

MINUTE of MEETING of the PARTNERSHIP AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 7 DECEMBER 2018.

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

Apologies – Councillors Chris Horne, Peter Johnston and George Paul

1. DECLARATIONS OF INTEREST

No declarations of interest were made.

2. MINUTES

- 1) The Panel approved the Minute of its meeting held on 5 October 2018; and
- 2) The Panel approved the Minute of its meeting held on 13 November 2018.

Both Minutes were thereafter signed by the Chair.

3. QUARTERLY PERFORMANCE REPORT - QUARTER 2 OF 2018/19

The Panel considered a report (copies of which had been circulated) by the Depute Chief Executive reporting the current level of performance for all indicators that supported the council's Corporate Plan and were the responsibility of the Partnership and Resources Policy Development and Scrutiny Panel.

A summary position of the status of the 65 performance indicators on the P&R PDSP scorecard was contained in Appendix 1 attached to the report, with a more detailed commentary provided in Appendix 2 attached to the report. The 65 performance indicators were categorised as follows :-

- Green – 42
- Amber - 8
- Red – 9
- Unknown - 9

The RAG status was against the performance target which had been set by the services in consultation with the relevant stakeholder. In Appendix 2 a trend chart provided an explanation on the current performance levels for each indicator.

The report also provided further details on those performance indicators

that were deemed to be red.

It was recommended that the Panel note 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 contents of the report

4. SICKNESS ABSENCE (1 APRIL 2018 - 30 SEPTEMBER 2018)

The Panel considered a report (copies of which had been circulated) by the Head of Corporate Services providing details of the management of sickness absence in the council for the period 1 April to 30 September 2018, together with a brief commentary on the early application of the new Policy and Procedure in Supporting Attendance at Work.

The Head of Corporate Services explained that the Council Executive had on 26 June 2018 approved a Policy and Procedure for Supporting Attendance at Work which had replaced the former Policy and Procedure on Managing Sickness Absence with effect from 1 September 2018. Therefore the report covered the 5 month period from 1 April to 31 August 2018 when the former policy was in operation and the month of September when the new policy became effective.

The report then provided an overview of the sickness absence rates for the council overall and for each of the services noting that of the seven services four services reported sickness absence rates above the council target of 3.6%. The report also provided an overview of long-term continuous absence rates, disregarded absences and the reasons for absence for the five month period 1 April to 31 August 2018.

The Head of Corporate Services continued by providing details of sickness absence case management and explaining the support initiatives that the council had in place to support those absent from work and which included the employee assistance programme and the healthy working lives programme.

The Head of Corporate Services concluded the report by providing a brief overview of the introduction of the new policy for Supporting Attendance at Work noting the training provided to managers and meetings with the trade unions on the implementation of the policy. The application of the policy would continue to be monitored over the coming months with progress being reported back to the Panel on a monthly basis in accordance with the usual reporting pattern.

It was recommended that the Panel note the content of the report.

Decision

1. To note the content of the report; and

2. To request that the Head of Corporate Services provide all Panel Members with further information on the usage by staff of the telephone support line since its launch on 1 November 2018.

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

The Panel 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 sets out an ambitious suite of actions which would improve the way BSL users find out about and access council services.

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

Therefore it was recommended that the Panel note and provide comment upon the content of the draft BSL Local Plan 2018-2024 for West Lothian Council which was intended to be submitted to Council Executive for approval.

Decision

1. To note the content of the report; and
2. To agree that the report be submitted to the Council Executive for

approval.

6. SEVERE WEATHER POLICY (REVISED)

The Panel 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 clear 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.

It was recommended that the Panel :-

- a. Considers the revised draft Severe Weather Policy appended to the report with a view to submission to the Council Executive for approval;
- b. 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;
- c. Notes that the revised policy would be supported by a programme of improved contingency planning measures and guidance for employees; and
- d. Notes that the revised policy provided discretion to the Chief Executive to over-ride the normal provisions of the policy during periods when a Red Weather Warning was issued.

Decision

1. To note the content of the report; and
2. To agree that the report be submitted to the Council Executive for approval.

7. AVOIDANCE OF INDUSTRIAL DISPUTES PROCEDURE

The Panel 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 Panel considers the revised draft Avoidance of Disputes Procedure with a view to its submission to the Council Executive for approval.

