

Midlothian Council Minute Volume



**Presented to the Meeting
of Midlothian Council
on Tuesday, 20 August 2019**

1 Minutes of Meetings submitted for Approval

Midlothian Council 25 June 2019 3 - 22

2 Minutes of Meetings submitted for Consideration

Approved Minutes for Noting, Information and Consideration of any recommendations contained therein

Performance, Review and Scrutiny Committee 19 March 2019 23 - 30

Community Asset Transfer Committee 30 April 2019 31 - 36

Planning Committee 14 May 2019 37 - 46

Business Transformation Steering Group 20 May 2019

Cabinet 21 May 2019 47 - 66

Audit Committee 28 May 2019 67 - 74

Business Transformation Steering Group 10 June 2019

Business Transformation Steering Group 17 June 2019

Business Transformation Steering Group 24 June 2019

Business Transformation Steering Group 25 June 2019

3 Minutes of Meetings submitted for Information

Approved Minutes of Outside Organisations to which Council appoints representatives

No Minutes submitted for information

Short Life Working Group

Cross Cutting Service Review – Waste Services 6 June 2019

Minute of Meeting



Midlothian Council

Date	Time	Venue
25 June 2019	11am	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Provost Smaill (Chair)	Depute Provost Russell
Councillor Milligan – Council Leader	Councillor Muirhead – Depute Council Leader
Councillor Alexander	Councillor Baird
Councillor Cassidy	Councillor Curran
Councillor Hackett	Councillor Hardie
Councillor Imrie	Councillor Johnstone
Councillor Lay-Douglas	Councillor McCall
Councillor Munro	Councillor Parry
Councillor Wallace	

In attendance:

Dr Grace Vickers, Chief Executive	Kevin Anderson, Acting Director, Resources
Allister Short, Joint Director, Health and Social Care	Mary Smith, Director, Education, Communities and Economy
Gary Fairley, Head of Finance and Integrated Service Support	Garry Sheret, Head of Property and Facilities Management (for the items heard in private)
Alan Turpie, Monitoring Officer	Verona MacDonald, Democratic Services Team Leader
Mike Broadway, Democratic Services Officer	

Religious Representative (Non-voting observer for Education Business):

Mr V. Bourne	
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1. Apologies for Absence

The Clerk intimated apologies on behalf of Councillor Winchester and Mrs E. Morton.

2. Order of Business

The Clerk advised that the Provost had, in terms of Standing Order 7.8, agreed to accept 2 additional reports not included on the agenda which were deemed as urgent. The reports contained information exempt from publication and would therefore require to be considered in private and would be taken as Items 9.2 and 9.3.

3. Declarations of interest

None intimated.

4. Deputations

It was noted that no deputations had been received for consideration at this meeting.

5. Minutes of Previous Meetings

5.1 The Minute of the Meeting of Midlothian Council which took place on 7 May 2019 was submitted. The Provost advised he wished to propose an amendment to the Private addendum to the Minute which would require to be heard in Private. At this time, to allow other business to proceed, it was agreed that consideration of the full Minute be continued until the private session.

5.2 The following Minutes were previously circulated to Members for noting, information and consideration of any recommendations contained therein:

Meeting	Date of Meeting
Performance, Review and Scrutiny Committee	11 December 2018
Community Asset Transfer Committee	21 January 2019
Police and Fire and Rescue Board	18 February 2019
Business Transformation Steering Group	11 March, 1 April, 29 April 2019
Audit Committee	12 March 2019
General Purposes Committee	2 April 2019
Planning Committee	2 April 2019
Cabinet	9 April 2019
Midlothian Integration Joint Board	11 April 2019
Dalkeith Town Centre Short Life Working Group	28 February 2019

6. Question to the Leader of the Council

Councillor Alexander made reference to the Minute of Meeting of the Council of 26 June 2018 with regard to a Motion she lodged relating to the transportation of nuclear weapons and asked whether the Leader had written to the Minister for Defence and received a response. The Provost advised Councillor Alexander that the item under discussion was a Question to the Leader lodged by Councillor Parry. He sought advice from the Monitoring Officer. Mr Turpie advised the matter could not be brought up at this point and would require to comply with Standing Orders whereby it should be lodged in writing giving not less than 9 working days' notice prior to the meeting. At this time, the Leader advised he had in fact written twice to the Minister for Defence but had not received a response. He indicated he was happy to write again and advise of the outcome at the next meeting.

It was noted that a question by Councillor Parry to the Leader had been circulated with the agenda and was in the following terms:-

"As Council Leader, will you join me in congratulating Loanhead Gala Committee for organising almost 100 events, running until the end of June, to mark the 350th Anniversary of the Royal Charter to permit Loanhead to have an annual 3 day fair, in the run-up to Loanhead Gala on 22 June".

In response, the Leader, congratulated the volunteers on Loanhead Gala Day Committee for the work undertaken to organise the annual events. He commented that he had had the pleasure of attending the Gala Day on 22 June. He further congratulated the other voluntary organisations across Midlothian who organised similar events. The Provost also contributed by acknowledging the hard work done by the volunteers in Loanhead.

7. Notices of Motions

Motion No.	Motion Title	Proposed by:	Seconded by:
7.1	Extending the distance of provision of school transport from 2 to 3 miles	Councillor Alexander	Councillor Parry
Motion:			
Prior to consideration of the Motion, the Provost sought clarification with regard to whether it would require suspension of Standing Orders because it related to a decision taken by the Council less than 6 months previous. The Monitoring Officer confirmed that Standing Orders would require to be suspended prior to consideration of the Motion. On a show of hands, it was unanimously agreed that Standing Orders be suspended to allow consideration of the Motion.			
The Motion was in the following terms:-			
<i>"Midlothian Council believes that every child should have an equal opportunity to access the excellent and inclusive education we have in Midlothian. Extending the distance of provision of school transport from 2 to 3 miles will disadvantage the pupils living in this extended radius. The</i>			

extended radius covers Mayfield and Easthouses, some of our most deprived areas, and may impact on their future attainment, and success in life.

Council also notes that this change was done without consultation with parents and care givers and without a specific policy change agreed by Councillors or a comprehensive equality impact assessment. With immediate effect, Council will therefore reverse this decision and prepare a full equality assessment and consult with parents, care givers, pupil representatives and head teachers before reviewing the decision further”.

Summary of discussion

Councillor Alexander spoke to the terms of the Motion and Councillor Parry seconded it.

The Depute Council Leader, Councillor Muirhead, accepted consultation had not been carried out as it should have been and advised the Labour Group would support the Motion. Councillor Hardie agreed consultation had not happened in the manner expected and advised the Conservative Group would also support the Motion.

On a vote being taken by way of a show of hands, the Motion was unanimously approved.

Decision

The Council unanimously supported the Motion

Action

Director, Education, Communities and Economy

Prior to consideration of the following Motion, the Provost advised that the live webcast had failed but ruled the meeting would proceed without a webcast and noted it was being audio recorded.

Motion No.	Motion Title	Proposed by:	Seconded by:
7.2	Buffer Zones	Councillor Parry	Councillor McCall
Motion:			
<p>The Motion was in the following terms:-</p> <p><i>"Midlothian Council notes with concern demonstrations at NHS facilities, especially activity targeted at women and staff attending sexual and reproductive health services and NHS hospitals accessed by Midlothian residents.</i></p> <p><i>Council further notes the distribution and display of misleading information and distressing images, which can intimidate women and jeopardise access to legal healthcare services. Council believes in upholding the right to peaceful protest, but also believes that the right to peaceful protest should not interfere with the fundamental right for women to make individual reproductive choices, or NHS professionals to do their job without fear or abuse. Council further notes that campaigns against women exercising their sexual health rights can continue without occupying the space immediately outside clinics and services.</i></p> <p><i>Midlothian Council therefore supports the principle of buffer zones outside NHS Lothian reproductive health clinics and hospitals, to protect individuals from obstruction or harassment when accessing vital reproductive health services and advice.</i></p> <p><i>Council instructs the Chief Executive to liaise with NHS Lothian & neighbouring Local Authorities, Police Scotland, COSLA and the Scottish Government to assess the legal instruments that could be used to implement such buffer zones within the Lothian Health Board boundary.</i></p> <p><i>Council further instructs the Chief Executive to bring forward a report to this Council, detailing potential courses of action."</i></p>			
Summary of discussion			
<p>The Council heard from Councillor Parry who formally moved the Motion, which was seconded by Councillor McCall. Councillor Hardie was heard in support of the Motion.</p>			

On a vote being taken by way of a show of hands, 16 votes were cast for the Motion and none against.
Decision
The Motion was approved
Action
Chief Executive

Motion No.	Motion Title	Proposed by:	Seconded by:
7.3	Lothian Pension Fund	Councillor Imrie	Councillor Hackett
Motion:			
<p>The Motion was in the following terms:-</p> <p><i>“Resolution encouraging Lothian Pension Fund to divest from companies involved in the production, maintenance or development of nuclear weapons in the UK or other Nuclear Weapon States</i></p> <ul style="list-style-type: none"> <i>Midlothian Council is a member of the Nuclear Free Local Authorities (NFLA) the national body of Councils working for almost 4 decades to promote multilateral nuclear disarmament and a more peaceful world.</i> <i>Lothian Pension Fund manages the pension contributions of Council employees. Lothian Pension Fund is known to hold shares in companies that are involved in the production or maintenance of nuclear weapons or their delivery systems, including some that undertake work on the UK’s nuclear weapons programme.</i> <p><i>Midlothian Council therefore calls on Lothian Pension Fund to:</i></p> <ol style="list-style-type: none"> <i>1. Work towards eliminating current and future financial exposure to companies that are involved in the production or maintenance of nuclear weapons and their delivery systems, giving due regard to fiduciary duty.</i> <i>2. Council asks the Chief Executive to write to the convenor of Lothian Pension Funds pension committee to urge them to take full consideration of this resolution”.</i> 			
Summary of discussion			
<p>The Council heard from Councillor Imrie who formally moved the Motion, which was seconded by Councillor Hackett.</p> <p>Councillor Hardie noted that all or most Elected Members were members of the pension fund and asked for guidance as to whether it was acceptable to discuss, consider and pass the Motion. The Monitoring Officer advised that since the Motion was looking at a matter in general it was acceptable for Members to take part in this without declaring an interest.</p> <p>Thereafter, Councillor Wallace advised the pension fund was one of the largest in the UK and had more money invested in nuclear weapons than any of the other public funds. He noted that Renfrewshire Council had recently passed a similar Motion as had one of the Dunbartonshire Councils.</p> <p>On a vote being taken by way of a show of hands, 14 votes were cast in favour of the Motion and none against.</p>			
Decision			
The Motion was approved			
Action			
Chief Executive			

Motion No.	Motion Title	Proposed by:	Seconded by:
7.4	Rent Support for Care Experienced Students	Councillor Curran	Councillor Muirhead
Motion:			
<p>The Motion was in the following terms:-</p> <p><i>“Midlothian Council recognises the Care Experienced Student Bursary, provided by the Students’ Awards Agency Scotland, is designed to provide financial support for costs while studying. We also recognise that many care experienced students will be unable to access the same family support while studying, that many other young people receive. Care experienced students are unlikely to be eligible for benefits out with the Care Experienced Bursary therefore resulting in a rent liability.</i></p> <p><i>Part of our role as proud corporate parents is to promote educational development. We need to be ambitious to attract more care experienced students into further and higher education, as research evidences that those with a care experienced background are more likely to enter a negative post-school destination.</i></p> <p><i>We are determined to look after our care experienced young people as we would look after our own children.</i></p> <p><i>Midlothian Council therefore agrees to work with the Integration Joint Board to provide financial support for care experienced students who are our tenants and in receipt of the Care Experienced Bursary. Officers are requested to implement and evolve policy in line with the principles of this Motion”.</i></p>			
Summary of discussion			
<p>The Council heard from Councillor Curran who formally moved the Motion, which was seconded by Councillor Muirhead.</p> <p>Councillor McCall was heard in support of the Motion and suggested some elected members may consider becoming mentors. Councillor Parry also spoke in support of the Motion.</p> <p>On a vote being taken by way of a show of hands, the Motion was unanimously approved.</p>			
Decision			
The Motion was approved			
Action			
Joint Director, Health and Social Care			

8. Reports

Agenda No.	Report Title	Presented by:
8.1	Best Value Assurance – Report by Chief Executive	Chief Executive
Outline of report and summary of discussion		
<p>The Council heard from the Chief Executive who spoke to the terms of a report advising of the initial findings and recommendations of the Best Value Assurance Report considered by the Accounts Commission at their meeting on 13 June 2019. She noted that a final report, with the Accounts Commission’s findings, would be published on 4 July 2019.</p> <p>The Leader, Councillor Milligan, commented about the positive aspects of the report and highlighted the favourable movement in the budget position. He advised that the key message was the challenges faced by being the fastest</p>		

growing Council area in Scotland and emphasised the need to have a medium term financial strategy in place and for all elected members to work together and deliver for the people of Midlothian.

Councillor Alexander referenced page 41 of the report with regard to positive destinations and noted this area was showing a decrease and she felt a further reduction in the number of teacher posts would affect young children.

The Director, Education, Communities and Economy, with regard to the comment made by Councillor Alexander, explained there had been a slight decrease which equated to 0.3% but that it looked more because of the way the results were presented in the table. She emphasised that positive destinations remained a priority for the Council going forward. In response Councillor Alexander appreciated the work being done by officers.

Councillor Hackett advised the Council had to address the financial challenge with Councillors having a responsibility to stand-up and deliver a balanced budget. He advised whilst he was opposed to cuts, tough choices needed to be made. He continued by advising that the Scottish Government's budget had been cut by 2% but the Scottish Government had cut local government funding by 5%. He suggested that Scotland had the power to do something about the cuts and local councillors should campaign Holyrood for funding.

Councillor Muirhead advised the clear message from the Best Value audit was the need to work together to alleviate the problems and suggested the most worrying of the cuts being forced upon the Council are those in the background such as cuts to teaching staff which would affect children's education.

Decision

The Council noted the initial Best Value Assurance report and that, following publication of the final report in July 2019, an improvement action plan would be prepared and submitted to the August meeting for consideration.

