

MINUTE of MEETING of the COUNCIL EXECUTIVE held within COUNCIL CHAMBERS, WEST LoTHIAN CIVIC CENTRE, on 18 DECEMBER 2018.

Present – Councillors Lawrence Fitzpatrick (Chair), Kirsteen Sullivan, Frank Anderson, Harry Cartmill, Tom Conn, David Dodds, Peter Heggie, Charles Kennedy, Cathy Muldoon, George Paul, David Tait (substituting for Peter Johnston), and Damian Timson

Apologies – Councillors Chris Horne and Peter Johnston

1. DECLARATIONS OF INTEREST

Agenda Item 17 (Procurement Arrangements – Direct Award to Bellway Homes) – Councillor Charles Kennedy declared an interest in that his wife was employed by Bellway Homes so he would not participate in the item of business; and

Agenda Item 8 (Forth Bridges Area Tourism Strategy) – Councillor Tom Conn declared an interest in that he was a council appointed member of VisitScotland Edinburgh and Lothians Area Tourism Partnership but would participate in the item of business.

2. MINUTE

The Council Executive approved the Minute of the meeting held on 4 December 2018 as a correct record. The Minute was thereafter signed by the Chair.

3. CORRESPONDENCE

The Council Executive noted correspondence arising from previous decisions.

4. CONSULTATION ON THE CONTINUING CARE (SCOTLAND) AMENDMENT ORDER 2019

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy advising of a proposed response by West Lothian Council to the Scottish Government's consultation on the Continuing Care (Scotland) Amendment Order 2019.

The Council Executive was advised that this was the fourth in a series of annual amendments to the original Continuing Care (Scotland) Orders 2015. This amendment, which would come into force on 1 April 2019, would further increase the upper age of young people who would become eligible for continuing care to twenty one years of age.

The draft response supported the proposed intention, as started during development of the 2014 Act, to further increase the higher age limit for

persons eligible for continuing care from nineteen to twenty one years of age from April 2019.

The draft response also noted that it was expected that there would be an increase in demand for continuing care support going forward. The Scottish Government had allocated £166,000 per annum to support implementation of continuing care. However it was the view of West Lothian Council that this provision was under-funded and would ultimately lead to a budget pressure.

It was recommended that Council Executive considers the proposed West Lothian Council response to the consultation by the Scottish Government in relation to the Continuing Care (Scotland) Amendment Order 2019 and agrees that the response be submitted to the Scottish Government.

### Decision

To approve the terms of the report

## 5. SUPPLEMENTARY GUIDANCE ON AIR QUALITY

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration seeking approval of Supplementary Guidance (SG) on Air Quality that had been produced in support of the West Lothian Local Development Plan (LDP), following a period of consultation.

The proposed SG, which was attached to the report at Appendix 1, provided developers and their consultants with guidance on how the council would consider air quality within the planning process and explained the circumstances when an air quality impact assessment was likely to be required. The SG contained two appendices providing technical guidance for conducting air quality impact assessments and an air quality impact assessment evaluation checklist.

The SG was published by the council for consultation on 30 May 2017 with a closing date of 14 July 2017. Most of the comments received were of a positive nature with SEPA commenting that the guidance was of a very high standard.

If approved by Council Executive the SG would be submitted to Scottish Ministers who would then have 28 days in which to scrutinise it. The Scottish Ministers scrutiny would focus on ensuring that the principles of good public involvement and proper connection to the guidance had been achieved.

Prior to a decision by Scottish Ministers the SG would continue to be operated as non-statutory guidance (PG) thus affording it a degree of materiality when determining planning applications in the intervening period.

It was recommended that the Council Executive :-

1. Approves the content of the revised draft guidance as statutory supplementary guidance (SG);
2. Agrees to it being notified to the Scottish Government for endorsement;
3. Delegates the Head of Planning, Economic Development and Regeneration to agree and conclude a “screening determination” as to whether a SEA was required, having taken into account the views offered by the Consultation Authorities; and
4. Delegates to the Head of Planning, Economic Development and Regeneration to make any necessary changes to the Residential Development Guide to ensure consistency with Supplementary Guidance on Air Quality.

