

**MINUTES of MEETING of the MIDLOTHIAN COUNCIL** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday, 14 May 2013 at 2.00pm.

**Present:-** Provost Wallace, Depute Provost Rosie and Councillors Baxter, Beattie, Bennett, Boyes, Bryant, Constable, Coventry, de Vink, Imrie, Johnstone, Milligan, Montgomery, Muirhead, Pottinger, Russell and Thompson.

**Religious Representative Present (Non-Voting Observer) for Education Business:-** Mr Bourne.

## **1 Minute's Silence**

The Council observed a Minute's Silence in memory of the three soldiers - based at Glencorse Barracks - Corporal William Savage, Fusilier Samuel Flint, both from The Royal Regiment of Scotland and Private Robert Hetherington, from 7<sup>th</sup> Battalion The Royal Regiment of Scotland, who died of injuries sustained from a roadside bomb in Helmand Province, Afghanistan, on Tuesday 30 April 2013.

## **2 Order of Business**

The Clerk advised the meeting as follows:-

- (a) That a To Follow Paper had been issued:-
  - Item 18 – A New Executive Leadership Structure for Midlothian Council – Report by Chief Executive.
- (b) That the Provost had agreed to take the following Notice of Motion as an additional Agenda Item of urgent business in view of the Council's interest in the matter:-
  - Item 6A – Notice of Motion Submitted by Councillor Beattie, countersigned by Councillor Wallace.

## **3 Declaration of Interest**

Depute Provost Rosie declared an Interest in Agenda Item 10, "Scheme of Councillor's Remuneration – Report by Director, Corporate Resources", as he was the subject of the report.

#### **4 Minutes of Council**

The Minutes of the undernoted Meetings of Midlothian Council were held as read and to be a true record of proceedings subject to the deletion of Councillor Johnstone from the sederunt of those present at the Meeting on 15 April 2013. The Minutes were thereupon signed by the Provost.

<b>Date of Meeting</b>	<b>Mover and Second</b>
19 March 2013	Councillor Thompson Councillor Johnstone
15 April 2013	Councillor Thompson Councillor Constable

#### **5 Cabinet and Other Meetings**

The undernoted Minutes of Meetings of Cabinet and Committees were submitted. The Council noted the Minutes and approved the recommendations contained therein: -

<b>Meeting</b>	<b>Date</b>
Cabinet	25 February 2013
	26 February 2013
Planning Committee	26 February 2013
General Purposes Committee	19 February 2013
Local Review Body	5 March 2013
Performance, Review & Scrutiny Committee	5 March 2013
	6 March 2013
	6 March 2013
Audit Committee	29 January 2013
Standards Committee	11 October 2011

#### **6 Leader of the Council's Response to Written Questions**

There was submitted report, dated 7 May 2013, by the Director, Corporate Resources, advising that the following question to the Leader of the Council had been received from Councillor Johnstone under Standing Order 4.2(vii):-

*“Can the Leader provide the Council with an update on the new Newbattle Community High School consultation.”*

In response, Councillor Constable, Leader of the Council, responded as follows: -

*“As regards the progress of the consultation process, your question has largely been overtaken by events. The Director announced the main findings last week and I’m not going to go into repeating them just now. Suffice it to say that we have listened to our communities and no Member of this Administration will vote on the 25<sup>th</sup> June to close any of the facilities concerned. On 25<sup>th</sup> June we shall receive the recommendations on the new Newbattle High School and these will be considered at that point.”*

## **7 Notices of Motion**

### **(a) Pay Day Loans**

There was submitted a Notice of Motion by Councillor Wallace, countersigned by Councillor Bryant, as follows: -

*“At the Council meeting of 8 January 2013 this Council unanimously agreed to remove all references to pay day loans on Midlothian websites.*

*We now call on the UK Government to severely restrict the licensing of pay day loan companies who charge extortionate interest rates on loans and who, by the very nature of their business, target the most vulnerable and poorest in our society.*

*Recent consecutive UK Governments have presided over the highest levels of child poverty since Victorian times and have created the biggest gap between rich and poor, making the UK one of the most unequal societies in the world. The Welfare Reforms imposed by the Conservative/ Liberal Democrat Government have pushed people further into poverty forcing them into the hands of these legalised loan sharks.*

*We also deplore the obscene rates of interest charged by these companies as an affront to common decency.”*

Councillor Wallace moved the motion accordingly, with Councillor Bryant seconding. Thereupon the Council approved the motion unanimously.

(Action: Legal and Secretariat Manager)

### **(b) Youth Platform**

There was submitted a Notice of Motion by Councillor Beattie, countersigned by Councillor Wallace, as follows: -

*“Council congratulates Midlothian Youth Platform who have just celebrated their 5<sup>th</sup> birthday.*

*Council further congratulates them on the recent election of two of their members to the Scottish Youth Parliament.*

*The remarkable progress this group has made in representing the young people of Midlothian and their concerns is to be applauded. Council wishes them continued success for the next five years and beyond”.*

Councillor Beattie moved the motion accordingly, with Provost Wallace seconding. Thereupon the Council approved the motion unanimously.

(Action: Legal and Secretariat Manager)

## **8 Children’s Hearing Reform – Appointment of Representatives to Area Support Team**

With reference to paragraph 17 of the Minutes of 5 February 2013, there was submitted report, dated 19 April 2013, by the Director, Corporate Resources, updating the Council on the outcome of the nomination process for appointments to the Area Support Teams which would succeed the Children’s Panel Advisory Committees from 24 June 2013.