Action

Chief Executive, Directors, Heads of Service

Report No.	Report Title	Presented by:
8.2	Single Midlothian Plan 2019-20 – Report by Chief Executive	Chief Executive
Outline of report and summary of discussion		
<p>The Council heard from the Chief Executive who spoke to the terms of a report which noted the Single Midlothian Plan had been approved by the Community Planning Partnership Board on 23 April 2019 and sought formal endorsement of the Plan attached to the report, the outcomes and indicators and their adoption as the strategic plan for Midlothian Council under which the service plans would operate.</p> <p>Councillor Muirhead moved the terms of the report. Councillor Hackett commented that the voluntary sector was seeking guidance as to the direction the Council was going. The Provost commented that over a 10 year period, unemployment in the area had halved.</p> <p>On a vote being taken by way of a show of hands, the recommendations contained in the report were unanimously approved.</p>		
Decision		

The Council –

- (a) noted the legal requirements of the Community Empowerment (Scotland) Act 2015 as set out in Appendix 1 to the report and;
- (b) approved and endorsed the Single Midlothian Plan 2019-20 (Appendix 2 to the report) as the strategic document for service planning.

Action

Chief Executive, Directors, Heads of Service

Report No.	Report Title	Presented by:
8.3	Medium Term Financial Strategy – Report by Chief Executive and Head of Finance and Integrated Service Support	Chief Executive

Outline of report and summary of discussion

The Council heard from the Chief Executive who spoke to the terms of a report which presented the outcomes of the Working with You, For You, public consultation; 4 key strategic themes; key drivers for change; the Medium Term Financial Strategy covering the next 3 financial years; the principal planning assumptions, the net cost of services, resource allocation measures, the resultant budget gaps for each of the years, a sensitivity analysis reflecting the potential impact of changes in the principal planning assumptions and; a timetable and governance arrangements which informs the Medium Term Financial Strategy. The report also sought approval of recommendations as set out therein and the amendments agreed by the Business Transformation Steering Group (BTSG) earlier in the day. The Chief Executive noted a copy of the amended recommendations had been circulated to Members prior to the start of meeting. She handed over to Mr Fairley who drew attention to Section 4 of the report which set out the key planning assumptions on which the budget gaps were predicated. He advised the Scottish Government's Cabinet Secretary for Finance, had reiterated the commitment to a 3 year financial settlement for local government and that over the coming months the budget projections would be updated to reflect the latest position and reflect decisions by Council. Including the decision earlier today at BTSG earlier which would add £76k onto the required savings. He advised there was still very limited scope to address any service overspends from reserves which although above the minimum level were still low.

Councillor Hardie sought assurance that by adopting a Medium Term Financial Strategy now, the Council was not passing next year's budget whereby Members would be bound by it during the budget process.

The Chief Executive advised it was important that the Council had a Strategy in place and BTSG would look at whether matters were on target. She pointed out Table 6 of the report set out a timeline for the budget process.

The Council Leader, Councillor Milligan, advised the revised recommendations before Members was a result of many meetings and concerns raised by the political groups. He felt one of the main issues was the waiting process to find out about funding which resulted in the Council being unable to take decisions until February meaning officers did not have enough time to implement decisions which in turn led to overspends come the end of quarter 1 of the new financial year. He advised that even with all of the savings proposals being

implemented £8m was still required and therefore the adoption of the Strategy would allow the Council to transform rather than react.

Councillor Parry noted the agreement reached earlier in the day by BTSG and recorded her appreciation of the hard work which had gone into it. Councillor Cassidy concurred and advised he was happy with the conclusions reached at BTSG.

Councillor Muirhead advised the agreement reached at BTSG was just the start of the process and reiterated what the Council Leader had said about the need to find additional savings of £8m. He also noted BTSG had further agreed that in years 2 and 3 Members of BTSG would attend the public consultation meetings. He further commented there had to be an acknowledgement that if a savings proposal did not proceed, it had to be replaced with another of the same value.

Councillor Hackett commented it was clear more people are interested in the Council, what funding it has and what it is providing, leading to a better understanding of the work of the Council. Mr Bourne commented he fully supported the Medium Term Financial Strategy and welcomed the proposals and the need to conduct a review of schools.

The Director, Education, Communities and Economy, commented that whereas she respected the right of people to protest against certain savings proposals, she was concerned others such as the removal of 48 teacher posts would have a much bigger impact on the education of children.

Councillor Lay-Douglas, with regard to the reduction in year 1 of over £1m in the devolved school management, asked whether this was achievable. In response, the Director, Education, Communities and Economy advised that in addition to the 48 posts this year, a further 20 teacher posts would be removed in financial year 2020-21.

Following the foregoing consideration, the Provost called for a vote in favour of the amended recommendations. On a show of hands, the amended recommendations were unanimously approved.

Decision

The Council agreed to –

- a) approve the first iteration of the Medium Term Financial Strategy as appended to the report and in doing so;
 - i) specifically approve the resource allocation measures in respect of 2020/21 numbered 1 to 10, 12, 16, 17, 19, 20, 23, 24, 28, 30, 36a, 38, 39 and 41 to 43 in appendix 2 to the Medium Term Financial Strategy totalling £7.088 million;
 - ii) agree in principal, subject to further engagement with communities, on the detail of the remaining resource allocation measures summarised in table 1 and as set out in appendix 2;
 - iii) remit to the next meeting of BTSG to review and report back on the provision of music tuition;
 - iv) instruct the Chief Executive to report back to Council on 1 October 2019 on remaining resource allocation measures;
 - v) note all 6 of the elected members on the BTSG will participate in further engagement activity and;
 - vi) instruct officers to fully develop (where necessary) at pace and also proceed to implementation at pace the approved measures ;

- b) delegate to the cross party Business Transformation Steering Group the next phase of the development of the Medium Term Financial Strategy, to identify measures to address the remaining budget gaps for 2021/22 and 2022/23 with further proposals reported back to Council on 1 October 2019.
- c) note the position in respect of the Scottish Government Grant Settlement as set out in section 4.1 and note that Business Transformation Group endorsed the central planning assumption of a 2% per annum reduction in grant settlements at a national level;
- d) note the key assumptions and budget gaps as set out in section 4.4 and endorse the key assumptions on which the budget is based;
- e) note the continuing uncertainties and the potential impact as outlined in the differing scenarios as set out in section 4.5;
- f) note that the first iteration of the Medium Term Financial Strategy sets out options which would support delivery of a balanced budget 2020/21 and which contributes to addressing the medium term financial challenge;
- g) note the requirement to delegate resources to the Midlothian Integrated Joint Board and agree the Council advise the MIJB of the updated projections for later years as set out in table 5 and that discussions continue with officers of the MIJB to secure a sustainable strategy for the delivery of delegated services which can be delivered within the proposed resource allocation;
- h) note the governance arrangements set out in section 6 and approve the proposed timetable set out in table 6 which provides for a update on the Medium Term Financial Strategy to Council on 1 October 2019;
- i) note the severity of the financial challenge and also the risks as set out in section 7.2 and;
- j) Otherwise note the content of the report.

Action

Chief Executive, Directors, Heads of Service

Report No.	Report Title	Presented by:
8.4	Review of Standing Orders and Associated Documents – Report by Acting Director, Resources	Kevin Anderson
Outline of report and summary of discussion		
<p>The Acting Director, Resources spoke to the terms of a report which advised of the requirement for a review of Standing Orders which may include the 2 associated documents, namely the Scheme of Administration and Scheme of Delegation.</p> <p>Following a short discussion, the Provost sought nominations for membership of the Short-life Working Group. Councillor Hackett, by way of a block nomination, seconded by Councillor Baird, moved that the following Councillors sit on the Group – Councillors Wallace and Barry (SNP Group); Councillors Smail and Hardie (Conservative Group) and Councillors Milligan and Muirhead</p>		

(Labour Group). On a vote being taken by way of a show of hands, 11 votes were cast in favour of the recommendations contained within the report including the appointment of members to the Group and none against.

Decision

The Council agreed:-

- (a) to instruct a review of Standing Orders by creating a Short Term Elected Members' Working Group consisting of 2 Elected Members from each of the 3 political parties which will meet as and when determined by its members and once the review is complete, report back to the Council on its findings;
- (b) to appoint Councillors Wallace, Parry, Smaill, Hardie, Milligan and Muirhead to serve on the Working Group;
- (c) to note the Working Group will be assisted by officers identified by the Acting Director, Resources to include the Monitoring Officer and Democratic Services Team Leader;
- (d) that after a review of the senior management structure of the Council takes place, a review of the Scheme of Delegation will be undertaken with the Chief Executive thereafter bringing forward a revised Scheme of Delegation for consideration;
- (e) that after a review of the composition of the Council, its Committees, Sub-Committees etc takes place, a review of the Scheme of Administration is undertaken;
- (f) to request the Director, Resources to report back to Council before the end of 2019 with an updated Scheme of Administration incorporating changes made by the Council since the last update in 2017, shown as tracked changes for ease of reference.

Action

Director, Resources

Report No.	Report Title	Presented by:
8.5	Midlothian Integration Joint Board – Appointment of Chair – Report by Chief Officer	Chief Officer, Midlothian Integration Joint Board
Outline of report and summary of discussion		
<p>The Council heard from the Joint Director, Health and Social Care in his capacity as the Chief Officer of Midlothian Integration Joint Board. He advised the report invited the Council to nominate one of the 4 Councillors currently serving as voting members on the Integration Joint Board as Chair for a 2 year period until 2021.</p> <p>Thereafter, Councillor Lay-Douglas, seconded by Councillor Hardie, nominated Councillor Winchester. Councillor McCall, seconded by Councillor Wallace, nominated Councillor Johnstone. On a vote being taken by way of a show of hands, 6 votes were cast for Councillor Winchester and 9 for Councillor Johnstone, who was therefore duly appointed by the Council.</p>		
Decision		
<p>The Council agreed to:</p> <ul style="list-style-type: none"> (a) appoint Councillor Johnstone as Chair of Midlothian Integration Joint Board; (b) note that the term of office of the 4 Councillors appointed to serve as voting members on the Midlothian Integration Joint Board comes to an end in 2020; 		

(c) instruct the Chief Officer to bring forward a further report at the appropriate time and;
(d) otherwise note the terms of the report.
Action
Chief Officer, Midlothian Integration Joint Board

Report No.	Report Title	Presented by:
8.6	Glyphosate Weed Killers – Report by Acting Director, Resources	Kevin Anderson
Outline of report and summary of discussion		
<p>The Council heard from the Acting Director, Resources who spoke to the terms of a report informing of actions following the Motion to Council on 7 May 2019.</p> <p>Thereafter, Councillor Cassidy advised he stood by the terms of the Motion although he was willing to exclude hogweed and Japanese knotweed. Councillor Hackett referring to the meeting on 7 May 2019 when the Motion was moved advised it had been suggested that its implementation would be at no cost to the Council however it was clear from the terms of the subsequent report there would be a loss in terms of contracts entered into by the Council for the provision of ground maintenance. He advised that whereas he appreciated the sentiment of the Motion, Members had to live with the reality that the use of glyphosate was widespread and one of the few chemicals which can be used. He referred to the letter received from the National Farmers Union following the meeting on 7 May and noted it was widely used in agriculture. He indicated his support for the recommendations contained within the report. The Acting Director, Resources advised that a ban on the use of glyphosate weed killers would lead to the Council being unable to fulfil contracts worth over £200k in income.</p> <p>Councillor Hardie enquired whether a compromise could be found whereby perhaps the contracts entered into could continue but the ban on use would relate to Council land with the exception of the use on hogweed and Japanese knotweed. He commented that this would reassure the public the Council was not using chemicals unnecessary.</p> <p>In response, Councillor Hackett advised this would lead to more dangerous chemicals being used and it would be left to Council officers to decide what was appropriate. Councillor Alexander said she could quote a list of academic reports containing the safety concerns of the use of glyphosate.</p> <p>Councillor Hackett then sought advice from the Monitoring Officer and Section 95 Officer. Mr Turpie advised officers were making recommendations contained within the report but it was up to Elected Members to decide. He pointed out that additional to the costs identified in the report may be any financial penalties incurred for not fulfilling the contracts. Mr Fairley advised that, dependent upon the decision taken, Section 4 of the report highlighted the financial risk and impact on the medium term financial strategy. He advised manual tasks would cost an additional £360k and by default by not using weedkillers would lead to a reduction in maintenance.</p> <p>Councillor Cassidy commented the cost was not really financial but the effect on the eco-system as a result of putting chemicals down drains and into rivers.</p>		

The Provost advised, given the advice from Mr Fairley that the decision may affect the medium term financial strategy approved earlier in the meeting, he felt Standing Orders would require to be suspended. On a vote being taken by way of a show of hands, 10 votes were cast in favour of suspension of Standing Orders and 6 against. Mr Turpie with reference to Standing Order 3.1 advised whilst a majority of the 17 Members present had voted in favour of suspending Standing Orders, two thirds required to vote in favour and this would equate to 11 Members voting in favour.

Councillor Hardie stated his Motion would not require the suspension of Standing Orders and he again moved this, which was seconded by Councillor Cassidy. He clarified the terms of the Motion - the Council would cease to use glyphosate weed killers on Council-owned land with the exception of treating hogweed and Japanese knotweed whilst honouring the contracts entered into regarding ground maintenance on non-Council owned land provided there is no net additional cost to the Council.

On a vote being taken by way of a show of hands, 7 votes were cast against the Motion and 10 in favour.

Decision

The Council agreed to cease using glyphosate weed killers on Council-owned land with the exception of treating hogweed and Japanese knotweed, whilst honouring the contracts entered into regarding ground maintenance on non-Council owned land provided there is no net additional cost to the Council.