### Decision

To approve the terms of the report

## 6. FORTH BRIDGES AREA TOURISM STRATEGY

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration, providing a copy of the tourism strategy developed by the Forth Bridges Forum, of which the council had been a member since 2011. A copy of the strategy was attached to the report as Appendix 1.

The report explained that West Lothian’s tourism sector made an important contribution to the local economy and a variety of statistics contained in the report demonstrated the potential benefits to communities and businesses from developing place marketing of the Forth Bridges. An increase in tourist visits was anticipated and improved transport connections would materially benefit West Lothian.

Key outcomes of the strategy were: creating a visitor destination, offering a warm welcome to all and marketing the destination.

The report concluded that the action plan in the strategy was comprehensive and inclusive, which would facilitate the successful delivery of the Forth Bridges Area Tourism Strategy, and that the council should be optimistic about the potential economic and cultural benefits for communities and businesses across West Lothian.

It was recommended that Council Executive :-

1. Agrees the content of the Forth Bridges Area Tourism Strategy; and
2. Approves the council’s continued participation in the Forth Bridges Forum

Decision

1. To approve the recommendations of the report;
2. To agree that the strategy included three additional railway stations; these being Bathgate, Uphall and Kirknewton; and
3. To agree that officers investigate the viability of a viewing platform at Winchburgh

7. PROPERTY ASSET MANAGEMENT PLAN (2018/19 TO 2027/28)

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing the proposed Property Asset Management Plan for 2018/19 to 2027/28.

The proposed Property Asset Management Plan for 2018/19 to 2027/28, attached to the report at Appendix 1 had at its core the overall aim to manage the council's property assets efficiently and effectively whilst continuing to improve performance. The plan was for a ten year period and progress would be reported annually. The plan would also be formally reviewed and recalibrated in 2022/23.

The plan set out the council's approach to the management of its property assets and would support the council's priorities by :-

- Establishing a corporate framework for the management of the council's property assets;
- Highlighting corporate outcomes and priorities and how they would be supported through the effective and efficient management of property assets;
- Presenting an overview of the extensive property assets owned by the council;
- Identifying the internal and external influencing factors and challenges affecting property;
- Identifying a number of activity themes to improve the performance of property asset management; and
- Outlining the investment the council would make in its property assets over the next ten years.

The Head of Finance and Property Services continued by providing information on corporate asset management performance measures, governance arrangements, performance improvement activity themes and capital investment.

The report concluded that the proposed Property Asset Management Plan had been prepared to reflect and support the priorities in the Corporate

Plan and Corporate Asset Management Strategy. It sets out a framework and resource requirement for the next ten years to ensure that the council managed its property assets effectively and efficiently.

It was recommended that Council Executive approve the proposed Property Asset Management Plan for 2018/19 to 2027/28.

#### Decision

To approve the terms of the report.

#### 8. SEASONAL LETTING OF PART OF BEECRAIGS COUNTRY PARK TO ROWEN EVENTS LIMITED

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the letting of part of Beecraigs Country Park to Rowen Events Limited for a Christmas event.

The members were advised that the council was committed to maximising the use of its assets and utilising these to support wider council objectives. This included supporting economic development, generating income and supporting service delivery.

The council had been approached by Rowen Events Limited (Rowen) which was seeking to hold a Christmas themed event in part of Beecraigs Country Park during December, for the next five years. The lease would run from 11 November until 13 January each year. This period would include for the setting up and removal of various apparatus and equipment prior to and after each event. The first event would take place in 2019.

Rowen Events Limited was a new company set up for the event with the directors having a local connection to Linlithgow. The company were working in partnership with Unique Events to stage the event on their behalf. Unique were a well-known event management company with 25 years of experience in running similar event.

Officers from various services had, over a number of months, been working with Rowen on the development of their proposals.