### **Decision**

- (a) To note that Councillor Bryant’s nomination to the South East Scotland Area Support Team had been accepted; and
- (b) To note that the National Convenor, Children’s Hearings Scotland was not prepared to accept second nominations at this point in time and Councillor Muirhead’s nomination had therefore been rejected.

## **9 Councillor’s Code of Conduct - Investigatory Role of the Standards Committee**

With reference to paragraph 8 of the Minutes of the Standards Committee of 27 March 2013, there was submitted report, dated 23 April 2013, by the Director, Corporate Resources, inviting the Council to consider introducing a two stage local procedure for dealing with complaints against Midlothian Councillors in relation to alleged breaches of the Councillors’ Code of Conduct received from members of the public, Council Staff or Councillors.

### **Decision**

That the Council introduce a two stage local procedure for dealing with complaints against Midlothian Councillors in relation to alleged breaches of the Councillors’ Code of Conduct received from members of the public, Council Staff or Councillors, as shown at **Appendix I** hereto.

(Action: Head of Customer Services)

## 10 Guidance on the Use of Council Facilities by Councillors

With reference to paragraph 6 of the Minutes of the Midlothian Council Standards Committee of 11 October 2011 and paragraph 9 of Meeting of the Midlothian Council Standards Committee of 27 March 2013, there was submitted report, dated 30 April 2013, by the Chief Executive, inviting the Council to consider adopting the Guidance on the Use of Council Facilities by Councillors shown as an appendix to his report and which had been reviewed by the Independent Chair of the Standards Committee and the two Political Group Leaders on 30 April 2013.

### Decision

- (a) To adopt the Guidance on the Use of Council Facilities by Councillors as shown in **Appendix II** hereto, which had been reviewed by the Independent Chair of the Standards Committee and the two Political Group Leaders;
- (b) To note the comments made at the meeting on 30 April 2013 attended by the Independent Chair of the Standards Committee and the two Political Group Leaders, regarding the need for the separate guidance to cover the pre-election period to be reviewed and updated, and in future circulated well in advance; and
- (c) To remit to the Standards Committee to consider the pre-election guidance, including the proposal that it should incorporate a moratorium on visits by politicians to Council premises in the pre-election period (except those to the Council Headquarters for business meetings).

(Action: Head of Customer Services)

(At this stage the Provost reminded the Meeting that the proceedings were being audio recorded.)

### Declaration of Interest

Depute Provost Rosie declared an interest in the following item of business as he was the subject of the report and left the meeting at 2.20pm.

## 11 Scheme of Councillors' Remuneration

There was submitted report, dated 10 April 2013, by the Director, Corporate Resources, inviting the Council to consider whether remuneration at Senior Councillor level should be paid to Councillor Rosie in recognition of his roles as Depute Provost, Chair of the General Purposes Committee and Chair of the Petitions Committee.

## **Decision**

That remuneration at Senior Councillor level be paid to Councillor Rosie in recognition of his roles as Depute Provost, Chair of the General Purposes Committee and Chair of the Petitions Committee.

(Action: Head of Finance and Human Resources)

## **Sederunt**

Depute Provost Rosie rejoined the meeting after the above item of business at 2.22pm.

## **12 Council Transformation Strategy**

There was submitted report, dated 23 April 2013, by the Executive Officer, Business Transformation, presenting for approval by the Council the new Midlothian Council Transformation Strategy.

The report advised that the 2013-17 Strategy document refreshed the previous Business Transformation Strategy and Implementation Plan 2011-2017. Following the decision of Midlothian Council to deliver its priorities through the Community Planning Partnership and Single Midlothian Plan, there was no longer a requirement for a separate Corporate Strategy document. The outcomes and indicators Midlothian Council would deliver as its contribution to the Single Midlothian Plan were shown in Appendix A of the Strategy document.

The future of Midlothian Council was predicated on delivering a Transformation Strategy and embedding a culture of continuous improvement. During 2011-12 the Council had considered potential future models of service delivery, including reactive and preventative spend, community engagement and partnerships and sharing services.

## **Decision**

- (a) To approve the Midlothian Council Transformation Strategy 2013-17; and
- (b) To note that progress against outcomes would be monitored and scrutinised through the Business Transformation Steering Group, the Performance Review and Scrutiny Committee and Special Meetings of the Cabinet.

(Action: Executive Officer, Business Transformation)

## **13 Equality Outcome and Mainstreaming Report 2013-2017**

There was submitted report, dated 18 April 2013, by the Chief Executive, presenting the proposed Midlothian Council Equality Outcome and Mainstreaming Report 2013-2017, which built upon the Council's previous Single Equality Scheme 2010-2013 and which was to advance equality and diversity throughout the Council and its communities.

## Decision

To approve the Equality Outcome and Mainstreaming Report 2013-2017.

(Action: Chief Executive)

### 14 General Services Capital Plan 2013/14 to 2015/16

There was submitted report, dated 22 April 2013, by the Head of Finance & Human Resources, presenting an updated Capital Plan for 2013/14 to 2015/16.