Action

Director, Resources

Report No.	Report Title	Presented by:
8.7	Proposed Developers' Contribution Committee – Report by Acting Director, Resources	Kevin Anderson
Outline of report and summary of discussion		
<p>The Council heard from the Acting Director, Resources who spoke to the terms of a report relating to a Motion approved at the meeting of the Council on 7 May 2019 whereby the Director, Resources had been given the remit to investigate creating a Developers' Contribution Committee and report back with proposals and options.</p> <p>Councillor Imrie moved an addition to the recommendations contained in the report on the following terms – Council instructs the Director, as soon as possible to set-up an Elected Members training on the Planning Committee, prior to the appointment of Members for the Developers' Contributions Committee. His Motion was seconded by Councillor Johnstone. Councillor Hardie was heard in agreement with the terms of the Motion.</p> <p>On a vote being taken by way of a show of hands, 16 votes were cast in favour of the recommendation contained in the report together with the additional recommendation moved by Councillor Imrie, and none against.</p>		
Decision		
The Council agreed:		

<p>(a) the proposal to establish a Developers' Contributions Committee be included with the review remit of the Short Term Elected Members' Working Group for Standing Orders and;</p> <p>(b) prior to the appointment of Members to the Developers' Contributions Committee, the Director, Resources, as soon as possible, set-up Elected Members training on the Planning Committee</p>
Action
Director, Resources

Report No.	Report Title	Presented by:
8.8	Accident Analysis and Leadburn Junction – Report by Acting Director, Resources	Kevin Anderson
Outline of report and summary of discussion		
<p>The Council heard from the Acting Director, Resources, who spoke to the terms of a report relating to a Motion approved at the meeting of the Council on 7 May 2019.</p> <p>Councillor Johnstone asked for clarification regarding whether recommendations 2 and 3 in the report related to Leadburn or all sites. Mr Anderson confirmed recommendation 2 related to Leadburn and recommendation 3 to all sites. In response Councillor Johnstone stated she would like recommendation 2 to relate to all sites. Councillor Hardie, the mover of the original Motion considered on 7 May 2019 noted that whereas the Leadburn junction was not the most dangerous identified in Midlothian it was on the list of dangerous junctions. Councillor Hackett advised the report was useful and reiterated the challenges facing the Council being the fastest growing area leading to an increase in traffic. He suggested the recommendations including the amendment requested by Councillor Johnstone be accepted.</p> <p>On a vote being taken by way of a show of hands the recommendations as amended were unanimously approved.</p>		
Decision		
<p>The Council agreed to:</p> <ul style="list-style-type: none"> (a) instruct officers to work with Scottish Borders Council to improve advance speed activated signing at Leadburn; (b) work with the Safety Camera Partnership to consider installing fixed speed cameras or average speed cameras in place of occasional use of mobile camera vans at all sites and; (c) continue work on prioritising all sites for accident remedial works alongside traffic calming and school safety 		
Action		
Director, Resources		

Report No.	Report Title	Presented by:
8.9	Financial Monitoring 2018/19 – General Fund Revenue – Report by Head of Finance and Integrated Service Support	Gary Fairley
Outline of report and summary of discussion		

The Council heard from the Head of Finance and Integrated Service Support who spoke to the terms of a report providing information on performance against revenue budget in 2018/19 and details of the material variances. He noted there had been a significant improvement from the predicted overspend.

Decision

The Council agreed to note the content of the report and consider the financial outturn for 2018/19 in the context of the Medium Term Financial Strategy.

Action

Head of Finance and Integrated Service Support

Report No.	Report Title	Presented by:
8.10	Housing Revenue Account – Revenue and Capital Final Outturn 2018/19 and Capital Plan 2019/20 – Report by Head of Finance and Integrated Service Support	Gary Fairley
Outline of report and summary of discussion		
<p>The Council heard from the Head of Finance and Integrated Service Support who spoke to the terms of a report which provided the final outturn position for 2018/19 for the Housing Revenue Account Capital Plan, the Revenue Account and a revised Capital Plan for 2019/20 to 2023/24 reflecting the carry forwards from 2018/19.</p> <p>The Council Leader drew Members' attention to the actual reserves position and advised it was not as positive as the report suggested because a significant sum was earmarked for the house building programme.</p>		
Decision		
The Council agreed to note the content of the report.		
Action		
Head of Finance and Integrated Service Support		

Report No.	Report Title	Presented by:
8.12	General Services Capital Plan 2018/19 Final Outturn– Report by Head of Finance and Integrated Service Support	Gary Fairley
Outline of report and summary of discussion		
<p>The Council heard from the Head of Finance and Integrated Service Support who spoke to the terms of a report presenting the final outturn for 2018/19 on the General Services Capital Plan and an update on future years.</p> <p>Councillor McCall enquired where the provision for the replacement of Penicuik Astro Pitch was. Mr Fairley advised there was provision within the Asset Plan for replacement of astro turf pitches. He referred to Page 248 of the document pack which contained provision for various upgrades. In response, Councillor McCall referenced a decision of the Petitions Committee earlier in the year whereby a report was to be brought to the Council before the summer recess regarding the replacement of the Penicuik pitch. Mr Fairley referred to Page 250 of the document pack and advised that the provision therein included the</p>		

astro pitch in Penicuik. Councillor McCall requested she be provided with a list of what the total figure included in terms of the proposed improvements and Mr Fairley undertook to provide this.

Councillor Hardie enquired whether it was possible to bring forward the replacement of the Penicuik astro turf to the current financial year. In response, the Acting Director, Resources advised that this was possible.

Decision

The Council agreed to:-

- (a) note the General Services Capital Plan outturn position for 2018/19 and;
- (b) approve the additions to the General Services Capital Plan as set out in Sections 3.2 and 3.3 of the report

Action

Head of Finance and Integrated Service Support

Report No.	Report Title	Presented by:
8.13	Midlothian Equality Mainstreaming and Outcomes Progress Report 2017 – 2019 – Report by Chief Executive	Chief Executive
Outline of report and summary of discussion		
The Council heard from the Chief Executive who spoke to the terms of a report advising of the publication of the Midlothian Equality Mainstreaming and Outcomes Progress Report 2017 – 2019 as required to meet statutory requirements set out in the Equality Act 2010 and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, 2015 and 2016. She thanked the Equality, Diversity and Human Rights Officer, Lesley Crozier for the work undertaken.		
Decision		
The Council agreed to note the content of the Midlothian Equality Mainstreaming and Outcomes Progress Report 2017 – 2019.		
Action		
Chief Executive; Directors; Heads of Service		

Report No.	Report Title	Presented by:
8.14	Midlothian Council British Sign Language (BSL) Plan 2018 – 2024 – Report by Chief Executive	Chief Executive
Outline of report and summary of discussion		
The Council heard from the Chief Executive who spoke to the terms of a report presenting a draft British Sign Language (BSL) Plan 2018 – 2024.		
Decision		
The Council agreed to approve the content of the draft British Sign Language Local Plan 2018 – 2024.		
Action		
Chief Executive		

Report No.	Report Title	Presented by:
8.15	Micro Grants Budget – Report by Director, Education, Communities and Economy	Director, Education, Communities and Economy
Outline of report and summary of discussion		
The Council heard from the Director, Education, Communities and Economy who spoke to the terms of a report detailing the recommendations of the Micro Grants Programme for the funding of third sector organisations in 2019/22.		
Decision		
The Council agreed to note the recommended micro grant awards of the period October 2019 – 2022 as detailed in Appendix 1 to the report.		
Action		
Director, Education, Communities and Economy		

Report No.	Report Title	Presented by:
8.16	Update on Midlothian Residential Service Provision – Report by Head of Children’s Services	Director, Education, Communities and Economy
Outline of report and summary of discussion		
The Council heard from the Director, Education, Communities and Economy who spoke to the terms of a report outlining the re-design of residential services for young people, both with and without complex and enduring needs.		
Decision		
The Council agreed to note:- <div style="margin-left: 40px;">(a) the residential care home in Penicuik will now provide accommodation for up to 4 children with complex and enduring needs and;</div> <div style="margin-left: 40px;">(b) care homes in Dalkeith and Gorebridge will provide accommodation for up to 10 children who are “looked after away from home”, this includes the emergency bed.</div>		
Action		
Head of Children’s Services		

Report No.	Report Title	Presented by:
8.17	Gorebridge Connected – Update and Leasing of the former Gorebridge Train Station – Report by Director, Education, Communities and Economy	Director, Education, Communities and Economy
Outline of report and summary of discussion		
The Council heard from the Director, Education, Communities and Economy who spoke to the terms of a report detailing progress with the Gorebridge Connected project. Councillor Johnstone enquired as to whether the Council had a back-up/fall-back position should the project fail. The Acting Director, Resources advised that further information could be provided to Councillor Johnstone as soon as		

possible after the meeting. Councillor Johnstone in agreeing to this also requested the other Ward Members, namely Councillors Muirhead and Munro, be included. Mrs Smith advised Councillors had been kept up-to-date but due to Councillor Johnstone's absence due to ill health, it had not been possible for her to attend the meetings.

Decision

The Council agreed to note the content of the report and the funding agreement/service level agreement between the Council and Gorebridge Community Development Trust for the project manager post and the phasing of payment to them and approved delegated authority to the Acting Director, Resources to have:-

- (a) prepared and sign on behalf of the Council, a 20 year occupancy lease between Network Rail and the Council, for the former Gorebridge train station, subject to the VAT implications being satisfactory to the Head of Finance and Integrated Service Support and;
- (b) the heads of terms prepared for and sign on behalf of the Council, a 20 year sub-lease for the former Gorebridge train station between Midlothian Council, as head tenant and Gorebridge Community Development Trust as sub-tenant, subject to the VAT implications being satisfactory to the Head of Finance and Integrated Service Support. The sub-lease between the Council and Gorebridge Community Development Trust to be signed immediately as a back to back arrangement, or as soon as practicably possible, after the main lease is signed between the Council and Network Rail.

Action

Director, Education, Communities and Economy; Director, Resources; Head of Finance and Integrated Service Support

Report No.	Report Title	Presented by:
8.18	Environmental Health Food Service Plan 2019/20 – Report by Director, Education, Communities and Economy	Director, Education, Communities and Economy
Outline of report and summary of discussion		
The Council heard from the Director, Education, Communities and Economy who spoke to the terms of a report advising of the Environmental Health Food Service Plan for 2019/2020.		
The Provost requested the Director pass onto the Environmental Health Manager, Edel Ryan, Council's appreciation of the work undertaken by the Service.		
Decision		
The Council agreed to:-		
<ul style="list-style-type: none"> (a) note the review of performance of the Food Service 2018/19; (b) note the reduction in inspectorate, as a result of the Council's approved financial strategy (February 2018); (c) note the likely impact on performance and outcomes as a result of the reduction in inspectorate and; (d) approve the Environmental Health Food Service Plan 2019/2020 		
Action		

Report No.	Report Title	Presented by:
8.19	Standards Commission Decision – Report by Monitoring Officer	Alan Turpie
Outline of report and summary of discussion		
<p>The Council heard from the Monitoring Officer who spoke to the terms of a report advising of the decisions of the Standards Commission regarding complaints against Councillors Russell and Hackett which invited consideration of the findings as required by Section 18(3) of the Ethical Standards in Public Life Etc (Scotland) Act 2000.</p> <p>Councillor Russell advised she wished to make a statement with regard to the decision of the Standards Commission and she understood Councillor Hackett wished to do likewise. She further sought clarification as to whether she should then leave the meeting. The Monitoring Officer advised both Councillors should leave the meeting and it was a matter for any other Councillor who may be involved as to whether he/she remained.</p> <p>Sederunt: Councillor Cassidy left the meeting at 1.50 pm</p> <p>Councillor Russell addressed the meeting and noted that whilst the Standards Commission had accepted her actions were not deliberate and did not lead to any personal gain, it had left her feeling like a criminal. She also drew attention to the matter highlighted within the Monitoring Officer's report relating to the Integration Joint Board.</p> <p>Sederunt: Councillor Russell left the meeting at 1.52 pm</p> <p>Councillor Hackett addressed the meeting and said it was hard not to be moved by what Councillor Russell had said. He advised the Standards Commission had accepted he had not been dishonest and no member of the public had complained. However, the action taken by the Standards Commission had now led to Councillors withdrawing from discussions at Community Council meetings when planning applications were raised. He further pointed out the difficulties experienced by elected members who work meaning they carry out constituency business outwith normal working hours and cannot therefore take a Council officer with them. He reinforced how important it was for the Standards Commission to be invited to meet the elected members and hoped this would lead to them clarifying their position.</p> <p>Sederunt: Councillor Hackett left the meeting at 1.55 pm</p> <p>The Council Leader commented that the findings of the Standards Commission were an attack on local democracy. Councillor Hardie advised that Councillors are doing what is expected of them by the public and were now living in fear of the Standards Commission. He suggested it was a stain on the characters of the 2 Councillors involved and moved that the Council should not accept the findings. His motion was seconded by Councillor Imrie. Councillor Parry commented that part of the difficulty related to the fact all Councillors sit on the Planning Committee and perhaps it was time for this to be looked at again. She continued by advising this did not happen in other Councils. The Provost suggested the Director, Resources could be asked to report back on the</p>		

composition of the Planning Committee in comparison to what is in place in other Councils.

On a vote being taken by way of a show of hands, 13 votes were cast in favour of the recommendations as amended by Councillor Hardie's Motion. No votes were cast against.

Thereafter, Councillor Muirhead moved that Councillors Curran and Imrie take the place of Councillors Russell and Hackett as substitute members for Councillors Milligan and Muirhead on the Midlothian Integration Joint Board. With no Member being otherwise minded this became the decision of the meeting.

Decision

The Council:-

- (a) considered the findings in the Standard Commission's decision letter of 13 May 2019 in respect of Councillor Margot Russell and having done so agreed not to accept the judgement made;
- (b) considered the findings in the Standard Commission's decision letter of 14 May 2019 in respect of Councillor John Hackett and having done so agreed not to accept the judgement made;
- (c) noted, in particular, the requirement to take into account the need to consider public perception when Members determine whether to declare an interest under paragraph 7.3 of the Code of Conduct;
- (d) decided to invite the Commission to meet with elected members and;
- (e) agreed to appoint Councillors Curran and Imrie as substitute members for Councillors Milligan and Muirhead on the Midlothian Integration Joint Board.

Action

Monitoring Officer; Director, Resources

Sederunt: Councillors Cassidy and Russell re-entered the meeting at 2.12 pm

9 Exclusion of Members of the Public

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

9.1 Danderhall Combined Community Facility - Update – Report by Head of Property and Facilities Management

9.2 Acquisition of 47 Properties for Social Rent at Shawfair – Report by Head of Property and Facilities Management

9.3 Acquisition of 21 Properties for Social Rent at Loanhead – Report by Head of Property and Facilities Management

The meeting concluded at 2.40 pm
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Minute of Meeting



Performance, Review and Scrutiny Committee

Date	Time	Venue
19 March 2019	11.00am	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Parry	Chair
Councillor Alexander	
Councillor Baird	
Councillor Cassidy	
Councillor Hardie	
Councillor Lay-Douglas	
Councillor McCall	
Councillor Munro	
Councillor Russell	
Councillor Smail	
Councillor Winchester	

Also in Attendance:

Grace Vickers	Chief Executive
Mary Smith	Director Education, Communities and Economy
Alison White	Head of Adult Health and Social Care
Morag Barrow	Head of Primary Care and Older People's Services
Joan Tranent	Head of Children's Services
Gary Fairley	Head of Finance and Integrated Service Support
Garry Sheret	Head of Property and Facilities Management
Jane Milne	Acting Head of Customer and Housing Services
Gordon Aitken	Democratic Services Officer

1 Apologies

Apologies were received from Councillors Johnstone and Wallace.

