group on the basis set out in the report; and
- (b) To note advice from Councillor Constable, Cabinet Portfolio-holder for Education and Chair of the Education Advisory Group, that he would be discussing the membership of the Group with the Director, Education, Communities and Economy, in which regard:-
 - (i) he wished to look at making room available for a Member of the Opposition; and
 - (ii) the question of how the other members of the Group (as referred to in the report) would be picked would be subject to consultation.

(Action: Director, Education, Communities and Economy)

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Councillor Johnstone joined the meeting during the foregoing item of business at 11.03am.

4 First Statutory 'Biodiversity Report' on Pursuance of Statutory Duty to Further the Conservation of Biodiversity

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There was submitted report, dated 16 October 2014, by the Head of Communities and Economy, seeking approval of the Council's first statutory Biodiversity Report, which set out the action taken by the Council since 1 January 2012, in pursuance of its statutory duty to further the conservation of biodiversity. A copy of the Biodiversity Report was appended to the main report.

The report advised that the Nature Conservation (Scotland) Act 2004 required public bodies to further the conservation of biodiversity in delivering services, having regard to the Scottish Biodiversity Strategy. The strategy set out local government's role in conserving biodiversity through community planning, spatial planning, education, and greenspace management, etc. It also advised that partnership Local Biodiversity Action Plans were essential to the delivery of the strategy and should be supported by local authority Local Biodiversity Action Plan Officers who had a sound understanding of local biodiversity.

It was explained that the aforementioned Act required public bodies to publish a Biodiversity Report within three years of 1 January 2012 and thereafter within every three years of the last report, setting out the actions taken in pursuance of the biodiversity duty. The proposed report therefore highlighted the activity being undertaken by the Council in pursuance of this duty.

Decision

- (a) To approve the publication of the proposed report as the Council's first Biodiversity Report under the Nature Conservation (Scotland) Act 2004;
- (b) To refer the Head of Communities and Economy's report to the Performance Review & Scrutiny Committee for its interest;
- (c) Arising from questions from members, to note that the Head of Communities and Economy, would provide information to members on the following matters:-
 - (i) Relevant reports from Scottish Natural Heritage on nature conservation issues, e.g. on bees and other insects which aided pollination (Councillor Bryant);
 - (ii) The condition of the duck pond habitat at Valleyfield, Penicuik; who was responsible for the upkeep and maintenance of this; and whether there were any proposals for the pond (Councillor Rosie); and
 - (iii) The replacement of trees which had been removed by the Electricity Board at Carlops Road near Lowries Den (Councillor Rosie);
- (d) To note that over the previous three years over 48,000 hours of volunteer time and time through the Midlothian Criminal Justice Team had been realised through the Midlothian Ranger Service, with a value of around £330,000; and to congratulate the Ranger Service accordingly.

(Action: (a), (c) and (d) Head of Communities and Economy; and (b) Legal and Secretariat Manager)

5 Scotland's Climate Change Declaration 2013/14 - Statement to Convention of Scottish Local Authorities

There was submitted report, dated 24 October 2014, by the Head of Communities and Economy, seeking approval of a completed template which represented the Council's Climate Change Declaration for 2013/14. A copy of the completed template was appended to the main report.

The report advised that the Climate Change (Scotland) Act required public bodies to contribute to delivery of national greenhouse gas reduction targets and programmes for adapting to a changing climate.

All of Scottish local authorities were signatories to Scotland's Climate Change Declaration, committing them to reduce greenhouse gases; take steps to adapt to climate change impacts; work in partnership, including with communities, to respond to climate change; and to publish statements on their climate change response. The report pointed out that the completed template covered these various commitments and that the statement process itself was overseen by the Sustainable Scotland Network (part of Keep Scotland Beautiful) and COSLA.

The completed template also highlighted that:-

- per capita 'territorial' emissions for the Midlothian area over which the Council could have some influence had fallen by 17% from 2007 to 2011;
- emissions within the scope of the Carbon Management Plan 2013/16 (i.e. Council estate, fleet, street lighting and all waste handled by the Council) were on target to be 25% below the 2006/7 baseline by 2015/16;
- emissions from commuting had risen by 24% from 2006/7 to 2012/13;
- emissions from non-fleet business travel (claimed mileage only, assuming an 'average car') were more than a fifth of that from the Council's fleet proper; and
- targets for adapting to climate change impacts were currently on target.

The report also drew attention to the following challenges that lay ahead in delivering the Council's Corporate Climate Change Strategy:-

- within current budgetary constraints, the ability to secure sufficient resources for the preparation and monitoring of the Carbon Management Plan, a Council commitment as a signatory to Scotland's Climate Change Declaration, and the breadth of climate change work to which the Council was committed as a declaration signatory; and
- the ability to obtain more robust and up-to-date data in relation to non-fleet business travel and commuting, which would likely involve business travel claims procedures capturing emissions data for different vehicles.