Decision

1. To note the content of the report; and
2. To agree that the report be submitted to the Council Executive for approval.

8. WELFARE REFORM: QUARTERLY UPDATE REPORT

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services advising of recent development and the continuing implications of, the ongoing programme of welfare changes.

The report recalled that major changes that had been introduced under the Welfare Reform Act 2012. The Act had also provided for major DWP-led reforms to the welfare system, most notably the introduction of Universal Credit to replace six current working age benefits/credits, which had gone live in West Lothian on 16 May 2018.

The Panel noted that the Scotland Act 2016 devolved certain aspects of welfare in Scotland to the Holyrood Parliament. Consultation had been undertaken and the Scottish Government had now announced draft timetables and arrangements to implement the devolved welfare powers over the course of the current Parliament. The Social Security (Scotland) Bill had been introduced in the Scottish Parliament on 20 June 2017 and received royal assent on 1 June 2018.

The report went on to provide an overview of the following subject matters :-

- Discretionary Housing Payment Fund
- Scottish Welfare Fund
- Universal Credit
- Universal Support Provision
- The Scotland Act 2016 and Devolution of Welfare
- Social Security (Scotland) Act 2018
- Further welfare changes

With regards to Universal Support Provision on 1 October 2018 the DWP announced a new partnership with Citizen's Advice and Citizen's Advice Scotland to deliver Universal Support. This new partnership would be effective from 1 April 2019 and from this date local authorities would no longer be asked to deliver this support.

The Head of Finance and Property Services concluded by advising that as further changes took effect, officers would assess the cumulative effects of these challenges in order to develop and shape work going forward.

Decision

1. To note the content of the report; and
2. To request that the Head of Finance and Property Services engage with colleagues at Citizen's Advice Scotland to try and ensure that their service provision would be easily and readily accessible throughout the whole of West Lothian.

9. HORIZON SCAN

The Panel considered a joint report (copies of which had been circulated) by the Head of Finance and Property Services and the Head of Planning, Economic Development and Regeneration providing a summary of the latest UK economic indicators, including details on the UK leaving the European Union and an update on the estimated revenue budget position facing the council as a result of ongoing unavoidable spending pressures.

The report went on to provide the Panel with a Horizon Scan for the UK covering areas as the UK leaving the EU, debt and borrowing, economic growth, exports and inward investment, inflation, interest rates unemployment and house prices and consumer sentiment. A similar Horizon Scan was also provided for in the report specifically relating to Scotland and to West Lothian Council.

With regards to budget planning and changes to the budget model work was currently underway to review and update the budget model in advance of the 2019/20 annual revenue budget setting process. This exercise was focused on re-evaluating the assumptions underlying the approval model, especially where additional information or update forecasts could impact on the original financial values.

In summary the main high risk areas being reviewed were pay award; teachers pensions; school demographics; revenue consequences of capital programme; recurring service budget pressures; inflation and indexation; council tax income; and local government finance settlement.

The Head of Finance and Property Services continued to explain that the nature of forecasting meant that it was challenging to identify with any certainty expenditure pressures and income. Therefore in general the following risks and uncertainties would also be monitored :-

- Economic growth being less than forecast, resulting in further public spending reduction;
- Funding not provided to fully cover costs of introducing new legislation;

- Policy changes by the UK or Scottish Government which restricted the council's flexibility to decide how to deliver services locally;
- Ring fencing of grant funding, constraining how local authorities allocated resources; and
- Changes to local government remits with uncertainty for service provision and funding.

The report concluded that the report provided a high level overview of the latest economic indicators and other announcements likely to have an impact on the council and that based on forecasts and commentary the outlook would suggest that in the short, medium and long term public finances would continue to be constrained.

It was recommended that the Panel notes :-

1. The latest economic and financial position and the potential financial implications for West Lothian and the council's future financial planning;
2. That whilst the council's estimated budget gap for the five years 2018/19 to 2022/23 continued to be £65.3 million, this would change as a result of the finance settlement in December and a detailed review of the budget model currently being undertaken;
3. The specific risks which could have an adverse impact on the overall financial plan and the detailed revenue budget agreed for 2019/20; and
4. The potential risks and uncertainties in the five year revenue budget strategy.

Decision

To note the contents of the report

10. PROPERTY ASSET MANAGEMENT - PERFORMANCE UPDATE

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the performance of Property Asset Management for 2017/18.