2 Order of Business

The order of Business was as detailed within the Agenda.

3 Declarations of Interest

No declarations of interest were intimated.

4 Minutes of Previous Meetings

- 4.1 The minute of the meeting of 11 December 2018 was submitted and approved as a correct record.

5 Public Reports

Agenda No	Title	Submitted by:
5.1	A Summary of the Care Inspectorate Inspections of Day Care of Children, June 2018 - November 2018	Director Education, Communities and Economy
Outline and summary of item		
<p>The purpose of this report which was approved at Cabinet on 15 January 2019 was to advise that a range of Early Learning and Childcare settings for three and four year olds had been inspected by the Care Inspectorate during the period June 2018 and November 2018 including private nurseries and local authority settings. The report provided a summary of the outcomes of the inspections of the following settings:</p> <p>Cornbank St James Primary School Nursery, Rosewell Primary School Nursery, Chapter One Childcare Shawfair House, Cranston Country Nursery, Milton Bridge Nursery, Wizkidz Nursery, Lasswade School Nursery Class, Clover Country Nursery, Acre Wood Nurseries Ltd, St Andrew's RC Primary Nursery, Sacred Heart Primary School Nursery, Newtongrange Primary School Nursery and King's Park Primary School Nursery.</p> <p>Mary smith was heard in amplification of the report after which there was a general discussion on this matter during which it was agreed that the principle of receiving Inspection feedback on Private Nurseries as well as local authority establishments was welcomed.</p>		
Decision		
<p>The Performance Review and Scrutiny Committee agreed;</p> <p>(a) To note the content of the summary of the inspection reports; and</p> <p>(b) To congratulate the pupils, parents and staff connected with these reports.</p>		
Action		
Director Education, Communities and Economy		

Agenda No	Title	Submitted by:
5.2	UK Exit from the European Union - Update	Risk Manager
Outline and summary of item		
The purpose of this report which was approved at Cabinet on 26 February 2019 was to highlight the current national position in preparation for a no deal exit from the European Union and to set out the urgent next steps Midlothian Council would need to progress. The Risk Manager was heard in amplification of the report after which there was a general discussion on this matter.		
Decision		
The Performance Review and Scrutiny Committee noted the content of this report.		
Action		
Risk Manager		

Agenda No	Title	Submitted by:
5.3	Adult and Social Care Q3 Performance Report	Head of Adult and Social Care and Head of Health and Older People's Services
Outline and summary of item		
The Quarter 3 Performance Report 2017/18 for Adult Social Care was presented by the Head of Adult and Social Care and the Head of Health and Older People's Services highlighting the progress in the delivery of strategic outcomes and a summary of the emerging challenges going forward as detailed in the report.		
Thereafter both Heads of Service responded to questions and comments raised by the members of the Committee.		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.4	Customer and Housing Services Q3 Performance Report	Head of Customer and Housing
Outline and summary of item		
<p>The Quarter 3 Performance Report 2017/18 for Customer and Housing Services was presented by The Acting Head of Customer and Housing Services highlighting the progress in the delivery of strategic outcomes and a summary of the emerging challenges going forward as detailed in the report.</p> <p>Thereafter the Acting Head of Customer and Housing Services responded to questions raised by members of the Committee.</p>		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.5	Children's Services Q3 Performance Report	Head of Children's Services
Outline and summary of item		
<p>The Quarter 3 Performance Report 2017/18 for Children's Services was presented by the Head of Children's Services highlighting the progress in the delivery of strategic outcomes and a summary of the emerging challenges going forward as detailed in the report.</p> <p>Thereafter the Head of Children's Services responded to questions and comments raised by members of the Committee.</p>		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.6	Education Q3 Performance Report	Director Education, Communities and Economy
Outline and summary of item		
<p>The Quarter 3 Performance Report 2017/18 for Education was presented by the Director Education, Communities and Economy highlighting the progress in the delivery of strategic outcomes and a summary of the emerging challenges going forward as detailed in the report.</p>		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.7	Communities and Economy Q3 Performance Report	Director Education, Communities and Economy
Outline and summary of item		
The Quarter 3 Performance Report 2017/18 for Communities and Economy was presented by the Director Education, Communities and Economy highlighting the progress in the delivery of strategic outcomes and a summary of the emerging challenges going forward as detailed in the report.		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.8	Commercial Operations Q3 Performance Report	Acting Director, Resources
Outline and summary of item		
The Quarter 3 Performance Report 2017/18 for Commercial Operations was presented by the Acting Director, Resources highlighting the progress in the delivery of strategic outcomes and a summary of the emerging challenges going forward as detailed in the Report.		
Thereafter the Acting Director, Resources responded to questions raised by members of the Committee.		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.9	Fi Q3 Performance Report Finance and Integrated Service Support Q3 Performance Report	Head of Finance and Integrated Service Support
Outline and summary of item		
The Quarter 3 Performance Report 2017/18 for Finance and Integrated Service Support was presented by the Head of Finance and Integrated Service Support highlighting the progress in the delivery of strategic outcomes and a summary of the emerging challenges going forward as detailed in the report.		
Thereafter the Head of Finance and Integrated Service Support responded to comments and questions raised by the Committee.		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.10	Property and Facilities Management Q3 Performance Report	Head of Property and Facilities Management
Outline and summary of item		
<p>The Quarter 3 Performance Report 2017/18 for Property and Facilities Management was presented by the Head of Property and Facilities Management highlighting the progress in the delivery of strategic outcomes and a summary of the emerging challenges going forward as detailed in the report.</p> <p>Thereafter the Head of Property and Facilities Management responded to questions and comments raised by Members of the Committee.</p>		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.11	Midlothian Council Q3 Performance Report	Chief Executive
Outline and summary of item		
<p>The Chief Executive presented the Midlothian Council Quarter 3 Performance report detailing the delivery of Midlothian Council's priorities through the Community Planning Partnership and the Single Midlothian Plan. The Chief Executive advised the Committee that the purpose of this report was to collate all the individual Q3 Performance reports and provide the overview summary for the Council.</p> <p>The Chief Executive advised the Committee of some of the highlights since the Q2 Midlothian Council report. Thereafter the Chief Executive responded to questions and comments raised by the Committee.</p>		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

Agenda No	Title	Submitted by:
5.12	2017/18 Local Government Benchmarking Results	Chief Executive
Outline and summary of item		
<p>The purpose of the report was to provide the Performance Review and Scrutiny Committee with the Local Government Benchmarking Framework (LGBF) overview of the Council's performance against the indicators for 2017/18.</p> <p>The Chief Executive was heard in amplification of the report after which she answered questions raised by Members of the Committee</p>		
Decision		
The Performance Review and Scrutiny Committee noted the report.		

6 Private Reports

No private reports were submitted for discussion.

7 Date of Next Meeting

The next meeting will be held on Tuesday 30 April 2019 at 11 am.

The meeting terminated at 1.30 pm

Minute of Meeting



Community Asset Transfer Committee

Date	Time	Venue
30 April 2019	9.00 am	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Muirhead (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Hackett
Councillor Hardie	

In attendance:

Kevin Anderson, Acting Director, Resources	William Venters, Principal Solicitor
Magnus Inglis, Resource Officer, Education	Stephen Bermingham, Senior Communities Officer
Verona MacDonald, Democratic Services Team Leader	

Also present:

Trisha Sime (on behalf of the applicants for Item No. 5. 1 on the agenda)	Sam Elliot (on behalf of the applicants for Item No. 5.2 on the agenda)
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1. Apology

The Clerk intimated an apology for absence on behalf of Councillor Winchester.

2. Order of Business

It was noted that the order of business was as per the agenda circulated.

Prior to the commencement of business, the Chair made reference to a letter he had received just before the meeting commenced from the applicant with regard to Item No. 5.2 on the agenda. He advised that it was likely the other Members present had also received the same letter and suggested that Members may wish to take a few minutes to read over the letter. With the agreement of the other Members, the Chair adjourned the meeting for up to 20 minutes.

Sederunt:- The meeting re-convened at 9.16 am

3. Declarations of interest

None

4. Minute of Previous Meeting

The Minute of Meeting held on 21 January 2019 was submitted and unanimously approved. The Chair was thereafter authorised to sign the Minute as an accurate record.

5. Reports

Report No.	Report Title	Presented by:
5.1	Application by Bonnyrigg Rose Community Football Club for an asset transfer of Poltonhall Pavilion and associated grounds, Polton Avenue Road, Bonnyrigg	Acting Director, Resources
Outline of report and summary of discussion		
<p>The Acting Director, Resources spoke to the terms of the report circulated with the agenda. He noted that the site included the caretaker's flat, pitches and parkland and was valued at £345,000. The current cost to the Council for pitch maintenance being £26,663 per year with additional costs for the maintenance of the car park and when the income from football lets of £19,927 is off-set against the maintenance costs, the annual loss incurred by the Council is at least £6,736. He noted that these figures did not include the replacement of the astro pitches which were anticipated to be approximately £202,000 and that this is because no financial provision for this is included in the General Services Capital Plan.</p> <p>Councillor Muirhead enquired as to whether a clear agreement had been reached with the applicant with regard to ownership of machinery and who would be responsible for the maintenance of areas and the machinery. Mr</p>		

Anderson advised, should the Committee agree to the transfer application, these were matters which would be resolved between the Council and the applicant prior to the agreement being concluded. He confirmed initial discussion had taken place. Councillor Muirhead queried whether this should have been done prior to the application being before the Committee and Mr Anderson in reference to the report advised that Fields in Trust still had to agree to remove the part of the application area which is subject to an agreement between them and the Council and the completion of any asset transfer would be subject to formal approval by Fields in Trust. He further advised that if the Committee wished legal agreements to be concluded prior to considering applications that this would cause a considerable delay in processing applications and remind Members that the Council has a legal obligation to make a decision on applications within 6 months of them being deemed valid.

Councillor Alexander, with reference to Page 7 of the report, asked for confirmation that any financial benefit derived by the Lands Tribunal varying or waiving the use restriction would return to the Council. Mr Anderson confirmed that this would also be written into the final agreement whereby, as per the terms of the report, the Council would receive 100% of the uplift in value ie the difference in value between the land as a community football club and the value with the proposed change of use.

The Chair, with reference to the terms of the report and the application, asked for clarification as to who would be responsible for the replacement of the pitches. Mr Anderson advised that the Council did not have the financial provision in the General Services Capital Plan and therefore would not undertake this prior to the asset transfer. Councillor Muirhead stated it was important that the applicant was aware of this and suggested the Council could work with the applicant with a view to identifying external funding including developer contributions.

Councillor Hardie stated developer contributions should not be used for projects outwith the Council. Councillor Muirhead advised that he was referring to additional developer contributions and in light of the applicant's application whereby the facility would be used by the wider community.

The Chair then asked the applicant, Ms Sime who was present, if she wished to address the Committee. Ms Sime advised that the site would become a community facility and a considerable consultation exercise had already begun and the results would contribute to the Club's plans going forward.

The Chair referred to the outstanding arrears noted in the report. Stephen Bermingham advised that the Club currently owed £20,000 but he understood Elected Members had suggested to the Club this would be waived due to work undertaken and money invested in the facility by the Club.

Ms Sime advised that Elected Members had told the Club the arrears would be written off due to money being spent by the Club on the facility.

Councillor Hackett took issue with this statement and advised that this was not right as many other clubs pay rent and also spend money on facilities and therefore Clubs were not being treated the same. Councillor Hardie stated that Elected Members did not have the authority to act in this manner. He subsequently requested that his concern with regard to the advice provided by

Mr Bermingham and Ms Sime with regard to Elected Member involvement in arrears of rental due to the Council, be recorded in the Minute of the meeting.

Councillor Cassidy, seconded by Councillor Alexander, moved grant of the application to transfer. The Chair advised that he was minded to agree to the Motion but on the basis outlined above whereby a clear agreement had to exist between the Council and the Club as to where responsibilities lay and that this should include the need to ensure the facilities are maintained at the same standard that the Council has for other facilities. He further noted that the agreement should also highlight that the Council does not have the money to fund the replacement of the pitches and therefore this would become the responsibility of the Club.

The Committee then heard from William Venters, Principal Solicitor who advised that should the Committee agree to the application this was in effect an agreement in principle with the legislation allowing for a period of 6 months for detailed discussion and the legal agreement to be finalised.

With no Member being otherwise minded, Councillor Cassidy's Motion with the additional requirements outlined by the Chair, became the unanimous decision of the Committee.

Decision

The Committee agreed to the application submitted by Bonnyrigg Rose Community Football Club subject to:

- (a) the conditions detailed in Section 3.5 of the Director, Resources report together with the conditions agreed by the Committee namely (i) that clear agreement had to exist between the Council and the Club as to where responsibilities lay and that this should include the need to ensure the facilities are maintained at the same standard the Council has for other facilities; (ii) the agreement highlights the Council does not have the money to fund the replacement of the pitches and that responsibility for this lies with the Club ;
- (b) Fields in Trust approving the removal of the part of the application area subject to the current agreement with the Council and;
- (c) such other reasonable terms and conditions as the Director, Resources may consider necessary in order to protect the interests of the Council.

Action

Director, Resources

Report No.	Report Title	Presented by:
5.2	Application by Bonnyrigg After School Club for an asset transfer of Poltonhall Bowling Club and land, Bonnyrigg	Acting Director, Resources
Outline of report and summary of discussion		
<p>The Acting Director, Resources spoke to the terms of the report circulated with the agenda. He noted the letter circulated to Members by the applicant and advised that whereas he was aware of it from what the Chair had said earlier in the meeting he had not had a chance to read or consider it.</p> <p>Councillor Hackett advised that the site was part of the Strategic Housing Investment Plan (SHIP) approved by the Council in November 2018 but that the application may pre-date the approval of the SHIP. Mr Anderson confirmed that the application had come in before the Council had approved the SHIP.</p>		

The Chair enquired as to whether the applicant had been advised after the Council decision in November that the asset was therefore not available for transfer. Stephen Bermingham advised that whereby the timing was unfortunate the applicant had been advised. Councillor Hardie stated that the application had been made in good faith prior to the Council agreeing the SHIP and in effect deciding to do something else with the land.