The report advised that the updated Capital Plan now incorporated the following changes totalling £1.625 million:

- A report had been approved under delegated authority on 25 April 2013 which outlined the additional budget provision required for the works to the A6106 Lugton Brae. Further site and ground investigation works had highlighted the poor ground conditions below the road and embankment and ineffective drainage systems as key factors in the original subsidence but had resulted in an increase of £1.150 million from the original £0.744 million estimate. The proposed option represented the most economical design solution;
- There was also a report approved under delegated authority on 8 April 2013 for the demolition of the cottage at 8 Eskmill Road, at a cost of £0.025 million. This demolition was required due to the serious risk associated with retaining the property;
- The budget for the new Care Home Hub at Penicuik had been reduced by £0.755 million in February, however this reduction included the fit out cost which now required to be reinstated with the provision of £0.150 million; and
- The ongoing Assistive Technology Programme required an annual budget provision of £0.150 million for 2014/15 and 2015/16.

Overall the approved expenditure budget was £40.491 million over the period 2013/14 to 2015/16.

## Decision

- (a) To approve the proposed General Services Capital Plan 2013/14 to 2015/16 as shown in **Appendices III and IV** of the report; and
- (b) To note that a further Plan would be brought to the Council in June 2013 incorporating any slippage from 2012/13.

(Action: Head of Finance & Human Resources)

## Sederunt

Councillor Boyes left the meeting during the above item of business at 2.40pm.

### 15 Revenue Budget 2014/15 to 2016/17

There was submitted report, dated 6 May 2013, by the Head of Finance & Human Resources, setting out the initial budget projections for the three financial years 2014/15 to 2016/17 together with the assumptions which underpinned these projections; setting out the savings targets currently attached to the Council Transformation Programme; identifying the projected budget shortfall for each of the three years; and proposing a strategy and timetable which would enable the Council to bridge the budget shortfalls and determine the 2014/15 budget together with indicative budget plans for 2015/16 and 2016/17.

The report advised that there were three key national factors which would shape the budget projections over the coming months:-

- The Grant Settlement, and in particular the degree to which the current local government share of the Scottish Budget was maintained;
- National Pay Strategy; and
- The significant increase in demand for health and social care services together with the continued growth in the school population.

The report advised of budget projections based on the Scottish Grant Settlement, Council Tax, cost of services, demographic cost pressures and waste management. It also detailed the ongoing steps being taken to bridge the budget shortfall in terms of Service Reviews, Partnership Working, EWIM and Procurement. After incorporating the savings it was projected that there would remain a budget shortfall in each of the years as follows:-

	2014/15 £m	2015/16 £m	2016/17 £m
Base budget shortfall	4.000	9.400	14.900
Less:			
Business Transformation Savings	0.631	0.962	1.138
<b>Remaining budget shortfall</b>	<b>3.369</b>	<b>8.438</b>	<b>13.762</b>

In this regard work continued to develop the transformation programme under the direction of the Business Transformation Steering Group. The Group was working towards the development of options which would be presented to the Council on 24 September 2013 to bridge the 2014/15 budget shortfall and provide indicative savings for later years.

A budget timetable had been prepared which set out the proposed schedule for budget reports to the Council and the timetable was as follows:-

<b>Council Meeting *</b>	<b>Budget Related Reports</b>	<b>Scheduled Reports</b>
25 June 2013	Budget update report, including: <ul style="list-style-type: none"> <li>• Update on budget shortfall;</li> <li>• Update on Business Transformation programme;</li> <li>• Update on emerging cost pressures and priorities.</li> </ul>	Final outturn 2012/13
13 August 2013	-	Q1 financial monitoring
24 September 2013	Budget proposals including: <ul style="list-style-type: none"> <li>• Update on shortfall budget</li> <li>• Proposals to bridge shortfall Capital Plan</li> </ul>	
5 November 2013	-	Q2 financial monitoring
17 December 2013	<ul style="list-style-type: none"> <li>• HRA budget</li> <li>• Capital plan</li> </ul> Budget update incorporating: <ul style="list-style-type: none"> <li>• Outcome of consultation</li> <li>• Latest projections</li> <li>• Proposed budget for 2014/15.</li> <li>• Indicative budget for 2015/16 and 2016/17.</li> </ul>	
January/February 2014 *	Further reports as required	Q3 financial monitoring and agreement of 2014/15 budget

\* Subject to revised meeting schedule.

The Head of Finance & Human Resources emphasised that there were a number of inherent assumptions in arriving at the budget figures and provisions and he drew particular attention to the following key risks and issues:-

- Impact of economic climate on a range of factors including: inflation, interest rates, employment, tax and income levels, service demands;
- Outstanding pay award settlements;
- Outstanding employment tribunal claims;
- Extreme weather events (or other unforeseen events) and provision for immediate response as well as longer-term implications;
- Cost pressures exceeding budget estimates;
- Non-delivery or late delivery of planned savings;
- Impact of Welfare Reform and pension changes; and
- The replacement of Newbattle Community High School.

