

MINUTE of MEETING of the PARTNERSHIP AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL of WEST Lothian Council held within COUNCIL CHAMBERS, WEST Lothian Civic Centre, on 5 OCTOBER 2018.

Present – Councillors Lawrence Fitzpatrick (Chair), Frank Anderson (substituting for Peter Johnston), Chris Horne, Dave King, Dom McGuire (substituting for George Paul), Kirsteen Sullivan and Damian Timson

Apologies – Councillors Peter Johnston (substituted by Frank Anderson) and George Paul (substituted by Dom McGuire)

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTE

The Partnership and Resources Policy Development and Scrutiny Panel approved the minute of its meeting held on 24 August 2018. The minute was then signed by the Chair.

3. REVENUE BUDGET STRATEGY 2018/19 TO 2022/23 – POTENTIAL ADDITIONAL SAVING MEASURES

A report had been circulated by the Head of Finance and Property Services providing an update on the work undertaken by officers to identify potential additional saving measures to address the current budget gap of £5.227 million, including the outcome of the review of ideas received from stakeholders during the Transforming Your Council (TYC) consultation.

At a meeting of the council on 13 February 2018, a long term financial plan for five years had been agreed along with detailed revenue budgets for the three years 2018/19 to 2020/21. In addition to the detailed revenue budgets, the council had agreed budget savings of £60.1 million over the five year period to 2022/23. Based on the budget assumptions included within the agreed financial plan, the total five year budget gap was £65.3 million, leaving a balance of £5.227 million to be identified.

In the quarterly horizon scan report considered by the panel on 24th August 2018, it was noted that officers would undertake a detailed review of the budget model in advance of the annual budget setting process for 2019/20 which could result in an increase in the budget gap meaning the balance of savings to be identified may increase. An update on the review of the budget model would be presented to the panel in December 2018.

In June 2018, the panel had considered a report on the proposed

approach to identifying additional saving measures to address the remaining budget gap which had included consideration of suggestions received from stakeholders during the TYC consultation. The report was noted by the panel with no suggested changes to the proposed process.

The report provided panel members with a broad overview of the work undertaken by officers to identify and develop additional budget savings including (a) a review of ideas from the TYC consultation to determine the scope for further savings, (b) consideration of service budgets to identify any further savings, (c) development of budget saving proformas for new savings for consideration and (d) continuous scanning by the Corporate Transformation Programme Team (CTPT) and services of development in other councils and more widely to identify areas for consideration.

The appendix to the report clearly set out a number of TYC ideas which had been assessed would provide no opportunities for further savings. It also identified potential additional saving measures for a number of items, including some new savings and other ideas to increase the level of approved budget savings, which were also set out in the appendix. A number of council wide ideas for potential savings had been identified that would be further investigated by the CTPT and reported back to elected members on potential savings and values in 2019. Once the panel had considered the potential additional savings outlined in the appendix, detailed proformas would be developed to outline the business case for each saving. This was consistent with the approach used for the savings included in the five year financial plan agreed by Council and Council Executive in February 2018. The proformas would be reported to the relevant PDSPs for consideration to allow panels to reflect and comment on potential additional savings. A table within the report set out the intended key deadlines and actions.

Following a lengthy discussion on the potential additional saving measures arising from the TYC process set out in the appendix to the report, members of the panel agreed that the following areas should not be pursued:-

- Review of breakfast club provision
- Means testing of free school meals to special schools
- Removal of school crossing patrols during lunchtime
- Review cost and funding of galas and marches

Arising from the discussions, the Head of Finance & Property Services undertook to provide the panel with a detailed breakdown of the voluntary organisations budget and clarified that feedback on potential budget savings for financial years 2018/19 and 2019/20 would be reported back to the panel in due course. The Head of Corporate Services was asked to provide the panel with information on the costs incurred by the council to process Freedom of Information Requests.

It was recommended that the Panel:

1. Notes the agreed process for reviewing the TYC ideas and identifying potential measures to address the remaining budget gap of £5.227 million;
2. Notes the outcome of the officer review of the ideas received during the TYC consultation;
3. Notes ideas where it was assessed that there was no potential for additional savings, noting that no further work would be undertaken by officers on those items;
4. Notes ideas where potential savings had been identified and that officers would continue to develop those options to confirm the potential saving value and assess their viability, creating business cases, where appropriate, for the future consideration by policy development and scrutiny panels;
5. Notes that there were a number of potential areas which required further feasibility analysis and that officers would continue the work, reporting back to elected members in due course; and
6. Provides feedback on the initial review of the TYC ideas and potential measures.