Decision/

Decision

- (a) To approve the completed template as the Council's 2013/14 statement under Scotland's Climate Change Declaration; and
- (e) To refer the report to the Performance Review and Scrutiny Committee for its information;

(Action: (a) Head of Communities and Economy; and (b) Legal and Secretariat Manager)

6 Audit Scotland Risk Assessment Report 2014

There was submitted report, dated 13 October 2014, by the Joint Director, Health and Social Care, appending (a) an Improvement Plan which had been developed in response to an Audit Scotland Risk Assessment Report (published in September 2014) into the Council's Housing Benefit Service; and (b) a copy of the Audit Scotland Report.

The Improvement Plan demonstrated the Council's commitment to address the recommendations contained within the Audit Report and sought to demonstrate how the service would direct its efforts to secure measurable improvements in its performance.

The report noted that the Benefit Service had significantly improved claim processing performance from an average of 38 days for new claims and an average of 18 days for change events at December 2010, to an average of 20 days for new claims and an average of 13 days for change events in 2014/15, at June 2014.

The report also advised that an excellent performance had been delivered in respect of the financial accuracy of claims. The financial accuracy target of 98% had been met or exceeded continuously since 2010/11 and, in addition, the service had delivered an excellent performance in the recovery of in-year and all debt.

It was explained, however, that as a result of the decision to prioritise Scottish Welfare Fund applications in 2013/14, other areas of the Benefit Service had been adversely affected, resulting in the Council losing subsidy of £123,599 due to it breaching the Department for Work and Pension's upper threshold for local authority error and administrative delay overpayments.

In order to ensure continuous improvement, the report advised that there needed to be:-

- evidence of challenge from members when the service was under-performing;
- monitoring of the recovery of fraud overpayments and administrative penalties to ensure that recovery was vigorous and to help deter fraud;
- action to establish and address the reasons why 57% of pre-notified first intervention visits were not fully effective; and
- action to establish why the Council's internally reported speed of processing performance differed from that published by the Department for Work and Pensions.

The report concluded by advising that the Council had already responded to feedback from Audit Scotland, both during the on-site phase of the inspection and after receiving the draft Audit Report, and that the intention of the service was now accordingly to continue now to concentrate efforts in driving and delivering service improvements in core service delivery.

Decision

- (a) To note the Audit Scotland report;
- (b) To note the Improvement Plan and that progress reports would be provided quarterly;
- (c) To refer the report to the Audit Committee and the Performance, Review and Scrutiny Committee; and
- (d) To congratulate the service in delivering excellent performance in respect of the financial accuracy of its claims, by meeting or exceeding its accuracy target of 98% since 2010/11, and setting a target to improve the non-financial accuracy of claims.

(Action: (c) Legal and Secretariat Manager; and (d) Joint Director, Health and Social Care)

7 Housing Allocations Policy Outcomes

There was submitted report, dated 13 October 2014, by the Joint Director, Health and Social Care, advising of the lettings outcomes from the revised Housing Allocation Policy, which had been agreed by the Council on 8 January 2013 and implemented in April 2013. Under this new policy the Council required to review the Housing Allocation Policy every two years together with tenant representatives in accordance with the Tenant Participation Strategy. It was also to be monitored regularly to ensure that equality requirements were met in terms of access to and allocation of housing.

The report explained that the Council's previous Housing Allocation Policy had been transfer led, which meant that current tenants were given first option to new lets. However, the new 2013 policy had adopted a group and points model in which three waiting lists had been created to reflect applicant circumstances, with yearly letting targets set. These were as follows:-

- Choice List (Target 15%) – list for those applicants with no identifiable need.
- Homeless List (Target 45%) – list for those applicants who had presented and had been accepted as being homeless.
- General Needs (Target 40%) – list for those applicants with a specific need, e.g. for those with medical need or who were living in overcrowded conditions.

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The report highlighted the importance of the Council making the best use of its housing stock, including how it was allocated. In this regard, Scottish Government guidance required that houses were let in a way that gave reasonable preference to those with greatest housing need, and which in turn would make best use of the available housing stock and help to sustain communities. While it was necessary to give a degree of priority in allocation to these groups, the report advised that other factors could be added to respond to particular needs and demands in the local area. However, as demand for social housing continued to outstrip supply it was necessary to assess each housing applicant's housing need according to their circumstances and then prioritise them according to the Allocation Policy.