The main element and focus of the event would be an illumination/light show to be staged in the woodland. This would be a ticketed event. Ancillary attractions would also be provided to compliment the illumination/light show and would include a "Santa's Storytelling Experience", which would occupy part of the visitor centre. Further details were contained in Appendix 1 attached to the report.

During the event Beecraigs Country Park and the visitor centre would continue to be open to the general public during the event, with only the illumination trail having restricted access during the afternoons and evenings for the period of the event. The potential benefits arising from the proposed event could greatly outweigh any inconvenience to the

public.

Whilst the event would be fully staffed by Rowen it was anticipated that council staff would be deployed to monitor the event. This would be undertaken within existing resources. Countryside Services would continue to work closely with Rowen on operational aspects of the proposal and would collaborate with them on technical and compliance requirements.

The proposed lease terms were outlined in the report and included details of the rent for the five years.

The report concluded that granting the lease was considered in the best interests of the council as it would promote Beecraigs Country Park to wider users and the general public and improve utilisation during the winter months.

It was recommended that Council Executive :-

1. Approves the letting of part of Beecraigs Country Park to Rowen Events Limited for the purposes of running a Christmas event comprising of light show, market stalls and various festive attractions on the terms outlined in the report; and
2. Authorises the Head of Finance and Property Services to negotiate any further terms and conditions or changes to those outlined in the report on the basis that these continued to represent the achievement of best value for the council.

In moving the recommendations of the report the Chair suggested that a third recommendation be added which concerned ring-fencing the monies earned from the annual rent payment.

#### Decision

1. To approve the recommendations of the report; and
2. To agree that the monies earned from the rent be ring-fenced for use in other council country parks.

#### 9. SCOTTISH HOUSING REGULATOR - REGULATION OF SOCIAL HOUSING IN SCOTLAND CONSULTATION

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services seeking approval to submit a consultation response on the Scottish Housing Regulator-Our Regulation of Social Housing in Scotland.

The Head of Housing, Customer and Building Services explained that the Scottish Housing Regulator (SHR) provided regulatory functions for social housing providers in Scotland. They protected the interests of tenants, homeless people and other service users of social landlords. They also focused on the provision of services that secured good outcomes for

tenants and services, they held landlords to account and drove improvement in service provision and they accomplished this through a regulatory framework known as the Annual Return on the Chart (ARC).

In January 2018 the SHR launched a discussion paper on the future of housing regulation in Scotland. The intention was to drive discussion and debate about the current arrangements and what was required to support a successful social housing sector in the future.

Using feedback obtained and subsequent discussions with landlords and their representatives, the SHR proposed to reduce the list of indicators by over a third from 74 to 44. The report provided a list of the main proposed changes.

In conclusion the vision of the SHR was to continue to regulate to protect the interests of tenants, homeless people and others who used the services of social landlords. The review of the ARC framework in consultation with social housing providers ensured the framework enabled full scrutiny of the relevant activity, performance, governance and financial health of the social housing sector in Scotland.

It was recommended that Council Executive approves the consultation response to enable a response to be submitted by the closing date of 18 December 2018.

### Decision

To approve the terms of the report

## 10. PRIVATE LANDLORD REGISTRATION ENFORCEMENT - IMPLEMENTATION OF RENT PENALTY NOTICES

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services which set out the proposed processes for applying various enforcement tools in relation to unregistered and registered landlords.

The members were advised that all private landlords with some exceptions were required to apply for registration in the register of landlords. Appendix 1 to the report contained a list of landlord exemptions. The requirement enabled councils to remove disreputable landlords from the housing market in order to protect tenants and the wider community from the impact of antisocial behaviour and mismanaged property.

Under Part 8 of the Antisocial Behaviour, etc (Scotland) Act 2004, it was a requirement for all persons leasing residential property in Scotland to be registered with the local authority. It was a criminal offence for a landlord to enter into a lease or occupancy agreement without being registered.

In addition the local authority had the power to issue a "Rent Penalty Notice" under Section 94 of the 2004 Act, the effect of which was to prevent the landlord collecting rent from any residential properties whilst

unregistered.