Decision

To note the terms of the report and recommendations subject to the following TYC potential savings not being pursued by officers:-

- Review of breakfast club provision
- Means testing of free school meals to special schools
- Removal of school crossing patrols during lunchtime
- Review cost and funding of galas and marches

4. CHILD POVERTY UPDATE

A report had been circulated by the Head of Finance and Estates providing an update on the levels of child poverty within West Lothian and the measure taken by council services to tackle both the causes and impact of poverty on families, together with information on the requirements of the Child Poverty (Scotland) Act 2017.

Poverty in Scotland was a growing problem according to official Scottish Government statistics. The Joseph Rowntree Foundation Analysis of Poverty in Scotland indicated that poverty rates varied greatly between different groups with poverty high among families with children. The Institute of Fiscal Studies projected that current welfare changes would continue to have a negative impact across the UK and an additional

50,000 children would be in poverty by 2020. Scottish Government projections indicated that by 2030, 38% of children would be in relative poverty if no action was taken. Information on the complex reasons for households falling into and remaining in poverty was given in the report.

The Community Planning Partnership's Anti-Poverty Strategy 2018-2023 contained a West Lothian Poverty Profile that provided information and analysis on indicators and data to give an overall picture of poverty within West Lothian. Section 5 looked at children in relative poverty which compared children in families with incomes of less than 60% of the contemporary UK media income. It was important to take housing costs into account when determining disposable income. A table within the report provided information on the percentage of children living in poverty after housing costs by council ward area. The average level of child poverty in West Lothian was 22% which was comparable to the Scottish level and reflected the pattern for other measures of deprivation within the ward areas. West Lothian was ranked in joint 12th position alongside Edinburgh, Midlothian, Renfrewshire and South Lanarkshire Councils.

The report gave an overview of the four targets set out within the Child Poverty (Scotland) Act 2017 which the Scottish Government was expected to ensure were met by 2030, all of which would be measured after housing costs had been deducted. The Act also set interim targets that were to be met in financial year beginning April 2023 and committed the Scottish Government to produce a "Tackling Child Poverty Delivery Plan" for each of the five years to set out its policies and proposals to help make progress towards the targets. The Scottish Government's action plan would focus the majority of actions specifically at increasing family incomes and reducing costs. They had also produced additional guidance which suggested that direct action involving children under 12 would not impact on national and local targets unless it reduced parental expenditure.

The Act placed a duty on local authorities and NHS Health Boards to jointly prepare and publish an annual local child poverty action report that would outline activities undertaken that contributed to the meeting of child poverty targets and activity which was due to be published by June 2019.

Council services undertook a range of projects and actions to support vulnerable families and help lessen the impact of poverty on them and their children. An appendix to the report mapped out projects or actions that were grouped together under the drivers of poverty which mirrored the groupings in the Scottish Government's action plan and which would form the basis of a wider community planning child poverty mapping exercise. The mapping had not included all activities and did not take into account the funding the council allocated to third sectors through different funding streams.

The mapping activity had highlighted areas where additional activity would support the reduction of the number of children in relative poverty and help towards reaching the Scottish Government targets. A separate report would be presented to the Council Executive on time-limited funding that were allocated to anti-poverty initiatives and to seek approval

of the allocation of those funds to priority areas.

The Panel was asked to note the impacts of the welfare reforms in West Lothian and the action the council and community planning partners were taking in response. On behalf of the panel, the Chair commended officers for their excellent report and work to tackle child poverty.

Decision

To note the terms of the report.

5. FREEDOM OF INFORMATION 2017/18 COMPLIANCE REPORT

A report had been circulated by the Head of Corporate Services providing an update on the council's compliance with the Freedom of Information (Scotland) Act 2002 (FOISA), particularly regarding the handling of FOI requests.

The Freedom of Information (Scotland) Act 2002 provided a general right of access to information held by Scottish public authorities, subject to specified exemptions applying. The Scottish Information Commissioner had a duty to promote and enforce compliance by Scottish public authorities within the terms of the legislation. Appendix 1 to the report showed the council's performance in 2017/18 in processing FOI requests within the required 20 working day timescale.

In addition to requests for information under FOISA, the council was required to comply with the terms of the Data Protection Act 1998 in the processing of personal data. The council also received requests from individuals for access to personal information held on them by the council, known as Subject Access Requests (SARs). The timescale for a SAR was 40 days.

Table 1 contained the total number of FOISA requests received by the council over the period from 2013/14 to 2017/18, table 2 contained the total number of internal reviews carried out and table 3 contained the total number of SARs received.

Of the 20 internal reviews which were concluded in 2017/18, 12 were upheld, 2 were partly upheld and 6 were not upheld. The main reason for upholding requests related to responses not being issued on time and information should have been released being withdrawn.

The council's performance in 2017/18 in processing requests within the required timescales for FOI and SAR requests was shown in appendix 1 to the report. The overall performance for the year to date for FOI requests was 91% completed within 20 days and SAR requests was 83% completed within 40 days.