## Decision

- (a) To note that the initial projections were a budget shortfall of £4.0 million for 2014/15 rising to £14.9 million in 2016/17;
- (b) To endorse the key assumptions on government grant set out in Section 3 and pay awards, set out in section 4 of the report;
- (c) To note that options to address the projected budget shortfall would be brought forward through existing Business Transformation governance arrangements;
- (d) To agree the reporting timetable set out in section 8 of the report; and
- (e) To instruct the Chief Executive to arrange consultation on the budget options following the Meeting of Midlothian Council on 24 September 2013

(Action: (a)-(d) Head of Finance and Human Resources; and (e) Chief Executive)

## 16 Welfare Reform Update

There was submitted report, dated 24 April 2013, by the Acting Director, Communities & Wellbeing, providing an update on the key issues related to Welfare Reform and an initial report on the implementation of the Scottish Welfare Fund and the Under Occupancy Charge. It also provided an update on the actions being progressed by Midlothian Council to mitigate the impact of Welfare Reform. Since the last report to the Council there had been developments in a number of Welfare Reform issues:-

- The Under Occupancy Charge had been introduced on 1 April 2013;
- The responsibility for managing the Scottish Welfare Fund (Crisis Grants and Community Care Grants) transferred from the Department for Work & Pensions to local authorities on 1 April 2013;
- The volume of Employment Support Allowance appeals continued to be a cause for concern and was continuing to impact on council resources in terms of supporting appeals;
- Personal Independence Payments (to replace Disability Living Allowance) would commence in June 2013 for all new claims; people reaching the end of a fixed term claim; and people reporting a change in their condition. Reassessment for all other existing Disability Living Allowance claimants had been delayed and would not now commence until October 2015; and
- There had been no further significant development in the plans for Universal Credit; however, consultations were being carried out in a number of areas in relation to Local Government's role in supporting individuals with the transition to Universal Credit.

In particular the report detailed the effects of the Under Occupancy Charge and the initial observations arising from the implementation of the Scottish Welfare Fund. A meeting had been held with David Mundell MP, on 23 April 2013, with Council representatives to discuss issues relating to the Welfare Reform and to reiterate a number of concerns relating to the Under Occupancy Charge.

In summary the report provided an update on the key issues relating to Welfare Reform, such as the projected impact for the proposal of the non-eviction policy in relation to the Under-Occupancy Charge, the impact of the Scottish Welfare Fund and further costs associated with Welfare Reform as identified by the Welfare Reform Members' Group.

There was an impact from Welfare Reform on the Housing Revenue Account and the rent and investment strategy needed to be revised to accommodate the anticipated shortfall of income and ensure the Capital Investment Plans were sustainable. The resource implications for the General Fund for 2014/15-2016/17 had also been identified although it was too early to draw any definitive conclusions on these impacts and work was ongoing to mitigate the effects of Welfare Reform and to ensure that information and advice was available to individuals affected by the reform and detailed plans had been prepared in relation to this.

During the debate Councillor Milligan sought clarification of the Council Allocation Policy in regard to tenants who wished to downsize or move, but retain an extra bedroom(s), and accepting the 'Bedroom Tax' implications upon them.

The Director of Customer Services agreed that clarification of the Council Allocation Policy would be given to Members with particular regard to additional bedrooms.

Then, in conclusion, the Head of Customer Services advised:-

- There were a number of tenants in temporary accommodation who were disproportionately affected by having to pay a higher rent charge and that the Discretionary Housing Payments (DHP) Fund, even when topped up, would be inadequate to meet the demand. Accordingly, to maximise the use of the fund, where tenants were endeavouring to meet the payments as best as they could, the Council was giving them partial funding support;
- The Council had a target to turn around applications for crisis grants within 48 hours and she understood that this target was being met. However, to achieve this staff resources were being diverted and this could affect turnaround times in other areas of the Councils' operations;

- A greater number of appeals were now being received from tenants who had been refused crisis funding assistance and a number had been successful where additional information had been provided which had enabled an award to be made. In a recent rent arrears case heard in the Sheriff Court, which did not relate primarily to debt arising from the “Bedroom Tax”, the Sheriff had declined to grant decree and had asked for the Council to downsize the tenant which in turn would bring further problems to the Council if this course of action became prevalent;
- The Call Centre currently had sufficient staff to deal timeously with calls in respect of crisis grants however, prioritising them could at times affect other services; and
- Midlothian News would continue to be used as a means of informing Midlothian residents in regard to Welfare Reform.

### **Decision**

- (a) To note the update on the work done to date relating to Welfare Reform;
- (b) To note the resource implications as outlined in the report;
- (c) To endorse the recommendation of the Welfare Reform Members’ Group that a non eviction policy should be implemented for a 12 month period for all tenants accruing rent solely as a result of under occupancy charges and where all reasonable effort had been made to meet this element of rent liability. This would not preclude all other enforcement options, and it was recognised that there needed to be a strong message that individuals should make every effort to pay the Under Occupancy Charge; and
- (d) To note that further detailed reports would be submitted in due course to keep the Council informed of further developments.

(Action: Acting Director, Communities and Wellbeing/Head of Customer Services)

## **17 Best Value Improvement Plan - Performance Report**

There was submitted report, dated 24 April 2013, by the Chief Executive, presenting to the Council a performance update on the Best Value Improvement Plan. The report advised that the Audit of Best Value and Community Planning provided two judgements on the Council’s performance; one assessed how well the Council was performing and the other covered the Council’s prospects for improvement. The Council’s overall performance was “*satisfactory*” and that the Council had “*good*” prospects for future improvement.

The Audit Report which had been published in June 2012 had contained four areas for improvement and a Best Value Improvement Plan had been developed with the delivery of the actions in the Plan being monitored through the relevant service Quarterly Performance Reports with the Council receiving a progress report against the whole Plan in December 2012 and May 2013.