The Rent Penalty Notice would give a period of 28 days prior to commencement during which the landlord may still register. If the landlord registered during that period the Rent Penalty Notice would be revoked.

Implementing Rent Penalty Notices as an enforcement tool had notable benefits in terms of improving performance and compliance in the private rented sector, however it was recognised that implementation was not without challenge and a clear process had been created.

The report concluded that implementation of the available enforcement tools, in place of the Landlord Registration Scheme, would ensure compliance with legislation.

It was recommended that Council Executive agrees the introduction and approves the process for the issue of rent penalty notices.

#### Decision

To approve the terms of the report

### 11. WEST LoTHIAN RAPID REHOUSING TRANSITION PLAN

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services providing an update on the progress of the preparation and development of the first iteration of the West Lothian Rapid Rehousing Plan (RRTP) which was required to be submitted to the Scottish Government by 31 December 2018.

The report recalled that a high level overview of the requirement for local authorities to prepare 5 Year Rapid Rehousing Transition Plans to reduce homelessness was reported to the Services of the Community Policy Development and Scrutiny Panel on the 18 September 2018 and the Council Executive on 9 October 2018.

The council and strategic partners prepared and developed the first iteration of the plan which was appended to the report.

The report set out the seven key elements to the West Lothian Rapid Rehousing Transition Plan as follows:

- Understanding West Lothian's Housing Market Context
- West Lothian's Homeless Position
- West Lothian's Temporary Accommodation Provision
- West Lothian's 5 Year Projections for Temporary Accommodation
- Identifying Support Needs

- Transitioning to a rapid Rehousing Approach in West Lothian
- Resources

The report also set out four high level actions identified by the council and partners to transition from the current provision to the West Lothian vision. These actions would be taken forward through four Rapid Rehousing Transition Plan Work streams of Early Intervention/Prevention and Housing Options, Supply and Temporary Accommodation, Support and Supported Accommodation and Health and Wellbeing. Appendix 3 contained the action plan for the five years of the West Lothian Rapid Rehousing Transition Plan.

The proposed timescales for submitting the first iteration of the Rapid Rehousing Transition Plan to the Scottish Government were detailed in table 2 within the report.

In conclusion the report advised that significant progress had been made with West Lothian's Rapid Rehousing Transition Plan and was on target to meet the Scottish Government's deadline of 31 December 2018 for submission of the first iteration.

Council Executive was asked to :-

1. Note and comment on the first iteration of the West Lothian RRTP;
2. Approve the first iteration of the West Lothian RRTP to be submitted to the Scottish Government; and
3. Note the proposed timeline for the governance arrangements of the plan to meet the implementation date of 1 April 2019.

#### Decision

To approve the terms of the report

## 12. SEVERE WEATHER POLICY (REVISED)

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services presenting a revised Severe Weather Policy, a copy of which was attached to the report at Appendix 1

The report recalled that during the early part of 2018, the country experienced exceptionally severe weather causing considerable disruption to businesses, workers and the public in general and prompting a Red Weather Warning to be issued. While the council had in place arrangements for dealing with disruption caused by severe weather, the unprecedented harshness of the weather conditions on this occasion exposed some weaknesses in the current policy.

Following consideration of a motion at Full Council on 30 March 2018 the

Chief Executive was instructed to undertake a thorough review of communication procedures between managers and staff, and to engage with the recognised Trade Unions to establish clean lines of communication for adverse weather conditions. Additionally the Chief Executive was asked to undertake a review of the existing Severe Weather Policy.

A review of the existing policy had resulted in the inclusion of a specific section relating to Red Weather Warnings and the contingency arrangements that should be invoked in these circumstances to ensure the safety and well-being of staff and the continuity of essential service delivery.

The review had also been informed by the Severe Weather: Fair Work Charter developed jointly by the Scottish Government and the Scottish Trade Union Congress (STUC) which provided a set of guiding principles to support employers and workers to plan for and manage the impact of severe weather.