It was noted that requests for environmental information, such as waste, water, air quality, energy or noise were dealt with under the Environmental Information (Scotland) Regulations 2004 (EIRs). The timescale for processing EIRs was 20 days and the council's performance

was set out in appendix 1 to the report.

The General Data Protection Regulations (GDPR) came into force on 25th May 2018 and harmonised UK law with GDPR and European Law Enforcement Directive. The council had reviewed all personal information held and processes and procedures which could be impacted by GDPR to ensure compliance with the new legislation.

The panel was asked to note the council's performance in relation to the processing of Freedom of Information requests (FOI), Subject Access Requests (SARs) and requests under the Environmental Information (Scotland) Regulations.

Decision

To note the terms of the report.

6. WORKING SAFELY AT HEIGHT GUIDANCE

A report had been circulated by the Head of Corporate Services outlining the new Working Safely at Height Guidance.

The council had a responsibility for ensuring the health, safety and welfare of all its employees whilst at work and any other person who may be affected by its acts or omissions. As part of the ongoing commitment in the implementation of council-wide health and safety policy, the guidance document advised on compliance with the Working at Height Regulations 2005 and would to assist services in fulfilling responsibilities and duties outlined in the regulations.

The new Working Safely at Height Guidance, which was provided as an appendix, set out the responsibilities for implementation, detailed procedures that must be considered for working at height and gave links to other relevant guidance documentation that should be taken into consideration when devising working at height procedures. The description of working at height was provided in the report.

It was recommended that the Panel note the content of the report and recommend the Working Safely at Height Guidance to the Council Executive for approval.

Decision

To note the terms of the report and recommendation.

7. WEST LoTHIAN COUNCIL PARTICIPATION REQUEST REVIEW

A report had been circulated by the Head of Planning, Economic Development and Regeneration presenting the findings of a recent review of the West Lothian Council participation request process.

Participation requests were introduced in April 2017 under Part 3 of the

Community Empowerment (Scotland) Act 2015 and provided a mechanism for community bodies to put forward ideas for how services could be changed to improve the outcome for communities. Requests could be made to a number of public service authorities, including West Lothian Council, and each was required to have their own process in place for dealing with requests.

The council's process for managing participation requests was approved by the panel and Council Executive in March 2017. Members agreed that the process should be reviewed upon completion of the first participation request to ensure it was fit for purpose.

Bathgate Community Council had submitted the first participation request in February 2018 around increased awareness of the council's roads policies and where the community council influence and improve existing policies through local involvement. A Participation Request Panel made up of council officers had assessed their request and agreed that the information required to make a decision had not been provided and the request was therefore not valid. With support from officers, the group shaped the information into a valid request which was subsequently approved by the panel in June 2018. An outcome improvement process had been agreed and published on the council's website and a full report would be published once the process was complete.

As the first participation request had been received, the participation request process had been reviewed. The report recalled the current process before setting out the findings of the review and listing the minor recommendations suggested to improve the process. The feedback from officers and the community council was provided in the report.

The report concluded with information on a briefing by the Scottish Community Development Centre on learning from their work around participation requests which contained 7 key findings that were in line with the findings of the council review. Their briefing highlighted that legislation and guidance might need some strengthening that could lead to participation requests having the potential to form an important piece of the puzzle in making bottom-up co-production happen in Scotland.

It was recommended that the panel considers the following recommendations which were intended to be submitted to the Council Executive for approval:-

- a) Notes the review of the West Lothian Council participation request process: and
- b) Approves the recommendations to improve the process and further raise awareness of the process within communities and council services.

Decision

To note the terms of the report and remit the report to the Council Executive for approval.

8. REGULATION OF INVESTIGATORY POWERS – ANNUAL REPORT 2017/18

A report had been circulated by the Depute Chief Executive outlining activity in 2017/18 under the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) required by the policy approved by the council in September 2017.

The council had duties and responsibilities when undertaking certain types of surveillance in relation to the detection of crime, in relation to public safety and the protection of public health which were found principally in the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA). In certain circumstances, a formal authorisation was needed from an appropriate senior council officer before some forms of information-gathering activity could be carried out.

When the new RIPSA policy was approved by the council in September 2017, it was agreed that a stand-alone annual report be provided on RIPSA activity and issues relevant to the council's use of RIPSA.

Authorisations were required for planned covert surveillance in relation to criminal activity, public health or public safety where it was designed to gather private information without the subject being aware of it. No authorisation was required for overt surveillance, unplanned or spontaneous surveillance or for one-off instances of information gathering. If officers acted without an authorisation any evidence gathered could be inadmissible, enforcement action could fail or the council could suffer reputational damage.