In light of the foregoing, the Chair proposed that the application be continued for allow further discussion between the Council and the applicant. In doing so he enquired whether the applicants, who were represented, wished to address the Committee. Mr Sam Elliot on behalf of the applicants advised that the letter he had circulated to Members was important because officers in the Council had directed the Club to the site but the Club had not been advised of the inclusion of the land within the SHIP. He pointed out that the Council's Communities Team had provided a letter of support for the application. He further addressed issues contained in the objection from Bonnyrigg Community Council which was appended to the report in relation to car parking. He stated that the Community Council had advised him that should the car parking issue be addressed they would withdraw their objection to the application.

The Committee then heard from William Venters, Principal Solicitor. He advised of the terms of Standing Order 7.2 whereby the Committee cannot overrule a decision taken by the Council.

Discussion continued in relation to the powers the Committee had and in particular why the application had come before the Committee given that the land in question had already been designed for housing in terms of the Council's Strategic Housing Investment Plan (SHIP). Councillor Hardie suggested that the Committee undertook a quasi-judicial role and therefore had the power to grant the application regardless of the decision taken by the Council in November 2018. The Chair reminded Members that the Council had decided to deal with asset transfer applications by creating the Committee and also a Review Committee however the Council could have decided to have only a Review Committee with applications being considered and decided upon by officers only. He therefore suggested that the Committee was not quasi-judicial.

After further discussion, the Chair, seconded by Councillor Hackett, moved that the application be continued to a future meeting of the Committee to be held as soon as possible. In the meantime, further discussion should take place between appropriate Council officers and the applicant with regard to the application. It was further noted that this may also necessitate a further report to Council with regard to the inclusion of the land in the SHIP. The Chair enquired if the applicant was willing to agree to extend the 6 month period to allow for the additional discussion and Mr Elliot confirmed that he was agreeable to this course of action.

With no other Member being otherwise minded, this became the unanimous decision of the Committee.

The Chair further apologised to Mr Elliot with regard to the confusion which had arisen and discussion which had taken place some of which related to internal Council issues. He explained that the Committee was a recently formed one dealing with new legislation and to a great extent officers and Members were still getting to grips with the tasks delegated to them.

The Committee agreed to continue the application to a future meeting to be held as soon as possible, to allow further discussion to take place between appropriate Council officers and the applicant and further noted that the applicant had no objection to the 6 month time period for determination of the application being extended. It was noted that prior to determination of the application by the Committee, a further report may be required to go before the Council with regard to the Strategic Housing Investment Plan (SHIP).

Action

Director, Resources

The meeting terminated at 10.28 am

Minute of Meeting



Planning Committee

Date	Time	Venue
14 May 2019	1.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Lay-Douglas
Councillor McCall	Councillor Milligan
Councillor Muirhead	Councillor Munro
Councillor Parry	Councillor Russell
Councillor Smail	Councillor Wallace

In Attendance:

Mary Smith, Director, Education, Communities and Economy	Peter Arnsdorf, Planning Manager
Alan Turpie, Legal Services Manager	Jim Gilfillan, Consultant Policy & Planning, Policy & Road Safety
Mike Broadway, Democratic Services Officer	

1. Apologies

Apologies for absence were intimated on behalf of Councillors Johnstone and Winchester.

2. Order of Business

The order of business was confirmed as outlined in the agenda.

3. Declarations of interest

In light of the recent Standards Commission decision to sanction two Councillors for breaches of the Councillors' Code of Conduct, a number of Members of the Committee raised concerns regarding the process for engaging with individuals and/or groups who may have an interest in a planning related matter. It was felt that guidance was required in order to clarify the position, in order that Members could participate in the planning process without fear of falling foul of a similar breach.

The Monitoring Officer, having advised that a full report on the Standards Commissions ruling would be submitted to the June Council meeting, attempted to offer the clarification sought by Members.

In response to a suggestion that the business on today's agenda be carried forward to the June meeting, the Chair advised that he was not minded to suspend today's meeting. Further advice was then offered by the Monitoring Officer and the Planning Manager regarding the timescales for determining applications and the potential for applicants to appeal on grounds of non-determination in the event that the meeting did not proceed.

After further discussion, the undernoted Members indicated that in the absence of formal clarification of the Standards Commissions decision they were not prepared to proceed and withdrew from the meeting at 1.16pm – Councillors Alexander, Baird, Cassidy, Hardie, Lay-Douglas, McCall, Munro, Parry, Smail and Wallace.

In terms of Standing Order 7.1, it was confirmed that there were sufficient Members remaining to constitute the required quorum of 6, so the meeting could proceed.

4. Minutes of Previous Meetings

The Minute of Meeting of 2 April 2019 were submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Presented by:
5.1	Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf

Outline of report and summary of discussion	
<p>There was submitted a report dated 2 May 2019 by the Director, Education, Communities and Economy updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.</p> <p>The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in Appendices A and B attached to this report.</p>	
Decision	
<p>The Committee noted the major planning application proposals which were likely to be considered by the Committee in 2019 and the updates for each of the applications.</p>	
Action	
<p>Planning Manager</p>	

Agenda No	Report Title	Presented by:
5.2	Appeals and Local Review Body Decisions	Peter Arnsdorf
Outline of report and summary of discussion		
<p>There was submitted a report dated 2 May 2019 by the Director, Education, Communities and Economy informing the Committee of the notices of review determined by the Local Review Body (LRB) at its meeting in April 2019 and advising that there were no appeals determined by Scottish Ministers to report.</p>		
Decision		
<p>The Committee noted the decisions made by the Local Review Body at its meetings on 16 April 2019.</p>		
Action		
<p>Planning Manager</p>		

Agenda No	Report Title	Presented by:
5.3	Supplementary Guidance: Housing Development in the Countryside and Green Belt	Peter Arnsdorf
Executive Summary of Report		
<p>With reference to paragraph 5.2 of the Minutes of 9 October 2018, there was submitted report, dated 2 May 2019, by the Director of Education, Communities and Economy, advising the Committee of the responses received to the public consultation on the proposed supplementary guidance on 'Housing Development in the Countryside and Green Belt' and seeking agreement to the adoption of the Housing Development in the Countryside and Green Belt Supplementary Guidance.</p>		

The report explained that the consultation period had run for eight weeks from 22 November 2018 to 18 January 2019 with discussions with interested parties continuing after the specified period. Responses had been received from a wide range of consultees including, Community Councils, landowners, developers, Government agencies and members of the public. A summary of the consultation responses, together with details of the Council's proposed response and a track change copy of the draft Supplementary Guidance document showing proposed deletions and additions (shown in red) to the document arising from the consultation were appended to the report.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the comments received as a result of the public consultation on the proposed Supplementary Guidance.

Decision

After further discussion, the Committee agreed:-

- a) to adopt the Housing Development in the Countryside and Green Belt Supplementary Guidance (as amended following the consultation process);
- b) that the Housing Development in the Countryside and Green Belt Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
- c) to instruct the Planning Manager to undertake the required notification/advertisement advising that the Housing Development in the Countryside and Green Belt Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
- d) to instruct the Planning Manager to notify the Scottish Ministers of the Council's intention to adopt the Housing Development in the Countryside and Green Belt Supplementary Guidance; and
- e) to be advised of the outcome of the notification of the Scottish Ministers procedure.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.4	Proposed Development of Mountain Bike Trail Centre, Indoor and Outdoor Leisure Facilities, Food and Drink Uses, Professional Service Suites, Offices, Retail, Visitor Accommodation and Associated Site Access Parking, Landscaping and Other Works at Former Lothianburn Golf Club, 106 Biggar Road, Edinburgh (19/00126/PAC).	Peter Arnsdorf

Outline of report and summary of discussion

There was submitted report, dated 2 May 2019, by the Director, Education Communities and Economy advising that a pre application consultation had been submitted regarding the proposed development of a mountain bike trail centre, indoor and outdoor leisure facilities, food and drink uses, professional service suites, offices, retail, visitor accommodation and associated works at the Former Lothianburn Golf Club, 106 Biggar Road, Edinburgh (19/00126/PAC).

The report advised that in accordance with the pre-application consultation procedures noted by the Committee at its meeting on 6 June 2017 (paragraph 5.8 refers) the pre application consultation was being reported to Committee to enable Members to express a provisional 'without prejudice' view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.

Summary of Discussion

The Committee, having heard from the Planning Manager, discussed the possible potential impact of the retail element and whether or not it would be possible to restrict the goods/products being sold to items having a connection to the activities taking place, e.g Indoor and Outdoor Leisure pursuits. In response the Planning Manager advised that as the proposed site straddled the boundary with the City of Edinburgh Council and the land on which this part of the development was likely to occur fell within their jurisdiction it would be for them to determine such matters, however Members' concerns in this regard could be draw to their attention as part of the pre-application process.

Decision

The Committee noted:

- (a) The provisional planning position set out in the report;
- (b) The comments made by Members; and
- (c) That the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.5	Proposed Residential Development with Associated Engineering Works, Open Space and Landscaping at Land North of Oak Place Mayfield Dalkeith (19/00106/PAC).	Peter Arnsdorf

Executive Summary of Report
<p>There was submitted report, dated 2 May 2019, by the Director, Education Communities and Economy advising that a pre application consultation had been submitted regarding a proposed residential development with associated engineering work, open space and landscaping at land north of Oak Place, Mayfield (19/00106/PAC).</p> <p>The report advised that in accordance with the pre-application consultation procedures noted by the Committee at its meeting on 6 June 2017 (paragraph 5.8 refers) the pre application consultation was being reported to Committee to enable Members to express a provisional 'without prejudice' view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.</p>
Summary of Discussion
<p>The Committee, having heard from the Planning Manager, discussed the potential number of units, it being acknowledged that in terms of the Midlothian Local Development Plan 2017 (MLDP) the indicative capacity was for 63 units, and also the access arrangements, both in terms of the design of the site layout and also during construction. In response to Members questions, the Planning Manager advised that although the site history would be reviewed as part of consideration of the current application, anyone who had made representations regarding previous applications would be best advised to submit these afresh if they wish their views to be considered as part of determination of the current application.</p>
Decision
<p>The Committee noted:</p> <ul style="list-style-type: none"> (a) The provisional planning position set out in the report; (b) The comments made by Members; and (c) That the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.
Action
<p>Planning Manager</p>

Agenda No	Report Title	Presented by:
5.6	Application for Planning Permission for the Erection of 247 Dwellinghouses; Formation of Access Roads and Car Parking; SUDs Features and Associated Works on part of Site HS11 Dalhousie South Bonnyrigg (18/00740/DPP).	Peter Arnsdorf
Outline of report and summary of discussion		
<p>There was submitted report, dated 2 May 2019, by the Director, Education, Communities and Economy concerning the above application.</p>		

Having heard from the Planning Manager, the Committee in discussing the background to the inclusion of the proposed development site in the Midlothian Local Development Plan 2017, acknowledged the importance of developer contributions to help offset the growing pressures being put on infrastructure in the area. In particular, improvements to public transport through a contribution towards the proposed orbital bus service, use of the contribution towards leisure to help fund upgrade of the all-weather pitch and the opportunity to make future provision for the extension of the very popular Cockpen cemetery which adjoined the site.

Decision

After further discussion, the Committee agreed to grant the planning permission for the following reason:-

The proposed development site is allocated in the Midlothian Local Development Plan 2017. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions and subject to appropriate conditions. The presumption for development is not outweighed by any other material considerations.

subject to:

i) the prior signing of a legal agreement to secure:

- the provision of affordable housing equal to, or greater than 25% of the total number of residential units across site Hs11 as a whole;
- a financial contribution towards education provision;
- a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
- a financial contribution towards public transport/Borders Rail;
- a financial contribution towards the Council's A7 urbanisation scheme;
- maintenance of open space; and
- a financial contribution towards the promotion of roads orders to secure safe routes to school.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused; and

ii) the detailed conditions set out in the report.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.7	Application for Planning Permission in Principle for Residential Development on part of Site HS11 Dalhousie South Bonnyrigg (18/00743/DPP).	Peter Arnsdorf
Outline of report and summary of discussion		
There was submitted report, dated 2 May 2019, by the Director, Education, Communities and Economy concerning the above application.		

The Committee, having heard from the Planning Manager, considered that as this site was an integral part of the wider development site dealt with as part of the proceeding item of business the same comments equally applied in terms of the importance of the developer contributions.

Decision

The Committee, after further discussion, agreed to grant the planning permission in principle for the following reason:

The proposed development site is allocated in the Midlothian Local Development Plan 2017. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions and subject to appropriate conditions. The presumption for development is not outweighed by any other material considerations.

subject to:

i) the prior signing of a legal agreement to secure:

- the provision of affordable housing equal to, or greater than 25% of the total number of residential units across site Hs11 as a whole;
- a financial contribution towards education provision;
- a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
- a financial contribution towards public transport/Borders Rail;
- a financial contribution towards the Council's A7 urbanisation scheme;
- maintenance of open space; and
- a financial contribution towards the promotion of roads orders to secure safe routes to school.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

ii) the detailed conditions as set out in the report.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.8	Section 42 Application to Remove Condition 7, requiring enhanced Public Transport facilities, imposed on grant of Planning Permission 17/00951/PPP for a Retail Unit at Soutra Mains Farm, Blackshiels, Fala, Pathhead (19/00221/S42).	Peter Arnsdorf
Outline of report and summary of discussion		
With reference to paragraph 5.5 of the Minutes of 20 February 2018, there was submitted report, dated 2 May 2019, by the Director, Education, Communities and Economy concerning the above application.		

Councillor Hackett advised the Committee that, in view of the early discussion regarding the decisions of the Standards Commission (paragraph 3 above refers), having visited the site, he would be declare a non-pecuniary interest in this item. He indicated that notwithstanding this he still felt that he could reach an objective, impartial decision and therefore intended to participate in consideration of the current application. However following advice from the Monitoring Officer, he accepted that in the absence of clarification of the Standards Commission decisions, he would err on the side of caution and withdraw from the meeting.

In terms of Standing Order 7.11, there being insufficient Members present to constitute the required quorum of 6, the meeting was adjourned and no further business was discussed.

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next meeting will be held on Tuesday 18 June 2019.