The current Performance Report was attached to the report and in particular it was noted that:-

- The Action Plan was being progressed, with explanations provided for those tasks which were off target. However, it was noted that the Action Plan might not fully capture the strategic nature of changes required. There was a need for Senior Officers and Elected Members to champion Best Value Community Planning throughout the authority;
- The Corporate Management Team had decided to monitor the Action Plan on a regular basis to ensure that appropriate attention was given to this agenda; and
- It was suggested that additional action was required in light of the Review of Future Models of Service Delivery and the adoption of the Single Midlothian Plan. This action would be worded “*Overhaul the Council’s approach to performance management to ensure it supports transformational improvement in service performance*”.

#### **Decision**

- (a) To agree to the Best Value Improvement Plan Performance Report; and
- (b) To agree to changes to the Plan as detailed in the report.

(Action: Business Transformation Manager)

#### **18 Report of Seminar of Midlothian Council of 26 March 2013 on Future Models of Service Delivery**

There was submitted and approved Report of Seminar of Midlothian Council held on 26 March 2013 on Future Models of Service Delivery as shown at **Appendix V** hereto.

(Action: Acting Director, Communities & Wellbeing / Corporate Improvement Manager)

#### **19. 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 paragraphs 1, 6 and 11 of part 1 of Schedule 7A to the Local Government (Scotland) Act 1973:-

A New Executive Leadership Structure for Midlothian Council - New structure approved and Standing Orders to be amended accordingly. A further report also to be submitted to Midlothian Council regarding the structure and arrangements for Heads of Service posts.

The meeting terminated at 3.36pm.

**APPENDIX I**  
**(relevant to paragraph 9)**

**MIDLOTHIAN COUNCIL**

This document explains the local procedure for dealing with complaints against a Midlothian Councillor. Complaints may be made by members of the public, Council staff or by Councillors.

**Nothing in this document affects a person's right to make a complaint to the Standards Commission. Their address is:-**

Standards Commission for Scotland  
Room T2.21, Scottish Parliament  
Edinburgh EH99 1SP  
Tel: 0131 348 6666 Fax: 0131 557 9243  
Email: [enquiries@standardscommission.org.uk](mailto:enquiries@standardscommission.org.uk)

The Procedure is in two stages:

**Stage 1 - Preliminary Stage** – This Stage will be used by Councillors and Council employees

**Stage 2 - Informal Resolution Stage** – This stage will be used by Members of the Public. It is also the second stage for Complaints by Councillors and Council Employees.

### **Complaint by a Councillor or a Council Employee**

Where any Councillor is alleged to have breached the Councillors' Code of Conduct ("the Code of Conduct") the following procedure will apply.

The procedure is in two stages with the aim of achieving a satisfactory outcome for all involved – Preliminary Stage and an Informal Resolution Stage.

The Preliminary Stage must always be used and only if this fails to produce a satisfactory outcome will the Informal Resolution Stage be invoked.

#### **Stage 1 - Preliminary Stage**

1. The Complainer who alleges a breach of the Code of Conduct will discuss the issue with the Councillor who is alleged to be in breach of the Code of Conduct (the Complainee). Both parties should seek to resolve the complaint at this stage.
2. If the Complainer is not willing to speak to the Complainee directly, he/she will approach his/her political group Leader or, in the case of a Council employee, a line manager who will assist in resolving the issue through discussion with both parties separately or together.
3. If the political group Leader is the subject of the allegation, the Provost or Leader of the Council or another Senior Councillor (for example political group chair, depute group leader or group whip) will assist the Complainer to achieve a resolution of the complaint. If the Provost or the Leader of the Council is the subject of the allegation, the Provost/Leader of the Council (whoever is not the subject of the allegation) will try to resolve the issue in accordance with paragraph 2 above.
4. If either party is not satisfied with the outcome of the meeting with the political group Leader or line manager, he/she will raise the matter with either the Provost or the Leader of the Council (if they are not the subject of the complaint) or another Senior Councillor who will seek to resolve the matter.
5. If the Complainer is not satisfied after the Preliminary Stage, he/she may proceed to the Informal Resolution Stage (Stage 2)

## **Stage 2 - Informal Resolution Stage**

### **How to make a complaint**

1. Under Stage 2, any complaint about the conduct of a Councillor should be sent in writing to either the Chief Executive or the Monitoring Officer. The complaint must also include the following details:-

- (a) The name and address of Complainer;
- (b) The name of the Complainee;
- (c) The nature of the conduct alleged;
- (d) The part of the Councillors' Code of Conduct ("the Code of Conduct") which is alleged to have been breached; and
- (e) Any supporting evidence.

2. In the absence of any of the details required in paragraph 1 above, the Chief Executive/ Monitoring Officer reserves the right to treat a complaint as invalid and not proceed with the complaint in accordance with this procedure.

3. The Chief Executive/Monitoring Officer before processing the complaint requires to be satisfied that the preliminary stage has been exhausted and/or was not appropriate.

### **Prima facie evidence of alleged criminal offence**

4. If at any stage during the course of the complaints procedure prima facie evidence of the commission of a criminal offence comes to the attention of the Chief Executive/Monitoring Officer, the police will be informed as soon as possible. In that event, the complaints procedure will be suspended until after the outcome of any police investigation or criminal prosecution.