The panel noted that only a very low number of authorisations were granted each year and were generally used by council services that operated in areas such as noise and criminal anti-social behaviour, trading standards, environment health and counter fraud investigations. A table within the report outlined the authorisations requested in 2017/18 and the previous five years. The report provided further details on the two authorisations requested and granted in 2017/18 and the outcome of both cases. The annual exercise undertaken by Environmental Health to test the purchase tobacco products to underage young people had not required authorisation due to the way in which the activity was carried out.

The report moved on to explained that the offices of three Commissioners with oversight roles had been incorporated into one, the Office of the Investigatory Powers Commissioner. The council's next inspection was due to be carried out mid-2019 and would be carried out under the new regime.

Three new statutory Codes of Practice had been issued by the Scottish Government for Scottish public bodies in the exercise of their RIPSA powers that covered Covert Surveillance, Targeted Equipment Interference and Cover Human Intelligence Sources. Only the first had any bearing on the council's use of powers and mainly contained

technical changes to the previous version.

The report concluded with information on the consequences of a recent case in England which had failed due to lack of awareness of the law.

It was recommended that the panel note the information provided in relation to the council's use of RIPSAs powers in 2017/18.

Decision

To note the terms of the report.

9. REVIEW OF DECISION-MAKING ARRANGEMENTS

A report had been circulated by the Governance Manager inviting consideration of improvements that could be made to the council's decision-making arrangements.

The report recalled the background to the reasons for the council undertaking a review of its decision making arrangements and provided details of the further discussions with Group Leaders and the Independent Councillor that had taken place following the August meeting of the panel. A small number of additional points had emerged as a result of the further discussions and these were set out at the end of the appendix to the report.

The report detailed the constraints that were explained to councillors during the consultation meetings and was the first formal step towards eventual decision-making. Suggestions could emerge to be progressed by officers for decision or there could be areas of disagreement. Further PDSP reports might also be necessary. The Council Executive might be required to direct officers as to what should be taken forward whilst final changes to Standing Orders and the Scheme of Administration would have to be made at full council. The feedback from discussions was not necessarily exhaustive and additional ideas could be brought forward in the course of any further PDSP or committee or council consideration.

The panel was invited to:-

- (i) Note the updated themes and concerns that had emerged from officers' discussions with members following council's instruction in February 2018 to review decision-making arrangements; and
- (ii) Consider those issues to assist in identifying potential improvements and in taking the review forward for decision-making.

Arising from the discussion, the Governance Manager agreed to provide members with a note of the possible changes that would require changes to the council's Standing Orders and full council determination. He would also identify areas from Appendix 2 which might be taken forward to committee for decision following further discussion with the group leaders and Independent councillor.

Decision

To note the terms of the report and recommendation.

10. PERFORMANCE REPORT FROM THE CORPORATE PERFORMANCE MANAGEMENT SYSTEM

A report had been circulated by the Depute Chief Executive informing the Panel of the findings and recommendations arising from a review of the performance information provided to the council's two performance committees and the nine Policy Development and Scrutiny Panels (PDSPs).

The review had been undertaken in response to the recommendations of the Best Value Assurance Review of West Lothian Council. The review activity was completed in March 2018 and considered performance reporting to all PDSPs and the council's two performance committees during the period 2016/17 and 2017/18. The review methodology was included in the report.

A total of 261 performance reports were received by Committee and PDSP in 2016/17 and 2017/18. A table within the report provided a breakdown of performance reports by performance committees and PDSPs.

A further table showed the categories of performance reports received by performance committees and PDSPs.

The report went on to list the key findings of the review.

In addition, the report set out recommendations that had been identified to improve the quality, relevance and consistency of the performance information that was provided to elected members via the PDSPs and committee. These were:-

1. A standard calendar of performance reporting to PDSP and the two performance committees was agreed to establish a consistent provision of performance information for scrutiny by elected members.
2. Corporate performance reports identified for inclusion in the PDSP and two performance committee workplans. This might include a targeted performance scorecard for the Corporate Plan (including relevant priorities/deliverables) and relevant indicators from the Local Government Benchmarking Framework dataset.
3. PDSP scorecards reviewed in conjunction with the Lead Officer, taking into account the relevance and collection frequency of PIs that were currently in place.
4. An agreed reporting format (layout) for scorecards and service performance reports identified for PDSPs.

5. The annual evaluation of quality of publicly reported performance indicators undertaken each May. To aid review activity, this would take into account the alignment of the current PDSP performance indicators with the Corporate Plan priorities and other activities that had been identified as significant in requirements or priorities.

The panel was asked to the performance information and determine if further action or enquiry was necessary for any of the performance indicators in the report.

Decision

To note the terms of the report.

11. WORKPLAN

A copy of the workplan was circulated for information.

Decision

To note the workplan.