The council owned and managed property assets to support the delivery of services, which included schools, community, operational, administrative and commercial property. The estate extended to 242 properties comprising of 431,318m².

The Property Asset Management Plan for 2013/14 to 2017/18 which set out the activity themes for the management of property assets highlighted a number of performance indicators for each of the corporate measures. These were outlined in Appendix 1 attached to the report together with

respective results. Two of the indicators were reported as part of the Scottish Specified Performance Indicators Framework, which were Condition and Suitability. Further information on these two indicators was contained in the report.

The Panel continued to be advised that over the past year a number of significant projects and planning improvements had been undertaken and these included the new West Calder High School; Whitehill Service Centre; Blackburn Partnership Centre; East Calder Partnership Centre; and nursery extensions at Boghall and Torphichen.

A new Property Asset Management Plan had now been devised and would cover the period 2018/19 to 2027/28; this was being presented to the Panel in a separate report. The new plan would build upon previous successes and emphasise the council's effective and efficient management of its property assets.

In terms of the coming years the report summarised those projects that would be undertaken by officers. These significant investments reflected the council's commitment to investing in property assets to support the modernisation of service delivery; improving the built environment of our communities and working partnership.

It was recommended that the Panel notes :-

1. The overall condition of Property Assets for 2017/18;
2. The overall suitability of Property Assets for 2017/18;
3. The overall performance of Property Assets for 2017/18 against the performance measures outlined in the report; and
4. The projects delivered that had contributed to delivery of the council's property asset management priorities

Decision

To note the contents of the report

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

The Panel 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.

The Panel was asked to note the proposed Property Asset Management for 2018/19 to 2027/28 and the intention to report the plan to Council Executive for approval.

Decision

1. To note the contents of the report; and
2. To agree that the report be submitted to the Council Executive for approval.

12. 2018/19 FINANCIAL PERFORMANCE - MONTH 6 MONITORING REPORT

The Panel considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the financial performance of the Partnership and Resources portfolio.

A table within the report summarised the position in relation to service and capital expenditure and provided an update on the forecast position. The forecast revenue position was an underspend of £1.476 million for the

Partnership and Resources portfolio. There was also net slippage of £1.678 million in the capital programme. As part of the monitoring exercise, a number of key risks and service pressures had been identified and these were noted in the narrative for the relevant service area.

The report also provided a summary of the main issues in service expenditure budgets and impact on performance for both general fund revenue and general services capital.

In relation to future budget issues West Lothian Council had approved savings of £41.281 million for the three year period 2018/19 to 2020/21 as part of a five year budget strategy on 13 February 2018. For 2018/19 there remained risks around deliverability of budget reductions. In addition recurring pressures of £3.894 million would have an impact on how the council could contain overall spending within the approved budget. It was therefore essential that mitigating actions, which had been agreed, were progressed to ensure these pressures were managed on a recurring basis.

It was recommended that the Panel :-

1. Notes the financial performance of the Partnership and Resources portfolio as at month 6;
2. Notes that the Partnership and Resources position at month 6 was part of the overall council budget position which was reported to Council Executive on 13 November 2018; and
3. Notes any actions required to be taken by Heads of Service and budget holders to manage spend within available resources.

Decision

To note the contents of the report

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

The Panel 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.

The Panel was asked to consider the following recommendation which were to be made to Council Executive :-

1. To note the summary of the issues arising in relation to the Councillors' Code of Conduct in 2017/18
2. To note that the annual presentation to members would now take place on 22 January 2019; and
3. To note 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

1. To note the contents of the report; and
2. To agree that the report along with the recommendations be forwarded to Council Executive.

14. SCOTTISH PUBLIC SERVICES OMBUDSMAN: ANNUAL REPORT 2017 - 2018

The Panel 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. The Panel was asked to note the Scottish Public Services Ombudsman's (SPSO) Annual Report 2017/18 and recommend that it be submitted to the Council Executive for information;
2. The Panel 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. The Panel was asked to note the learning from SPSO complaints which was appended to the report for information.

Decision

1. To note the contents of the report; and
2. To agree that the report be submitted to the Council Executive for information.

15. WORKPLAN

A copy of the workplan was circulated for information.

Decision

To note the workplan.