### **Standards Commission for Scotland ("the Commission")**

5. If at any stage during the course of the complaints procedure prima facie evidence of the commission of a serious breach of the Code of Conduct comes to the attention of the Chief Executive/Monitoring, the complaint will be referred to the Public Standards Commissioner for investigation as soon as possible. In that event, this procedure will not apply and the complaint will be determined by the Public Standards Commissioner and/or the Standards Commission for Scotland, as appropriate. The Chief Executive/Monitoring Officer shall advise the Public Standards Commissioner, the Complainer and the Complainee accordingly.

6. In the event that a complaint against a Councillor is also submitted to the Standards Commission by the Complainer, then this procedure will not apply and the complaint will be determined by the Public Standards Commissioner and/or the Standards Commission for Scotland, as appropriate. The Complainer shall advise the Chief Executive/Monitoring Officer and the Complainee if he/she decides to make a complaint to the Standards Commission.

### **Acknowledgement of Complaint**

7. The Chief Executive/Monitoring Officer shall record the date of receipt of every valid complaint i.e. those complaints that meet the requirements set out on paragraphs 1 and 3 above; issue an acknowledgement of receipt to the Complainer within 5 working days and send a copy of the complaints procedure to him/her. The Chief Executive/Monitoring Officer shall advise the Complainer that the full details of his/her complaint will be sent to the Complainee. The Chief Executive/Monitoring Officer may seek clarification from the Complainer in relation to any aspect of the complaint. The date of receipt of such clarification shall then be deemed to be the date of receipt of the complaint.

### **Intimation of the Complaint to the Councillor**

8. Within 5 working days of the date of receipt of the complaint (or as soon as possible thereafter), the Chief Executive/Monitoring Officer shall intimate the complaint to the Complainee. The Complainee shall be informed of the following:-

- (a) Identity of the Complainer;
- (b) the exact nature of the complaint;
- (c) The provisions of the Code of Conduct which he/she is alleged to have contravened.

The Complainee shall be sent a copy of the complaints procedure.

9. The Chief Executive/Monitoring Officer may arrange for such enquiries to be carried out as he considers appropriate, in order to clarify or resolve the complaint. In the event that the Chief Executive/Monitoring Officer determines that the complaint is not well founded, he will advise the parties accordingly and give his reasoning.

10. The Chief Executive/Monitoring Officer may invite the parties to attempt to resolve the complaint informally, by any means, including by attending a meeting convened by him for that purpose. Neither the Complainer nor the Complainee shall be bound to attend such a meeting.

11. The Chief Executive/Monitoring Officer may consult with the Chair of the Standards Committee in relation to any aspect of the complaint and/or the application of this procedure.



### **Acceptance of Complaint**

12. In the event that the Complainee accepts that the complaint is well founded and the Complainer is satisfied with the outcome, the Chief Executive/Monitoring Officer shall be entitled to treat the matter as resolved.

### **Final Decision**

13. The decision of the Chief Executive/Monitoring Officer in relation to a complaint under this procedure shall be final.



**APPENDIX II**  
**(relevant to paragraph 10)**

**MIDLOTHIAN COUNCIL**

**GUIDANCE ON THE USE OF COUNCIL FACILITIES BY COUNCILLORS**

**Purpose**

1. This guidance is aimed at assisting Councillors in regard to their use of Council facilities in carrying out their roles within the Council. The guidance attempts to ensure that Council facilities are not used for purposes which would breach either the Councillors' Code of Conduct or the Code of Recommended Practice on Local Authority Publicity and that due regard is paid to the efficient and economic use of Council resources.
2. If a Councillor fails to comply with this guidance then it may give grounds for a complaint to be made to the Standards Commission that he or she has misused Council facilities.
3. The guidance will also assist Members Services officers to support Councillors in carrying out their Council duties.

**General**

4. The facilities made available to support Councillors in carrying out their roles within the Council include:
  - office space with appropriate furniture and equipment, including PC (choice of desktop or laptop), telephone, dictating machine and stationery;
  - secretarial support;
  - access to photocopying;
  - incoming and outgoing mail service;
  - training and personal development; and
  - travel agency service in connection with business out with Midlothian.
5. The use of Council facilities is governed by the following paragraph in the Councillors' Code of Conduct:

**"Use of Council Facilities**

3.16 The Council will normally provide facilities to assist councillors in carrying out their duties as councillors or as holders of an office within the Council. This may involve access to secretarial assistance, stationary and equipment such as telephones, fax machines and computers. Such facilities must only be used in connection in carrying out Council duties in accordance with your relevant Council's information technology, communications and member support policies or for incidental personal use as authorised by your Council and not related in any way to party political or campaigning activities. Where the Council recognises party political groups, assistance to such groups is appropriate in relation to Council matters but must not extend to political parties more generally and you should be aware of and ensure the Council complies with the statutory rules governing local authority publicity."

It is important to note that in relation to complying with the local authority publicity rules the onus is placed on individual members to ensure that in carrying out their duties the Council does not contravene these rules.

If a Councillor fails to comply with this paragraph of the Code of Conduct then he or she is likely to face a complaint to the Standards Commission and the imposition of sanctions such as censure, suspension from entitlement to attend council meetings or disqualification to be a Councillor, depending on the facts and circumstances of the particular case.

6. Rules governing local authority publicity are set out in Section 2 of the Local Government Act 1986, as amended by Section 27 of the Local Government Act 1998, which states:

“A local authority shall not publish, or arrange publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party. In determining whether material falls within the prohibition regard shall be had to the style and content of the material, the time and circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters:

a) Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view which is identifiable as the view of one political party and not of another;

b) Where the material is a campaign, the effect which the campaign appears to be designed to achieve”.