Discussions had also taken place with the recognised trade unions and a number of revisions to the policy have been made with a view to improving its effectiveness in dealing with extreme weather events. In particular there had been an emphasis on the need for well communicated contingency arrangements to be in place especially where decisions were taken to close council buildings or where workplaces became inaccessible due to severe weather.

It had also been agreed that a list of post types deemed as “essential works” would be discussed with the recognised trade unions.

A further key change proposed was for the Chief Executive, in the exceptional event of a Red Weather Warning, to have discretion to override the normal policy provisions which may include authorising the general application of special leave or crediting essential workers who attended work within their normal hours/pay during the period that the warning was in force.

The report concluded that the revised draft policy should enable the council to respond in a more robust and co-ordinated manner to periods of severe weather going forward.

It was recommended that Council Executive :-

1. Approves the revised draft Severe Weather Policy attached to the report;
2. Notes that the revised policy reflected the guiding principles for supporting employers and workers set out in the Scottish Government’s Severe Weather Fair Work Charter;
3. Notes that the revised policy would be supported by a programme of improved contingency planning measures and guidance for employees; and

4. Notes that the revised policy provided discretion to the Chief Executive to override the normal provisions in the policy during periods when a Red Weather Warning was issued.

#### Decision

To approve the terms of the report.

### 13. AVOIDANCE OF INDUSTRIAL DISPUTES PROCEDURE (REVISED)

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services presenting a revised draft Procedure for Avoidance of Industrial Disputes in respect of non-teaching staff.

The Head of Corporate Services explained that while the council was fully committed to maintaining a constructive and positive working relationship with the recognised trade unions it was also accepted that situations could arise from time to time where proposed changes to working practices and conditions of employment resulted in a failure to agree. It was therefore important in these circumstances that there was a recognised protocol available for helping to resolve such matters before they escalated into damaging industrial disputes.

Following representations from the non-teaching trade unions through the council's Joint Consultative Group, the former Lothian Regional Council procedure which the council had adopted back in 1996 had been modified and updated.

The revisions were relatively minor in nature and included the removal of out of date references to the National Joint Council (NJC) which became obsolete following the introduction of the Single Status Agreement in 1997. The revised procedure also retained the option for parties to agree to third party assistance through the Advisory Conciliation and Arbitration Service (ACAS) in the event of failure to agree a resolution at the Avoidance of Dispute Committee.

A copy of the revised draft was attached to the report at Appendix 1.

It was recommended that the Council Executive approves the revised draft of the Avoidance of Industrial Disputes.

#### Decision

To approve the terms of the report

### 14. BSL (BRITISH SIGN LANGUAGE) LOCAL PLAN FOR WEST LOTHIAN COUNCIL 2018-2024

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services presenting a draft British

### Sign Language (BSL) Local Plan 2018-2024 for West Lothian Council.

The report recalled that the British Sign Language (Scotland) Act 2015 received Royal Assent on 22 October 2015. This legislation set out ambitious plans to make Scotland the best place in the world for BSL users to live, work and visit.

The BSL (Scotland) Act 2015 required that all “listed Authorities” in Scotland must produce an Authority Plan (local plan) demonstrating how they would work towards implementing the national plan and improving services for BSL users throughout the area.

The council as a listed authority was required to have a local BSL plan in place by the end of 2018.

In February 2018 West Lothian Council participated in a pan-Lothian consultation event involving other local authorities, Police Scotland, Scottish Fire & Rescue, NHS Lothian and other interested organisations and groups. This was then followed up with a specific West Lothian Council consultation event and included West Lothian residents, persons who used BSL and persons who represented users of BSL.

Based on the consultation events held and the feedback received a draft plan was produced and published for consultation on the council’s web site from 3 to 21 September 2018, a copy of which was attached to the report at Appendix 1. The format of the plan followed that of the National Plan and set out an ambitious suite of actions which would improve the way BSL users found out about and accessed council services.

The report concluded that the council recognised the need to deliver services that met the needs of the diverse communities of West Lothian whilst ensuring legislative compliance.

It was recommended that Council Executive approve the content of the draft BSL Local Plan 2018-2024 for West Lothian Council.