Appended to the report were:-

- (i) a Lettings Analysis, which showed that allocation outcomes had matched the Council's current policy intentions; and
- (ii) responses to the Council's Allocation Policy Review.

Decision

- (a) To note the positive lettings outcomes following the review of the Housing Allocation Policy;
- (b) To note that a review of the Housing Allocation Policy would be scheduled in 2015; and
- (c) To refer the report to the Performance, Review and Scrutiny Committee.

(Action: (c) Legal and Secretariat Manager)

8 Additional Council HMO (House of Multiple Occupation) Accommodation Proposed at Midfield House and Pentland House

With reference to paragraph 1 of the Addendum to the Minutes of 22 April 2014, there was submitted report, dated 24 October 2014, by the Joint Director, Health and Social Care, providing an overview of feedback received following community consultation events by the Housing Service on the proposed change of use of Midfield House (former Young Persons Centre), Poltonhall, and Pentland House, Penicuik (former Care Home), to HMO accommodation.

The report explained that both properties were owned by the Council; were of a reasonable standard; were no longer being used by their respective services; and were considered to be suitable for re-use as HMO accommodation.

It was also explained that the advantage to using properties of this type was that the Council could substantially reduce the number of homeless households residing in bed and breakfast accommodation in Midlothian. Bed and breakfast accommodation was considered to be an unsuitable environment for homeless households as well being costly to the Council.

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The report pointed out that the current shortage of affordable housing solutions could not, in the short to medium term, meet the demand from those experiencing homelessness. Consequently, this pressure was likely to continue and the Council would therefore need to continue to make use of temporary accommodation for some time to come.

Information was also provided on the following matters:-

- Standards of temporary accommodation;
- Community consultation;
- Homelessness legislation;
- Staffing requirements and costs;
- Cost-benefit analyses; and
- Resource implications.

With regard to the community consultation which had taken place, the report advised that if there was approval to take forward the proposals for using the two buildings as HMOs, then the mitigation actions would be necessary to provide reassurance in the projects and to address the listed concerns of residents in Appendices 5 and 6 of the report.

Decision

- (a) To agree to carry out the feasible mitigation actions noted in the report following the wider community and stakeholder consultation exercise;
- (b) In addition, to instruct the officials to investigate the following actions in relation to the proposed HMO provision at Midfield House:-
 - The possible extension of the 30mph speed limit out from Poltonhall;
 - The re-location of the existing bus stop for Midfield House (or preferably the provision of an additional bus stop) as the existing bus stop was not ideally situated; and
 - The provision of additional boundary fencing to prevent residents from crossing through other owner's properties;
- (c) To approve the proposals for the use of both Pentland House and Midfield House as temporary accommodation options for homeless households that will provide positive outcomes in an improved environment;
- (d) To note that the proposals also prevent significant spend on bed and breakfast provision, and
- (e) To note that the proposals were dependent on compliance with the necessary Planning Permissions, Building Standards requirements and HMO licensing requirements for Pentland House and Midfield House.

9 Nomination Agreement – Midlothian Women's Aid

There was submitted report, dated 27 October 2014, by the by the Joint Director, Health and Social Care, seeking approval to enter into a nomination agreement with Midlothian Women's Aid to provide two Midlothian Council properties annually to households experiencing domestic violence, who would then be supported in those properties by Midlothian Women's Aid.

The report explained that this provision would be in addition to the Council's obligations to applicants presenting as victims of domestic abuse and that the proposal would increase housing options for those households experiencing homelessness as a consequence of domestic violence.

Under the nomination agreement the relevant rental charge for the properties would be liable in full and the Council and Midlothian Women's Aid would monitor and meet to review the operation of the agreement annually.

Decision

To agree to introduce a nomination agreement with Midlothian Women's Aid, which will comply with legally required Heads of Terms.

(Action: Joint Director, Health and Social Care)

10 Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Cabinet 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 paragraph 6 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

- Midlothian Local Development Plan: Proposed Plan:-
 - (a) To note the content of the Midlothian Local Development Plan draft Proposed Plan as the basis for a Seminar to which all Members be invited, prior to seeking Council approval of the Proposed Plan for publication for formal representations; and
 - (b) To (i) acknowledge the retiral during the previous week of Janice Long, Planning Policy and Environment Manager; (ii) acknowledge the important work which Janice had undertaken throughout her career with Midlothian, including work on the current Midlothian Local Development Plan draft Proposed Plan and on numerous other important Local and Strategic Development Planning documents; and (iii) extend the Council's congratulation and best wishes to Janice on her retiral.

The Cabinet thereafter agreed to proceed as detailed in the Addendum hereto.

The meeting terminated at 11.36 am.