“Publicity” is defined widely as including any communication, in whatever form, addressed to the public at large or to a section of the public. This legislation has also led to a Code of Recommended Practice on Local Authority Publicity, a copy of which is included in the Welcome Handbook provided to each Member following their election<sup>1</sup>.

7. It is recognised that correspondence by Councillors has become more problematic with the introduction of multi-member wards. Further guidance on this is given below.

### **Correspondence - Content**

8. All correspondence, including emails, prepared and issued using Council facilities must be connected with the functions of the Council or with the Council's policies in relation to these functions and the reasoning behind these. It may also be designed to attract people to use a Council facility or service.
9. Descriptions of the Council's decisions or policies should provide facts or explanations accurately.

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<sup>1</sup> See also on Intranet under Council>Councillors>Elected Member Resources.

10. Descriptions of the Council's decisions or policies should be presented in a balanced and reasonable way and should not be expressed in ways which could be seen as being designed to increase or decrease support for a political party.
11. The Council's headed notepaper should be used for paper correspondence.

### **Signing-off Correspondence**

12. Casework correspondence by ward councillors in response to matters raised by a constituent should be signed off "Councillor for ABC Ward". It is also acceptable to identify a political party e.g. "Labour Party Councillor for ABC Ward".
13. Correspondence concerning Council business conveying the official Council line should be signed by Councillors in their Council capacity e.g. "Leader" or "Chair of ABC Committee" or "Cabinet Portfolio Holder for XYZ". Identity of political party is not appropriate.
14. Council headed notepaper and email templates should not be customised in breach of these guidelines.

### **Publicity or Surgery Details**

15. It is important that members of the public are aware of all the Councillors in their ward and the fact that they are available to help so they can choose which one they wish to represent them.
16. In order to avoid the risk of being regarded as party political material, mail shots to a section of a ward, including street letters and other unsolicited communications, are considered appropriate in the following circumstances:
  - the content is limited to factual content, the identity of ward members and their contact details;
  - the content does not duplicate information which Council Divisions have issued or are planning to issue. In particular, it should avoid the risk of confusion with a statutory or service-led consultation process which a Council service is required to or proposes to undertake;
  - each ward member has agreed to the mail shot/poster/leaflet and has approved its contents for publication; and
  - members have been supported in this by Communications and Marketing.
17. The guidance on correspondence content and signing-off above also apply to publicity.

### **Computers**

18. All use of computer facilities provided by the Council should comply with Council's ICT Acceptable Use Policy.<sup>2</sup>

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<sup>2</sup> This can be viewed on the Intranet under IT>FAQs>IT FAQs>Information Security>Security Policies.

19. Councillors should be aware that their use and storage of personal data must also comply with the Data Protection Act 1998 and the Council's policies and guidelines under it.<sup>3</sup> In particular, Councillors will need to register with the UK Information Commissioner where they process personal data held on computer. Further detailed guidance on data protection matters for Councillors can be obtained from the UK Information Commissioner's website, [www.ico.gov.uk](http://www.ico.gov.uk).

### **Election Periods**

20. Stricter rules apply to Councillors' communications and publicity in the period in the run up to an election. Between the date of publication of the Notice of Election and the polling day, mail shots in particular should not be issued and the identification of political party in casework correspondence will also be suspended. Specific guidance will be issued as an election approaches.

### **Further Advice**

21. Further advice on the implementation of these guidelines can be sought from the Monitoring Officer/ Head of Customer Services.

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<sup>3</sup> See on the Intranet under Council>Legal>Data Protection>Council Policy and related guidance.

**APPENDIX III**  
**(relevant to paragraph 14)**

**GENERAL SERVICES CAPITAL PLAN**  
**2013/14 to 2015/16**

	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>
	<b>Budget</b>	<b>Budget</b>	<b>Budget</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
<b>EXPENDITURE</b>			
Approved Expenditure	29,255	8,339	2,897
	<u>29,255</u>	<u>8,339</u>	<u>2,897</u>
<b>FUNDING</b>			
Government Grants	5,690	8,344	8,344
Government Grant -Lasswade High School	621	-	-
Receipts from Sales	1,200	2,286	-
Transfer to Capital Fund	(1,200)	(2,286)	-
Developer Contributions	1,774	3,301	-
Other Contributions	-	-	-
<b>AVAILABLE FUNDING</b>	8,085	11,645	8,344
<b>Approved Borrowing Required</b>	<b>21,170</b>	<b>(3,306)</b>	<b>(5,447)</b>
	<u>29,255</u>	<u>8,339</u>	<u>2,897</u>