#### Decision

To approve the terms of the report

#### 15. PROCUREMENT ARRANGEMENTS - DIRECT AWARD TO BELLWAY HOMES FOR CONSTRUCTION OF 14 HOUSES

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to make a direct award to Bellway Homes for the construction of 14 homes at the former Vion (Halls) site at Broxburn, as part of the new build house programme.

The report recalled that West Lothian Council had embarked on three new build house programmes over the past ten years. Lessons had been learned from each phase and there was considerable experience to draw upon to inform the procurement approach for the next phase of new build

council housing.

The direct award to Bellway Homes of £1.814 million was being progressed as part of the approved five year housing capital programme for 250 houses across 6 sites. The agreed budget for the 250 houses was £43.272 million.

The scale of the build was too large for Building Services and therefore required to be procured externally.

The land in question had been transferred to the council under a Section 75 agreement. The only access to the site was via the Bellway Homes development. For this reason discussion had taken place with Bellway about the possibility of them carrying out the construction of the houses. Independent advice had been sought to check that the price offered was value for money against market rates.

As this was not the usual procedure, external legal advice had been sought prior to recommending this procurement route. It was to be noted that the construction price offered to Bellway Homes was well below OJEU level spend and below the regulated spend.

Standing Orders stated that for the level of spend three tenders should be sought or Council Executive approval obtained. Therefore it was being recommended that the Council Executive approves the direct award to Bellway Homes for the construction of 14 homes at the former Vion (Halls) site in Broxburn for the price of £1.814million.

### Decision

To approve the terms of the report

## 16. PROCUREMENT ARRANGEMENTS - DIRECT AWARD TO EDINBURGH UNIVERSITY FOR THE PROCUREMENT OF SPECIALIST FROEBEL TRAINING

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to make a direct award to Edinburgh University for specialist Froebel Early Years practitioner training for sixty Early Learning and Childcare practitioners.

The Head of Corporate Services explained that the council's Continuous Professional Learning framework aligned with the actions in "*A Blueprint for 2020 : The Expansion of Early Learning and Childcare in Scotland – Quality Action Plan*".

The council's innovative approach to Continuous Professional Learning centred on the national model of improvement "Looking Inwards, Outwards and Forwards". This approach included partnership with the future workforce, partner providers and community playgroups. Additionally the diversity of practitioner and management experience and knowledge of Early Learning and Childcare pedagogy had been a key factor in building consistency of practice across early learning and

childcare settings.

A Froebelian pedagogy was widely recognised nationally as a very effective learning approach which ensured that children developed in the four capacities of Curriculum for Excellence; these being; Successful Learners; Confident Individuals, Responsible Citizens and Effective Contributors.

Edinburgh University were the sole provider of specialised Froebel Early Years practitioner training in Scotland. Forty West Lothian Early Learning and Childcare practitioners were currently in the process of completing their training in early January 2019. Therefore following on from the success of the first cohort the council wished to arrange for a further sixty Early Practitioners to attend five full days of training.

The budget for the training was included in the approved 2018/19 revenue budget for Education Services.

It was recommended that the Council Executive approves a direct award of £51,000 to Edinburgh University for specialist Froebel Early Years practitioner training for sixty Early Learning and Childcare practitioners within the council and Partner Providers.

#### Decision

To approve the terms of the report

### 17. PROCUREMENT ARRANGEMENTS - PROVISION OF OCCUPATIONAL HEALTH SERVICE

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to commence tendering procedures for the provision of Occupational Health Services for a three year contract.

The Head of Corporate Services explained that the council was committed to reducing sickness absence by the promotion of health at work and by setting standards that enabled service managers to take appropriate action in a fair and consistent manner when an employee's health gave rise to concern.

In order to achieve these standards, an Occupational Health Provider was required to provide a full and comprehensive Occupational Health Service.

Historically the contract had been specific to West Lothian Council however it was proposed to collaborate with West Lothian College for the new Occupational Health Service. The council did not have an in-house capability to provide this requirement.