The meeting terminated at 1.47 pm

Minute of Meeting



Cabinet

Date	Time	Venue
21 May 2019	11.00 am	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Muirhead – Depute Convener	
Councillor Imrie	
Councillor Curran	
Councillor Hackett	

Religious Representatives:

Mr Vic Bourne	
Mrs Elizabeth Morton	

1 Apologies

Apologies were received on behalf of Councillor Milligan (Convenor)

2 Order of Business

The Order of Business was as detailed within the Agenda.

3 Declarations of interest

No declarations of interest were received.

4 Minutes of Previous Meetings

The Minutes of Meeting of the Cabinet held on 9 April 2019 were submitted and approved as a correct record.

5. Reports

Agenda No.	Report Title	Presented by:								
5.1	Inspection of Bonnyrigg Primary School and Nursery Class	Acting Head of Education								
Outline of report and summary of discussion										
<p>The report outlined the outcome of the Inspection of Bonnyrigg Primary School and Nursery Class as carried out by Education Scotland which had been communicated in their letter dated 12 March 2019.</p> <p>Following inspection, Education Scotland gathered evaluations of the core quality indicators to keep track of how well all Scottish Early, Learning and Childcare settings and schools were doing. The short inspection model was used for this visit as decided by Education Scotland. This visit had a specific focus on QI 2.3 and 3.2 for both Primary School and Nursery Class. Education Scotland published a statement as part of this report on the confidence they had in the school's capacity to continue to improve.</p> <p>Noted below are the evaluations for Bonnyrigg Primary School and Nursery Class:</p> <p>School</p> <table><tr><td>QI 2.3 Learning, Teaching and Assessment</td><td>Good</td></tr><tr><td>QI 3.2 Raising attainment and achievement</td><td>Good</td></tr></table> <p>Nursery Class</p> <table><tr><td>QI 2.3 Learning, Teaching and Assessment</td><td>Satisfactory</td></tr><tr><td>QI 3.2 Securing Children's Progress</td><td>Satisfactory</td></tr></table> <p>The inspection team found the following strengths in the school's work.</p> <ul style="list-style-type: none">• Caring, nurturing relationships between children and staff. This is leading to children feeling safe, happy and included. Children are very proud of their school and nursery class			QI 2.3 Learning, Teaching and Assessment	Good	QI 3.2 Raising attainment and achievement	Good	QI 2.3 Learning, Teaching and Assessment	Satisfactory	QI 3.2 Securing Children's Progress	Satisfactory
QI 2.3 Learning, Teaching and Assessment	Good									
QI 3.2 Raising attainment and achievement	Good									
QI 2.3 Learning, Teaching and Assessment	Satisfactory									
QI 3.2 Securing Children's Progress	Satisfactory									

- Strong teamwork amongst staff. Staff are very supportive of one another and work well collectively to meet children's needs
- Children's understanding of the qualities required to be a good learner
- Teacher's use of effective questioning to engage children in their learning and help monitor their progress

The following areas for improvement were identified and discussed with the Headteacher and a representative from Midlothian Council.

- Raise attainment in Literacy and English taking better account of children's prior learning
- Ensure all learning experiences consistently provide sufficient challenge for all learners including increased opportunities for children to lead their own learning
- Senior leaders need to continue to improve their approaches in monitoring children's progress across the school and nursery. This will help show clear evidence of improvement as a result of self-evaluation

The Acting Head of Education and the Head Teacher, Jennifer Allison were heard in amplification of the report after which they answered questions from elected Members.

Decision

- (a) To note the content of the inspection report;
- (b) To congratulate the staff, pupils and parents on the positive outcome of this inspection;
- (c) To note the key strengths outlined in the report;
- (d) To note the areas for improvement outlined in the report;
- (e) To note that Education Scotland would not return to the school with regard to this particular inspection; and
- (f) To pass the report to the Performance, Review and Scrutiny Committee for its consideration.

Action

Head of Education

Agenda No	Report Title	Presented by:
5.2	Inspection of Gorebridge Primary School and Nursery Class	Acting Head of Education
Outline of report and summary of discussion		
<p>The report outlined the outcome of the above inspection as carried out by Education Scotland which was communicated in their letter dated 26 March 2019.</p> <p>Following inspection, Education Scotland gathered evaluations of the core quality indicators to keep track of how well all Scottish Early, Learning and Childcare settings and schools were doing.</p>		

Noted below are the evaluations for Gorebridge Primary School and Nursery Class:

School

QI 1.3 Leadership of Change	Satisfactory
QI 2.3 Learning, Teaching and Assessment	Satisfactory
QI 3.2 Raising Attainment and Achievement	Satisfactory
QI 3.1 Ensuring Wellbeing, Equality and Inclusion	Satisfactory

Nursery Class

QI 1.3 Leadership of Change	Satisfactory
QI 2.3 Learning, Teaching and Assessment	Satisfactory
QI 3.2 Securing Children's Progress	Satisfactory
QI 3.1 Ensuring Wellbeing, Equality and Inclusion	Satisfactory

The inspection team found the following strengths in the school's work.

- Children who are motivated and enthusiastic learners and take great pride in their school.
- The newly-appointed Headteacher who has a clear vision for the school and is beginning to bring about positive change. He is building on the strong relationships and partnerships across the school community to support continued improvements.
- The senior leadership team and staff across the primary stages and nursery class who provide a supportive and nurturing ethos for children and their families.
- Partnership working within Newbattle Learning Community which takes good account of children and families. In particular, the early intervention and prevention project which is working well with families and leading to positive outcomes.

The following areas for improvement were identified and discussed with the Headteacher and a representative from Midlothian Council.

- Continue to develop greater consistency in learning and teaching across the primary stages and nursery class to enable all children to make the best possible progress.
- Improve approaches to tracking and monitoring children's progress. To support this to be robust and reliable, continue to develop approaches to assessment and moderation.
- Continue to develop the curriculum as planned. In doing so, increase opportunities for outdoor learning and the use of digital technologies to support learning.
- Continue to review approaches to recording safeguarding and wellbeing concerns across the primary stages and nursery class.

Noted below are the requirements/recommendations made by Care Inspectorate for the nursery class

Quality of care and support	Adequate
Quality of environment	Good
Quality of staffing	Adequate
Quality of management and leadership	Adequate

The Acting Head of Education and the Head Teacher, Steven Wood were heard in amplification of the report after which they answered questions from elected Members.

Decision

- (a) To note the content of the inspection report;
- (b) To congratulate the staff, pupils and parents on the positive outcome of this inspection;
- (c) To note the key strengths outlined in the report;
- (d) To note the areas for improvement which will be supported by Schools Group Managers and the Early Years team to improve;
- (e) To note the requirements and recommendations for the Care Inspectorate;
- (f) To note that Education Scotland will not return to the school with regard to this particular inspection;
- (g) To pass the report to the Performance, Review and Scrutiny Committee for its consideration.

Action

Acting Head of Education

Agenda No	Report Title	Presented by:
5.3	Inspection of St David's High School	Acting Head of Education
Outline of report and summary of discussion		
<p>The report outlined the outcome of the above inspection as carried out by Education Scotland which was communicated in their letter dated 30 April 2019.</p> <p>Following inspection, Education Scotland gathers evaluations of the core quality indicators to keep track of how well all Scottish Early, Learning and Childcare settings and schools are doing. The short inspection model was used for this visit as decided by Education Scotland.</p> <p>Noted below are the evaluations for St David's High School:</p>		
QI 1.3 Leadership of change		Very Good
QI 2.3 Learning, teaching and assessment		Good
QI 3.2 Raising attainment and achievement		Good
QI 3.1 Ensuring wellbeing, equality and inclusion		Very Good

The inspection team found the following strengths in the school's work.

- The headteacher has provided inspiration and aspiration to the school community. The shared vision and values, ASPIRE, provide a very strong sense of direction and purpose for St David's High School.
- A culture of empowerment exists where staff at all levels and young people take on leadership roles to take forward school improvements. Commendably all staff are initiating changes which are helping to ensure positive outcomes for young people. This is resulting in young people who attain well and are being well supported to achieve.
- The very effective work of the integrated pupil support team is leading to improvements in wellbeing, and young people feeling highly included and valued. They work together with partners in a creative, flexible and imaginative way to meet the needs of young people and their families.
- Highly effective approaches to parental engagement that result in parents having improved confidence in supporting their children's learning and development. School based family and parent support activities have a clear and consistent goal of improving wellbeing and learning.

The following areas for improvement were identified and discussed with the Headteacher and a representative from Midlothian Council.

- To build on the existing enthusiasm and collaborative practices of staff to continue improving the consistency of learning, teaching and assessment.
- Teachers should continue to develop approaches to assessing and monitoring young people's progress in the broad general education. This will support all young people to understand their own strengths and identify next steps in learning. Evidence from assessment should be used to plan effective interventions to raise attainment of young people.
- Senior leaders should review the curriculum to ensure that young people benefit fully from learning opportunities that meet their needs. For example, further developing partnership working to provide appropriate pathways for all learners.

The Acting Head of Education and the Head Teacher, Donny MacDonald were heard in amplification of the report after which they answered questions from elected Members.

Decision

- (a) To note the content of the inspection report;
- (b) To congratulate the staff, pupils and parents on the very positive outcome of this inspection;
- (c) To note the key strengths outlined in the report;
- (d) To note the areas for improvement outlined in the report;
- (e) To note that Education Scotland would not return to the school with regard to this particular inspection; and

(f) To pass this report to the Performance, Review and Scrutiny Committee for its consideration.

Action

Acting Head of Education

Agenda No	Report Title	Presented by:
5.4	Further Inspection (Record of Visit ROV) of St Luke's Primary School	Acting Head of Education
Outline of report and summary of discussion		
<p>The report outlines the outcome of the above inspection as carried out by Education Scotland which was communicated in their letter dated 5 March 2019.</p> <p>The report highlighted that during the school's inspection in June 2017, Education Scotland identified a number of areas for improvement which were agreed with the school and Council Officers. As they were not sufficiently confident at that time about the school's capacity to continue to improve, they visited the school again in November 2018. The report also highlighted the main points for action from the original inspection in June 2017, which formed the focus of the further visit.</p> <p>In November 2018, the inspection team identified the following strengths and progress during their further visit:</p> <ul style="list-style-type: none">• Teachers planned effectively for children's learning and are increasingly developing confidence in using National Benchmarks to assess how well children are progressing across their learning.• They make good use of a wide range of assessment information and analyse this to inform learning groups and support for those who require additional help in their learning.• Senior leaders had taken a systematic approach to school improvement and developed strong approaches to self-evaluation. They had taken steps to build on improvements through rigorous monitoring and evidence gathering.• The Headteacher was effective in her role and is successfully leading changes in a well-judged and measured way.• The school's vision had children's achievements and learning at the centre of all it does.• Teachers and support staff worked tirelessly to support children in their achievements.• The school's positive ethos results from the shared ambition the staff team had for children.• The Headteacher and staff were approachable and enabled parents to raise any concerns they may have.• The school is responsive and welcoming.		

The following areas were identified for further development during the visit:

- Continue to develop consistency in high quality learning and teaching and share good practice. Ongoing professional dialogue through continued moderation activities and the use of assessment to inform next steps in learning will, over time, lead to progression in all curricular areas.
- Continue to build on the promising start made to children's use and understanding of the language of learning.

In November 2018, the inspection team identified the following strengths and progress during their further visit:

- It was clear that the school has an improved and shared understanding and commitment to raising attainment and achievement for all learners
- The Headteacher had maintained a relentless focus on raising expectations, improving consistency in learning and teaching and ensuring achievement for all
- As result, the school is successfully addressing this area for improvement identified in the original inspection.

The following areas were identified for further development during the visit:

- Sustain a strong focus on professional dialogue and children's progress
- Build on the positive start to tracking children's achievements. Involve children more in reviewing the particular skills they are developing as a result of their achievements
- As planned continue to develop approaches to teaching writing to ensure children make the best possible progress

The Acting Head of Education and the Head Teacher, Lindsay Walker were heard in amplification of the report after which they answered questions from elected Members.

Decision

- (a) To note the content of the inspection report;
- (b) To congratulate the staff, pupils and parents on the very positive outcome of this further Education Scotland visit
- (c) To note the key strengths and progress outlined in the report
- (d) To note the areas for improvement outlined in the report
- (e) To note that Education Scotland will not return to the school with regard to this particular inspection
- (f) To pass the report to the Performance, Review and Scrutiny Committee for its consideration.

Action

Acting Head of Education

Agenda No	Report Title	Presented by:
5.5	Inspection of Midlothian Adoption Service	Head of Children's Services
Outline of report and summary of discussion		
<p>The report outlined the outcome of the above announced (short notice) Inspection of Midlothian Adoption Service as carried out by the Care Inspectorate in February 2019.</p> <p>Based on the findings of the Inspection, the Care Inspectorate awarded the following grades on the three areas it inspected:</p> <ul style="list-style-type: none"> • Quality of Care and Support Grade 3 - Adequate • Quality of Staffing Grade 3 – Adequate • Quality of Management & Leadership Grade 3 – Adequate <p>The Inspection highlighted the following strengths:</p> <ul style="list-style-type: none"> • Adopters told us they received important information about children, including about their health, birth families and early life experiences and that this helped them to be sure about their ability to provide a safe and loving family life. • Secure, nurturing relationships, stable living situations and healthy active lifestyles, supported children to grow in confidence. Access to photos and videos, memory boxes, social stories and life story records meant children were well supported in understanding the important changes in their lives and in developing their sense of identity. • Adopters had experienced a thorough preparation to adopt course. There were various opportunities for adopters to provide feedback and views to the agency, including for example through feedback questionnaires after preparation to adopt courses or panel attendance. • The improvement plan was well written and comprehensive. It detailed the improvement work identified by the agency and clarified some priority development areas for the future. • Although there was an overall reduction of adoption work since the last inspection, overall they saw that panel processes were being carried out well and in a way which supported quality monitoring of practice and reporting. <p>The Inspection highlighted the following areas for development:</p> <ul style="list-style-type: none"> • Whilst most adopted children were being protected from harm, there was a very small number of children in greater need of care and protection. Whilst the agency had responded quickly to protect children and to carefully consider reasons for adoption disruptions this then resulted in unplanned moves which impacted on their well-being and longer term outcomes. 		