**APPENDIX IV**  
**(relevant to paragraph 14)**

**GENERAL SERVICES CAPITAL PLAN**

2013/14 to 2015/16

**APPROVED PROJECTS**

	2013/14 Budget £'000	2014/15 Budget £'000	2015/16 Budget £'000	Total Project Budget £'000
<b>CORPORATE RESOURCES</b>				
<b>Customer Services</b>				
Corporate ICT Replacements	955	1,113	455	3044
<b>Planning &amp; Development</b>				
Environmental Improvements	763	270	270	1733
Demolition Costs	25	0	0	628
<b>Commercial Operations</b>				
Lighting Upgrades	1,085	1,085	1,073	3,443
Road Upgrades	525	0	0	1,500
B6372 Arniston Road realignment	475	0	0	475
A6106 Lugton	1,784	0	0	744
Millerhill access road works	215	0	0	380
Cycling, Walking & Safer Streets Projects	86	126	126	475
New recycling facility - Penicuik	1,338	0	0	1,380
Waste Collection Vehicles	625	270	270	3,113
Vehicle & Plant Replacement Programme	1,976	1,250	403	4,610
<b>Property &amp; Facilities</b>				
Stobhill Depot Upgrade	564	0	0	624
Property Upgrades	759	0	0	759
<b>TOTAL CORPORATE RESOURCES</b>	<b>11,175</b>	<b>4,114</b>	<b>2,597</b>	
<b>EDUCATION &amp; CHILDRENS SERVICES</b>				
<b>Primary</b>				
Burnbrae	19	0	0	2,574
Bilston	4,500	1,200	60	6,460
Gorebridge North	3,900	2,000	90	6,260
Rosewell Extension	600	20	0	1020
Lasswade Roof	250	0	0	350
Paradykes Roof	125	0	0	125
<b>Secondary</b>				
Lasswade High School	6,162	505	0	37,041
<b>General</b>				
IT Development	1,109	0	0	1,691
<b>Children and Families</b>				
Eastfield Childrens Unit	19	0	0	299
Woodburn Childrens Unit	20	0	0	311
<b>TOTAL EDUCATION &amp; CHILDREN SERVICES</b>	<b>16,704</b>	<b>3,725</b>	<b>150</b>	

**COMMUNITIES & WELLBEING**

Penicuik Care Home Hub	492	150	0	2,400
Penicuik Care Home Hub - Fit Out	150	0	0	150
Assistive Technology	206	150	150	357
Travelling Peoples Site Upgrade	69	0	0	83
<b>TOTAL COMMUNITIES &amp; WELLBEING</b>	<b>917</b>	<b>300</b>	<b>150</b>	

**BUSINESS TRANSFORMATION**

Property Services Review	40	0	0	317
EDRMS	142	0	0	416
Unallocated	277	200	0	477
<b>TOTAL BUSINESS TRANSFORMATION</b>	<b>459</b>	<b>200</b>	<b>0</b>	

**GENERAL SERVICES CAPITAL PLAN TOTAL**

29,255	8,339	2,897
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**APPENDIX V**  
**(relevant to paragraph 18)**

**REPORT of SEMINAR of MIDLOTHIAN COUNCIL** held in the Committee Room,  
Midlothian House, Buccleuch Street, Dalkeith on Tuesday, 26 March 2013, at  
11.00 am.

**Present:-** Provost Wallace, Depute Provost Rosie and Councillors Baxter, Beattie, Bryant, Constable, Imrie, Johnstone, Milligan, Muirhead, Pottinger and Russell.

**Apology for Absence:-** Mr V Bourne.

**1 Future Models of Service Delivery**

With reference to paragraph 14 of the Minutes of Midlothian Council of 18 December 2012, there was submitted report, dated 7 December 2012, by the Chief Executive, presenting an overview of the Review of Future Models of Service Delivery and also a more detailed Comprehensive Overview Report. The purpose of the Seminar was to consider the future Models of Service Delivery in detail.

The Chief Executive introduced the topics to be discussed and emphasised the unprecedented challenges that the Council faced with significantly reduced financial resources, demographic pressures and the effects of Welfare Reform.

Ms McHugh, Ms McBeath, Ms Lang and Ms White gave a joint presentation to the Seminar. The background to the project was explained and the need for a strategic long term programme for delivering services in Midlothian especially in terms of the key elements of a reform programme as envisaged in the report by the Christie Commission on the Future Delivery of Public Services:-

- Prevention;
- Partnership and integration;
- Leadership and workforce; and
- Performance.

The Models of Service Delivery were explained in terms of:-

- The purpose of the Council being to work with communities to improve outcomes;
- Services should be delivered to provide Best Value and by co-producing with communities/users/customers/partners;

- Accessible services, targeted where they would have the greatest impact; and
- Planned services, preventing future need and creating opportunities for improvement.

The principles agreed at December Council were:-

- Communities are partners in service design and delivery;
- Services are targeted and focused; and
- Best Value outcomes are delivered in partnership.

Four key points were emphasised:-

- Best value outcomes were delivered in partnership in terms of Community Safety, Improving Opportunities, Sustainable Growth, Adult Health, Care and Housing and Getting it Right for Every Midlothian Child;
- This was managed by the “*Golden Thread*” where national outcomes and local priorities were set out in the Single Midlothian Plan and delivered through the Council Transformation Strategy, Service Plans, Unit/Section/Team/School Plans, and Individual Plans;
- There were clear examples of community capacity building and co-production work ongoing to ensure that communities were partners in service design and delivery and that this would be done by community capacity building and co-production; and

Services should be targeted and focused towards a preventative approach and with regard to geographical differences across Midlothian.

In regard to the last bullet point, there was a discussion around deprivation statistics across Midlothian. It was emphasised that for the best utilisation of resources it was essential to have good intelligence and a good understanding of the needs in local communities.

There followed a general discussion and question and answer session after which it was agreed that when the statistical profiles had been built up it would be helpful if an Elected Members Briefing was held to take the matter forward.

### **Sederunt**

Councillor Baxter left the Seminar at 12.54 pm.

The Seminar terminated at 1.00 pm.