The requirement would be advertised in accordance with the European Union Directives and it was proposed that the Open Procedure be used whereby all suppliers expressing an interest in the contract would be

invited to tender. A criteria of 50% for Price and 50% for Quality would be applied at the tender stage. The anticipated start date for the contract was 1 June 2018.

Sustainability considerations and budget implications were outlined in the report.

It was recommended that the Council Executive approves commencement of the procurement of a three year contract, with the option to extend annually for a further two years, for the supply and support of Occupational Health Services using the evaluation methodology and award criteria set out in the report.

#### Decision

To approve the terms of the report

### 18. PROCUREMENT ARRANGEMENTS - PROVISION OF ASBESTOS SERVICES FOR STATUTORY COMPLIANCE AND CAPITAL PROJECTS

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to commence tendering procedures for the procurement of a four year framework agreement for asbestos services.

The members were advised that all council service areas required provision of external asbestos consultants and removal specialists to undertake asbestos services. These services were in support of the council's statutory obligation to manage asbestos and support capital projects in line with the Health and Safety at Work Act, associated regulations and recognised guidance.

The current service provision had been procured via the Scotland Excel Asbestos Services framework which was administered by the Asbestos Compliance Team within Construction Services.

It was being proposed that the council would issue a consolidated tender document for a four year Framework Agreement, divided into lots, each reflecting their own specialist requirement in order to encourage the participation of Small and Medium sized Enterprises (SME's).

The requirement would be advertised in accordance with the European Union Directives and it was proposed that the Open Procedure was used whereby all suppliers expressing an interest in the contract would be invited to tender. Initially suppliers would be considered on examples of work via the European Single Procurement Document and if considered capable their full tender would be evaluated.

A criteria of 50% for Price and 50% for Quality would be applied also the lot structure would be as follows :-

- Lot 1 – Asbestos surveying services

- Lot 2 – Asbestos surveying services
- Lot 3 – Asbestos removal services

The anticipated start date for the contract was April 2019.

In terms of rationale the Scotland Excel Framework for asbestos services would cover all 32 Scottish councils with generic specifications and a wide range schedule of rates. By issuing a single tender divided into specific lots would deliver efficiency savings internally and reduce supplier costs. Also this type of contract would encourage bids from Small and Medium sized Enterprises (SME's), a number of which were situated in and around West Lothian.

Sustainability considerations and budget implications were also outlined in the report.

It was recommended that the Council Executive approves the commencement of tendering procedures for the procurement of a framework agreement for asbestos services employing an Open Procedure with the evaluation methodology and criteria outlined in the report.

#### Decision

To approve the terms of the report

### 19. COUNCILLORS' CODE OF CONDUCT - ANNUAL REVIEW 2017/18

The Council Executive considered a report (copies of which had been circulated) by the Governance Manager advising of significant issues in 2017/18 in relation to the Councillors' Code of Conduct.

Table 1 in the appendix attached to the report summarised the complaints received by the Commissioner for Ethical Standards for Public Life in Scotland (CES) during the year. Table 2 was the summary of the cases in which the CES found a breach and referred a case onto the Standards Commission for Scotland (SCS) for determination.

The highlights from the CES's year and from the complaint figures were as follows :-

- There was again a reduction in the total number of complaints;
- The largest category of complaints was of misconduct in dealing with individual applications, mainly planning cases;
- The largest category of cases referred on to the SCS was disrespect;
- The number of complaints from officers reduced again, down now for two consecutive years;

- Complaints were being processed more quickly but the reduction in numbers of complaints had helped that; and
- Only three complaints were made against members of devolved public bodies.

The SCS's year was also summarised in the report with further information contained in Appendix 3 on the hearing cases for the year.

Looking forward the SCS had identified the following areas of activity :-

- ❖ Issuing advice for councillors on distinguishing between policy-making and operational management
- ❖ Holding a workshop for IJB members and Standards Officers
- ❖ Holding more roadshows for councillors in 2018/19
- ❖ Amending Codes of Conduct to make more explicit that bullying and harassment would not be tolerated and would be a breach of the Code
- ❖ Working with the Scottish Ministers to revise more extensively the Codes of Conduct for councillors and public body members

With regards to training for the council's elected members on the code of conduct this was concentrated in the post-election induction programme with a series of short sessions provided on the different components of the Code. Other more targeted sessions were provided during the year.