- Adopters commented that their own assessment timescale could be improved. They referred to unnecessary delays caused by staff changes and lack of staff experience which in turn led to delays in decision making and in achieving adoption plans at an earlier stage for some children.
- Similar to the fostering report safer recruitment processes were highlighted in particular with Human Resources not having records in relation to locum members of staff. No cyclical PVG checks in place.
- Whilst staff training was being undertaken, they were maintained within different systems which meant that management did not have a clear overview.
- Management's systems should be used more effectively and new systems could be developed to provide more of an overview of the agency. This would act to support improvements, for example relating to out-with approval procedures being followed, frequency of carer reviews and ensuring foster carer agreements are in place.
- The Care Inspectorate made 4 requirements and 3 recommendations which are highlighted within the attached action plan. All the requirements and recommendations shall be undertaken within the timescales specified on the plan.

The Head of Children's Services was heard in amplification of the report after which she responded to questions from elected Members.

Decision

- (a) To note the content of the Inspection Report; and
 (b) To pass the report to the Performance, Review and Scrutiny Committee for its consideration.

Action

Head of Children's Services

Agenda No	Report Title	Presented by:
5.6	Inspection of Midlothian Fostering Service	Head of Children's Services
Outline of report and summary of discussion		
<p>The report outlined the outcome of the above announced (short notice) Inspection on Midlothian Fostering Service as carried out by the Care Inspectorate in February 2019.</p> <p>Based on the findings of this Inspection the Care Inspectorate awarded the following grades on the three areas it inspected:</p>		
• Quality of Care and Support		Grade 4 - Good
• Quality of Staffing		Grade 3 – Adequate
• Quality of Management & Leadership		Grade 3 – Adequate

The report detailed the strengths and areas for development within the Quality of Staffing and Quality of Management within the Fostering Service.

The Head of Children's Services was heard in amplification of the report after which she responded to questions from elected Members.

Decision

- (a) To note the content of the Inspection Report; and
- (b) To pass the report to the Performance, Review and Scrutiny Committee for its consideration.

Action

Head of Children's Services

Agenda No	Report Title	Presented by:										
5.7	Inspection of Midlothian Council Highbank Intermediate Care Service	Service Manager Older People East										
Outline of report and summary of discussion												
<p>The report provided an overview of the recent Care Inspection report on Highbank Intermediate Care facility inspection. It also provided a summary of the action plan for the service improvements.</p> <p>The inspection report grades the areas of inspection from 1 (Unsatisfactory), to 6 (Excellent). This inspection report graded the 5 areas below:</p> <table><tr><td>How well do we support people's wellbeing?</td><td>3 - Adequate</td></tr><tr><td>How good is our leadership?</td><td>4 - Good</td></tr><tr><td>How good is our staffing?</td><td>3 - Adequate</td></tr><tr><td>How good is our setting?</td><td>3 - Adequate</td></tr><tr><td>How well is our care and support planned?</td><td>2 - Weak</td></tr></table> <p>The report advised that there were three areas for improvement in the inspection report and three requirements. The three requirements were:</p> <p>:</p> <ul style="list-style-type: none">• In order to ensure peoples care and support needs are continuously met as agreed, the service provider must ensure that staff numbers are appropriate for the health, welfare and safety of service users• The service must ensure that the premises are in a good state of repair externally and internally and are decorated and maintained to a standard appropriate for the care service.• In order to ensure peoples', care and support needs are continuously met as agreed, the service provider must review their needs with their involvement (or others as felt appropriate and agreed) on a six-monthly basis, or more often as when required or changes in need are identified.			How well do we support people's wellbeing?	3 - Adequate	How good is our leadership?	4 - Good	How good is our staffing?	3 - Adequate	How good is our setting?	3 - Adequate	How well is our care and support planned?	2 - Weak
How well do we support people's wellbeing?	3 - Adequate											
How good is our leadership?	4 - Good											
How good is our staffing?	3 - Adequate											
How good is our setting?	3 - Adequate											
How well is our care and support planned?	2 - Weak											

The three areas of improvement requested were:

- The provider should ensure that people are supported and not left alone for periods of time with minimal or no engagement from staff.
- The provider should ensure staff receive regular formal support and supervision, including observations of practice and reflective practice discussions as in accordance to their policies procedures
- The provider should ensure that appropriate communication tools are in place for staff which does not impinge on the comfort and wellbeing of people.

The Service Manager Older People East was heard in amplification of the report, particularly in relation to the action Plan put in place in order to address these matters after which she responded to questions from elected Members.

Decision

- (a)To note the content of the report and progress made and forward to PRS for information;
- (b)To note that many Care Home standards were not fit for purpose for a fast flowing Intermediate care unit;
- (c)To note that the service already had plans underway to address issues relating to care documentation; and
- (d)To note that improvements in environment were limited by the facility no longer being fit for purpose, and that MLC have prioritised a re-provision within the Capital plan.

Action

Head of Primary Care and Older People's Services

Agenda No	Report Title	Presented by:						
5.8	Inspection of Midlothian Council - Newbyres Village Care Home	Service Manager Older People East						
Outline of report and summary of discussion								
<p>The report provided an overview of the recent Care Inspection report on Newbyres Care Village inspection. The inspection report grades the areas of inspection from 1 (Unsatisfactory), to 6 (Excellent).</p> <p>This inspection report graded the 3 areas below:</p> <table><tr><td>How well do we support people’s wellbeing?</td><td>5 Very good</td></tr><tr><td>How good is our staffing?</td><td>4 Good</td></tr><tr><td>How well is our care and support planned?</td><td>5 Very good</td></tr></table> <p>The Service Manager Older People East was heard in amplification of the report, after which she responded to questions from elected Members.</p>			How well do we support people’s wellbeing?	5 Very good	How good is our staffing?	4 Good	How well is our care and support planned?	5 Very good
How well do we support people’s wellbeing?	5 Very good							
How good is our staffing?	4 Good							
How well is our care and support planned?	5 Very good							

Decision
<p>(a) To note the content of the report and progress made; and</p> <p>(b) To forward the report to the Performance, Review and Scrutiny Committee for information.</p>
Action
Head of Primary Care and Older People's Services

Agenda No	Report Title	Presented by:
5.9	Pupil Equity Fund	Acting Head of Education
Outline of report and summary of discussion		
<p>The purpose of the report was to present the Pupil Equity Fund allocation for Midlothian schools from the Scottish Government. The total allocation for Midlothian schools was £2,253,240 which was slightly higher than last year's total of £2,244,000.</p> <p>The report advised that last year the Government used a "smoothing mechanism" to ensure that schools did not receive less than 90% of their allocation in 2017/18. If schools did receive less than 90% of their previous allocation then their new allocation was "topped up" to 90% of the previous year.</p> <p>This year there would also be a "smoothing mechanism". This year the mechanism would ensure the new allocation did not fall below 90% of last year's allocation before it was topped up in 2018/19. This means the mechanism will "top up" the new allocation to 90% of the previous years before the smoothing mechanism. Smoothing this way ensures that the funding levels more accurately reflect existing school roll and deprivation levels, but may mean that a small number of schools see a more than 10% reduction.</p> <p>Five Midlothian schools had been topped up this session using this mechanism. 15 schools were receiving a lower level of funding than last session – this could be a result of less pupils being entitled to free school meals, less pupils being registered by parents/carers for free school meals or due to an anomaly in P1-P3 figures.</p> <p>The Acting Head of Education was heard in amplification of the report, after which she responded to questions from elected Members.</p>		
Decision		
<p>(a) To note the Pupil Equity Fund allocation for Midlothian for Session 2019/20</p> <p>(b) To note that, as stated in the national guidance, the Head Teacher will be accountable to their local authority for the use of Pupil Equity Funding within their school. To ensure transparency, schools will be expected to incorporate details of their Pupil Equity Funding plans into existing reporting processes to their Parent Council and Forum, including in their School Improvement Plans and Standards and Quality Reports. These reports should be publicly available so that parents could understand what was happening in their school. These would form part of the schools standard and quality report;</p>		

- (c) To note that ongoing progress will be reported through the quarterly reporting cycle and the attainment report to Council in November each year
- (d) To note that PEF underspend was reported to Scottish Government in September 2018 and this will form a yearly report while schools are in receipt of PEF.

Action

Acting Head of Education

Agenda No	Report Title	Presented by:
5.10	Annual Complaint Handling Report and SPSO Annual Statistics 2017-18	Chief Executive
Outline of report and summary of discussion		
<p>The purpose of the report was to provide the Annual Complaint Handling Report for 2017/18. This was the third report of its kind, and provided an annual review and assessment of complaints information which included some useful customer feedback material and an analysis of what the results could suggest.</p> <p>The report also provided an update of statistics shared by the Scottish Public Services Ombudsman (SPSO) about how they had handled complaint cases by Midlothian customers, and which services were being complained about to them. Outcome decisions to cases were published on the SPSO's website. There was a summary of this data within the report and all the data in its original format was provided in an appendix to the report. The Chief Executive was heard in amplification of the report after which she responded to questions from elected Members.</p>		
Decision		
<p>(a) To note the recent publication of the Annual Complaint Handling Report; and</p> <p>(b) To note the statistics pertaining to Midlothian Council provided by the SPSO.</p>		
Action		
Chief Executive		

Agenda No	Report Title	Presented by:
5.11	Town Centre Capital Fund 2019/20	Director, Communities, Education and Economy
Outline of report and summary of discussion		
<p>The purpose of the report was to provide information in relation to the recently announced £50million Town Centre Capital Fund of which Midlothian had been awarded a £910k allocation and seeking approval for both the governance of the fund and the mechanism for proposing and approving Midlothian based projects.</p> <p>Given the time constraints on this funding, a Project Team representing interested Council departments had been assembled. Represented on this group were senior officers from: Planning, Conservation and Environment, Communities, Estates and Economic Development.</p>		

The third sector was also represented on this group following an approved participation request from Midlothian Voluntary Action under the guidelines of the Community Empowerment Act.

The report advised that in order to enable the Council to maximise the impact of the new Town Centre Capital Fund within the strict timeline associated within financial year 2019/20 to spend and consider projects in a fair, open and collaborative way, it had suggested a process for proposing and developing applications as detailed within the report.

The Director, Communities, Education and Economy was heard in amplification of the report after which she responded to questions from elected Members.

Decision

- (a) To note the guidelines and timescales of the funding;
- (b) To agree the suggested process for project proposals and consideration;
- (c) That consideration be given to including a Business Representative on to the Project Team; and
- (c) To agree projects to be presented to October Council meeting for final approval.

Director, Communities, Education and Economy

Agenda No	Report Title	Presented by:
5.12	Adult Social Care Quarter 4 Performance Report 2018/19	Service Manager Older People East
Outline of report and summary of discussion		
The Quarter 4 Performance Report 2018/19 for Adult Social Care was submitted. The Service Manager Older People East highlighted to the Cabinet the progress in the delivery of strategic outcomes and summary of the emerging challenges as detailed within the report and thereafter answered questions raised by elected Members.		
Decision		
To note the content of the report.		

Agenda No	Report Title	Presented by:
5.13	Children's Services Quarter 4 Performance Report 2018/19	Head of Children's Services
Outline of report and summary of discussion		
The Quarter 4 2018/19 Performance Report for Children's Services was submitted. The Head of Children's Services highlighted to the Cabinet the progress in the delivery of strategic outcomes and summary of the emerging challenges as detailed within the report. Thereafter she answered questions raised by elected Members.		
Decision		
To note the content of the report.		

Agenda No	Report Title	Presented by:
5.14	Customer and Housing Services Quarter 4 Performance Report 2018/19	Group Manager Housing Strategy and Performance
Outline of report and summary of discussion		
The Quarter 4 Performance Report 2018/19 for Customer and Housing Services was submitted. The Group Manager Housing Strategy and Performance highlighted to the Cabinet the progress in the delivery of strategic outcomes and summary of the emerging challenges as detailed within the report and thereafter answered questions raised by elected Members.		
Decision		
To note the content of the report.		

Agenda No	Report Title	Presented by:
5.15	Communities and Economy Quarter 4 Performance Report 2018/19	Director, Education, Communities and Economy
Outline of report and summary of discussion		
The Quarter 4 Performance Report 2018/19 for Communities and Economy was submitted. The Director, Education, Communities and Economy highlighted the progress in the delivery of strategic outcomes and summary of the emerging challenges as detailed within the report and thereafter answered questions raised by elected Members.		
Decision		
To note the content of the report.		

Agenda No	Report Title	Presented by:
5.16	Education Q4 Performance Report 2018/19	Acting Head of Education
Outline of report and summary of discussion		
The Quarter 4 Performance Report 2018/19 for Education was submitted. The highlighted to the Cabinet the progress in the delivery of strategic outcomes and summary of the emerging challenges as detailed within the report.		
Thereafter the Acting Head of Education responded to questions and comments raised by elected Members.		
Decision		
To note the content of the report.		

Agenda No	Report Title	Presented by:
5.17	Commercial Operations Q4 Performance Report 2018/19	Acting Director, Resources
Outline of report and summary of discussion		
The Quarter 4 Performance Report 2018/19 for Commercial Operations was submitted. The Acting Director, Resources highlighted the progress in the delivery of strategic outcomes and summary of the emerging challenges as detailed within the report and thereafter answered questions raised by elected Members during which he confirmed that approximately £550k had been received as a result of the option of having a Brown Bin.		
Decision		
To note the content of the report.		

Agenda No	Report Title	Presented by:
5.18	Finance and Integrated Service Support Quarter 3 Performance Report 2017/18	Acting Director, Resources
Outline of report and summary of discussion		
The Quarter 4 Performance Report 2018/19 for Finance and Integrated Service Support was submitted. The Acting Director, Resources highlighted to the Cabinet the progress in the delivery of strategic outcomes and summary of the emerging challenges as detailed within the report and thereafter answered questions raised by elected Members.		
Decision		
To note the content of the report.		

Agenda No	Report Title	Presented by:
5.19	Property and Facilities Management Quarter 4 Performance Report 2018/19	Acting Director, Resources
Outline of report and summary of discussion		
The Quarter 4 Performance Report 2018/19 for Properties and Facilities Management was submitted. The Acting Director, Resources highlighted to the Cabinet the progress in the delivery of strategic outcomes and summary of the emerging challenges as detailed in the Report.		
Thereafter the Acting Director Resources responded to questions and comments raised by members of the Cabinet.		
Decision		
To note the content of the report.		

Agenda No	Report Title	Presented by:
5.20	Midlothian Council Quarter 4 Performance Report 2018/19	Chief Executive
Outline of report and summary of discussion		
<p>The Quarter 4 Performance Report 2018/19 for Midlothian Council was submitted detailing the delivery of Midlothian Council's priorities through the Community Planning Partnership and the Single Midlothian Plan. The Council Transformation Strategy and Individual Service Plans outlined how Midlothian Council would deliver its contribution to the Single Midlothian Plan.</p> <p>The Chief Executive highlighted the progress made since the Q3 report and advised that going forward all Performance Reports from Quarter 1 2019/20 would be a new streamlined report which would reduce the level of paperwork required and to support this new approach, Members would have access to an electronic Dashboard where they could interrogate the data further.</p>		
Decision		
<p>(a) To note that a revised format for providing the Performance information to Cabinet would be in place for the Q1 2019/20 reports; and</p> <p>(b) To otherwise note the content of the report.</p>		

Agenda No	Report Title	Presented by:
5.21	Balanced Scorecard Indicators 2018/19 Annual Report	Chief Executive
Outline of report and summary of discussion		
<p>The 2018/19 Annual Report for the Balanced Scorecard Indicators was submitted. Each of the perspectives were supported by a number of key measures and indicators which ensured that the Balanced Scorecard informed ongoing performance reporting and helped to identify areas for further improvement. The Chief Executive was heard in amplification of the Report.</p>		
Decision		
To note the report.		

Agenda No	Report Title	Presented by:
5.22	2017/18 Local Government Benchmarking Results	Chief Executive
Outline of report and summary of discussion		
<p>The purpose of the report was to provide the Local Government Benchmarking Framework (LGBF) overview of the Council's performance against the indicators for 2017/18 as detailed within an Appendix to the report. The Chief Executive was heard in amplification of the report.</p>		
Decision		
To note the report.		

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 items, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraphs 6, 9 and 11 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

- 6.1 Minutes of Meeting of the Midlothian Joint Consultative Group of 19 March 2019 – Noted.
- 6.2 Loanhead Police Station - Proposed Purchase by Housing - Agreed
Recommendations contained within the report.

The meeting terminated at 1.10pm

Minute of Meeting



Audit Committee

Date	Time	Venue
Tuesday 28 May 2019	10.00 am	Council Chambers, Midlothian House, Dalkeith, EH22 1DN

Present:

Mike Ramsay (Chair)
Councillor Hardie
Councillor Milligan
Councillor Muirhead
Councillor Alexander (substitute)
Councillor Cassidy (substitute)
Peter de Vink (Independent Member)

In attendance:

Grace Vickers	Chief Executive
Mary Smith	Director of Education, Communities and Economy
Kevin Anderson	Acting Director Resources
Allister Short	Joint Director Adult Health and Social Care
Gary Fairley	Head of Finance and Integrated Service Support
Grace Scanlin	External Auditor, Ernst and Young
Jill Stacey	Chief Internal Auditor
Elaine Greaves	Principal Auditor
Chris Lawson	Risk Manager
Alan Turpie	Legal Services Manager
Peter Arnsdorf	Planning Manager
Janet Ritchie	Democratic Services Officer

1. Welcome and Apologies

The Chair, Mike Ramsay welcomed everyone to the meeting, following which there was a round of introductions.

Apologies were received from Councillors Smaill, Parry and Baird. It was noted that Councillor Cassidy and Councillor Alexander were substituting for Councillors Parry and Baird.

2. Order of Business

The order of business was confirmed as outlined in the agenda.

3. Declarations of interest

No declarations of interest were received.

4. Minutes of Previous Meetings

4.1 The minute of the meeting of 12 March 2019 was submitted and approved as a correct record having been proposed by Councillor Muirhead and seconded by Councillor Hardie.

4.2 The Action log was submitted and the following agreed:

- 1) 'Annual Governance Statement 2017/18' - To note the completion date for this was amended to September 2019.
- 2) 'Briefing – Informal Audit Committee Session' - To note this will take place after today's Audit Committee meeting and this action would then be complete.
- 3) 'Delivering Excellence – Governance Arrangements' - To note this would be addressed through the BTSG and reported back to the Audit Committee, as required
- 4) 'Risk Register – Lothian Buses Pension Fund – To note that a further report would be presented to the Audit Committee in September 2019.

5. Public Reports

Report No.	Report Title	Submitted by:
5.1	Final Internal Audit Report Follow-up Review of Developer Contributions	Chief Internal Auditor
Outline of report and summary of discussion		
A final Internal Audit Report, dated 19 April 2019 was submitted by the Chief Internal Auditor on Follow up Review of Developers Contributions. The Chief Internal Auditor advised the Committee that in March 2016 an Internal Audit report was presented to the Audit Committee on the controls in place over Developer Contributions.		

In total 11 recommendations were made in the report to improve controls within this area focusing on Governance, Monitoring and Procedures. From the 11 recommendations 5 were found to be completed satisfactorily and 6 partially completed although it was noted that improvements had been made. Section 4 of the report provides details on the findings and conclusions of these partially completed recommendations. Section 5 sets out the Recommendations and the timescales for completion. The Audit Committee was asked to review and endorse the recommendations agreed within the report.

Various questions were asked by the Committee with regards to Developers Contributions, Legal Agreements and the Recommendations contained within the report.

The Director of Education, Communities and Economy and the Planning Manager responded to the questions raised by the Committee confirming that all Developer's contributions had now been collected and a late penalty fee had been applied to a Developer for the delay. Also confirmed was that all Recommendations contained within the report were now 100% complete and that all the data was now inputted into the new database system which would allow Officers to monitor Developments and respond to trigger points more quickly.

Following further discussion it was noted that the Director of Education, Communities and Economy would arrange to provide a training session for Members of the Planning Committee to provide further clarity on Developer's Contributions.

Decision

The Audit Committee endorsed the agreed recommendations.

Action

The Director of Education, Communities and Economy

Report No.	Report Title	Submitted by:
5.2	Final Internal Audit Report Performance Management LGBF	Chief Internal Auditor
Outline of report and summary of discussion		
<p>A final Internal Audit Report, dated 11 April 2019 was submitted by the Chief Internal Auditor on Performance Management: Local Government Benchmarking Framework (LGBF). The purpose of the review was to validate the Council's Performance Indicators which are reported on an annual basis to the Improvement Service as part of the Local Government Benchmarking Framework (LGBF).</p> <p>The Chief Internal Auditor presented the report highlighting the main sections within the report and advised that 3 recommendations were made to improve production of figures in a sustainable way. The Audit Committee was asked to review and endorse the agreed recommendations.</p>		

There followed a discussion on the purpose of benchmarking and that there was no consistent approach in collecting information across Councils. The Chief Executive highlighted that she would raise this with COSLA.

Decision

The Audit Committee endorsed the agreed recommendations.

Report No.	Report Title	Submitted by:
5.3	Final Internal Audit Report – Sales to Cash	Chief Internal Auditor
Outline of report and summary of discussion		
<p>A final Internal Audit Report, dated 9 May 2019 was submitted by the Chief Internal Auditor on Sales to Cash. The purpose of the review was to review the adequacy of the control framework over the income collection on the ICON receipting system.</p> <p>The Chief Internal Auditor presented the report highlighting the main sections from within report and advised that 4 recommendations were made. The Audit Committee was asked to review and endorse the agreed recommendations.</p> <p>Thereafter she responded to questions raised by Members of the Committee on the updating of policies regarding anti-money laundering and the processes of refunds.</p>		
Decision		
The Audit Committee endorsed the agreed recommendations.		

Report No.	Report Title	Submitted by:
5.4	Final Internal Audit Report Pupil Equity Fund	Chief Internal Auditor
Outline of report and summary of discussion		
<p>A final Internal Audit Report, dated 14 May 2019 was submitted by the Chief Internal Auditor on Pupil Equity Fund. The purpose of this audit was to assess the arrangements in place to administer the Pupil Equity Fund (PEF) and to ensure that it was being utilised in line with the National Operational Guidance issued by the Scottish Government which was presented to Cabinet in February 2017.</p> <p>The Chief Internal Auditor presented the report highlighting the main sections from within report and advised that 5 recommendations were made. The Audit Committee was asked to review and endorse the agreed recommendations.</p> <p>Thereafter a discussion took place regarding the Council's procurement process and Officers responded to comments and questions raised by the Members of the Committee.</p>		
Decision		
The Audit Committee endorsed the agreed recommendations.		

Report No.	Report Title	Submitted by:
5.5	Internal Audit Report ICT Security Controls	Chief Internal Auditor
Outline of report and summary of discussion		
<p>An Internal Audit Report, dated 26 April 2019 was submitted by the Chief Internal Auditor on ICT Security Controls. The purpose of this audit was to review the framework in place to assess the adequacy of the physical access and environmental controls to ICT (Information Communication Technology) equipment, software and data to prevent unauthorised access / damage, including third party access and Public Services Network (PSN) compliance.</p> <p>The Chief Internal Auditor presented the report highlighting the main sections from within report and advised that 7 recommendations were made. The Audit Committee was asked to review and endorse the agreed recommendations.</p> <p>Thereafter the Head of Finance and Integrated Service Support responded to questions raised by the Members of the Committee. He then advised the Committee that the Council had received two external 2019 accreditations for their Cyber Security.</p>		
Decision		
The Audit Committee endorsed the agreed recommendations.		

Report No.	Report Title	Submitted by:
5.6	Audit Scotland Report Local Government in Scotland Performance and Challenges 2019	Chief Executive
Outline of report and summary of discussion		
<p>The purpose of this report dated 1 May 2019 was to provide the Audit Committee with a summary of the Audit Scotland report, 'Local government in Scotland: Challenges and performance 2019' and the Council's position in relation to the report's findings.</p> <p>The Chief Executive presented this report highlighting the main sections from the report and advised that the report covered the following three areas:</p> <ul style="list-style-type: none"> • Part 1 - The current and future challenges facing councils. • Part 2 – How Council are responding to these challenges. • Part 3 – The impact on performance in key service areas and public satisfaction. <p>Also to assist Councillors the 'Scrutiny tool checklist for Councillors' was attached as appendix 1.</p> <p>The Chief Executive responded to a question raised by Mr de Vink with regards to where Midlothian Council fitted in with other local authorities and advised that there were supporting tables available providing this information and the links would be sent to the Members of the Committee.</p>		

Thereafter a discussion followed and Elected Members raised concerns on the lack of administrative support for Officers and Elected Members and also training requirements on specific areas. It was agreed that the Quality and Scrutiny Manager would facilitate any training requirements for Elected Members.

Decision

The Audit Committee:

- Agreed to send links to comparison information to the Members of the Committee.
- Agreed that the Quality and Scrutiny Manager would facilitate the development of Elected Members training.
- Noted the Audit Scotland report and the position of Midlothian Council in relation to the report's recommendations.

Action

Quality and Scrutiny Manager

Report No.	Report Title	Submitted by:
5.7	Risk Management Update for 1 January – 31 March 2019	Risk Manager
Outline of report and summary of discussion		
<p>There was submitted report, dated 13 May 2019 by the Risk Manager providing the Committee with the 2018/19 Quarter 4 strategic risk management update, covering the period 1 January – 31 March 2019. The Strategic Risk Profile sought to provide a strategic look at the current issues, future risk and opportunities facing the Council.</p> <p>The Risk Manager responded to a comment raised by the Chair with regards to the order of the Risks.</p>		
Decision		
The Audit Committee noted the quarter 4 2018/19 Strategic Risk Profile report and noted the current response to the issues, risks and opportunities highlighted.		

Report No.	Report Title	Submitted by:
5.8	Procurement and Commercial Improvement Programme (PCIP)	Head of Finance and Integrated Service Support
Outline of report and summary of discussion		
<p>The purpose of this report, dated 14 May 2019 was to bring the Audit Committee's attention the Procurement and Commercial Improvement Programme report which was presented to Cabinet on 9 April 2019 and provided an update in relation to the Council's 2018 Procurement and Commercial Improvement Programme (PCIP).</p>		

The PCIP is not a mandatory assessment and it may transpire that some Councils will not take part in the PCIP due to other competing priorities. However, Midlothian Council have taken part, and the output of the assessment will be used by the Procurement Team as a tool for continuous improvement to further develop the Procurement Improvement Plan to ensure the promotion and delivery of efficient, effective procurement.

The Head of Finance and Integrated Service Support presented the report highlighting that the Council achieved a score of 66% which places Midlothian in the banding F2 with regards to procurement performance according to Scottish Government banding (the highest score being F1).

Thereafter the Head of Finance and Integrated Service Support responded to questions and comments raised by Members of the Committee.

Decision

The Audit Committee noted the Council's PCIP assessment outcome of the 2018 assessment.

Report No.	Report Title	Submitted by:
5.9	Internal Audit Annual Assurance Report 2018/19	Chief Internal Auditor
Outline of report and summary of discussion		
<p>The Internal Audit Annual Assurance Report 2018/19 dated 24 April 2019 was submitted by the Chief Internal Auditor. The purpose of this report was to present to the Audit Committee the Internal Audit Annual Assurance Report for the year to 31 March 2019 which included the Chief Internal Auditor's independent assurance opinion on the adequacy of Midlothian Council's overall control environment.</p> <p>The Chief Internal Auditor presented the report to the Committee providing a brief outline of the main sections of the report and highlighted some of the key messages of assurances and areas of improvement contained within the report.</p>		
Decision		
The Audit Committee noted the Internal Audit Annual Assurance Report 2018/19, and assurances contained therein.		

Report No.	Report Title	Submitted by:
5.10	Counter Fraud Annual Report 2018/19	Chief Internal Auditor
Outline of report and summary of discussion		
There was a report dated 24 April 2019 submitted by the Chief Internal Auditor providing an update to the Audit Committee on the Council's counter fraud responsibilities and the activities of the Corporate Fraud team over the past year as part of the arrangements to tackling fraud at the Council.		

The Chief Internal Auditor advised the Committee that this report had been discussed at the Corporate Management Team on 24 April 2019 and the Serious and Organised Crime group on 7 May 2019. The report provided a summary of the Corporate Fraud Team's areas of work and the preventative approach adopted.

Thereafter Officers responded to questions and comments raised by the Members of the Committee regarding the issues around Whistleblowing and appropriate training for staff.

Decision

The Audit Committee considered the counter fraud work undertaken by the Corporate Fraud Team during the year to 31 March 2019, in support of the Council's anti-fraud and corruption policy and strategy, and noted the outcomes.

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next meeting will be held on Monday 24 June 2019.

The meeting terminated at 12.25 pm