The council's updated history of involvement with the CES and the SCS and of its internal procedures was shown in Tables 4, 5 and 6 of the appendix.

Six complaints were made and determined through the council's internal complaints procedure. Two of the six complaints related to the same circumstances with the other five cases summarised in the report.

It was noted that no complaints against West Lothian councillors were made to the CES during the year.

In conclusion the number of complaints against West Lothian Council in 2017/18 was higher than in recent years with the most significant aspect being the use of social media. Further awareness of issues relating to the Code of Conduct would help members in applying the Code to their council work and would assist officers in their dealings with members and their working relationships.

It was recommended that Council Executive :-

1. Notes the summary of the issues arising in relation to the Councillors' Code of Conduct in 2017/18;

2. Notes that the postponed annual presentation to members would take place at 9.00am on Tuesday 22 January 2019, immediately before the scheduled meeting of full council; and
3. Notes in particular the continuing interest in “respect” cases and the related issues of enhanced Article 10 rights to freedom of expression in political matters and inappropriate involvement of members in operational matters.

### Decision

To note the contents of the report

## 20. SCOTTISH PUBLIC SERVICES OMBUDSMAN : ANNUAL REPORT 2017/18

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive updating members on the Scottish Public Services Ombudsman Annual Report 2017/18.

The report recalled that the Scottish Public Services Ombudsman (SPSO) handled complaints at the final stage for public services in Scotland, including local authorities, the National Health Service, housing associations, prisons, most water and sewage providers, the Scottish Government and its agencies and most Scottish Public Authorities. The SPSO investigated complaints when the complainer had exhausted the formal complaints procedure of the relevant authority.

The SPSO reported that the number of complaints received regarding local government had increased by just less than 1% to 1542 for 2017/18 from 1528 the previous year.

The SPSO provided each council with information specific to that local authority to consider. The SPSO's Annual Letter was attached to the report at Appendix 1. Appendix 2 provided a table of statistics about complaints to the SPSO regarding West Lothian Council in the past two years. Appendix 2 also highlighted that the number of complaints received about West Lothian Council was 71, which had decreased from 73 complaints received in 2016/17. The greatest number of complaints related to Housing which was in line with the sector as a whole.

There were 28 complaints about West Lothian Council which were dealt with at the advice stage as they were not suitable for the SPSO, whilst a further 34 were considered to have had an early resolution. There were 12 complaints regarding West Lothian Council which were fully investigated, four were fully upheld, one was partly upheld and six were not upheld. One complaint was resolved. This was in comparison to 2016/17 when no complaints were fully upheld.

Compliance with the model Complaints Handling Process (CHP) was monitored in line with the Shared Risk Assessment and annual audit arrangements. Local authorities were also expected to have appropriate

self-assessment arrangements in place to ensure that their CHP was operating in accordance with the model CHP, which required councils to publish annual complaints statistics and learning against performance indicators.

The council had put in place clear governance arrangements for complaints and these were outlined in the report.

The SPSO's Annual Letter for 2017/18 noted the continued focus by the SPSO on helping authorities improve public services through learning from complaints. One of the ways this was progressed was through the recommendations made by the SPSO to local authorities. The SPSO had changed its approach to making recommendations with more of a shift towards an outcome in relation to services and remedying justice to individuals.

Appendix 3 set out the SPSO recommendations and service improvement actions for complaints closed by the Ombudsman in 2017/18.

1. Council Executive was asked to note the Scottish Public Service Ombudsman's SPSO annual report 2017-2018;
2. Council Executive was asked to note West Lothian Council's performance in relation to the number of complaints received by the SPSO and the outcome; and
3. Council Executive was asked to note the learning from SPSO complaints which was appended to the report for information.

### Decision

To note the contents of the report