



West Lothian
Council

Council Executive

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

14 August 2014

A meeting of the **Council Executive** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre** on **Tuesday 19 August 2014** at **11:00am**.

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Order of Business, including notice of urgent business
3. Declarations of Interest - Members should declare any financial and non-financial interests they have in the items of business for consideration at the meeting, identifying the relevant agenda item and the nature of their interest.
4. Confirm Draft Minutes of Meeting of Council Executive held on 05 August 2014 (herewith).

Public Items for Decision

5. West Lothian Council COSLA Membership - Report by Chief Executive (herewith)
6. Flood Risk Management (Scotland) Act 2009 - An Update - Report by Head of Operational Services (herewith)
7. Draft Regulations relating to Public Bodies (Joint Working) (Scotland) Act 2014 - Set 2 - Consultation Response - Report by Deputy Chief Executive, Community Health and Care Partnership (herewith)

8. Response to NHS Lothian Draft Strategic Pln 2014-2024 - Report by Depute Chief Executive, Community Health and Care Partnership (herewith)
9. Potential Impact of Independence - Report by Head of Finance and Estates (herewith)
10. Procurement Arrangements - Supply, Installation and Maintenance of Floor Coverings - Report by Head of Finance and Estates (herewith)
11. Changes to the Standing Orders for the Regulation of Contracts - Report by Head of Finance and Estates (herewith)
12. 18 Dunnet Way, East Mains Industrial Estate, Broxburn - Proposed Sale to Gordon Bow Hire Ltd Small Self-Administered Scheme (SSAS) - Report by Head of Finance and Estates (herewith)
13. Review of Antisocial Behaviour Noise Regime - Report by Head Housing, Construction and Building Services (herewith)
14. Update on the 1,000 New Build Council House Programme - Report by Head of Housing, Construction and Building Services (herewith)
15. Response to Consultation on Proposals to Reform Fatal Accident Inquiry Legislation - Report by Head of Corporate Services (herewith)
16. Closure of Royal Bank Branches - Report by Depute Chief Executive (herewith)

Public Items for Information

17. Councillors' Code of Conduct - Annual Review 2013-14 - Report by Chief Legal Officer (herewith)

NOTE **For further information please contact Val Johnston, Tel No.01506 281604 or email val.johnston@westlothian.gov.uk**

MINUTE of MEETING of the COUNCIL EXECUTIVE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 5 AUGUST 2014.

Present – Councillors John McGinty (Chair), Cathy Muldoon, Frank Anderson, Tony Boyle (substituting for Angela Moohan), Tom Conn, Jim Dixon, Lawrence Fitzpatrick, Peter Johnston, Dave King, Danny Logue, Anne McMillan and George Paul

Apologies – Councillor Angela Moohan

1. DECLARATIONS OF INTEREST

- a) Agenda Item 9 (Application to Challenge Fund) – Councillor Tony Boyle declared a non-financial interest in that he was a council appointed member of the Lothian and Borders Criminal Justice Authority;
- b) Agenda Item 6 (Alcohol Diversionary Activities) – Councillor Jim Dixon declared a non-financial interest in that he was a council appointed member of the Board of Firefly Arts Ltd; and
- c) Agenda Item 7 (Alcohol Diversionary Activities) – Councillor Jim Dixon declared a non-financial interest in that he was a council appointed member of the Board of West Lothian Youth Action.

2. MINUTE

The Council Executive approved the Minutes of its meeting held on 19 June 2014 as a correct record. The Minute was thereafter signed by the Chair.

3. WEST LOTHIAN LOCAL DEVELOPMENT PLAN MAIN ISSUES REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning and Economic Development seeking delegated authority to the Head of Planning and Economic Development, in consultation with the Leader of the Council and Executive Councillor for Development and Transport to make non-substantive amendments to the Main Issues Report for the West Lothian Local Development Plan (LDP) and associated documents prior to public consultation.

The Head of Planning and Economic Development explained that the Main Issues Report (MIR) for the West Lothian LDP was approved by the Council Executive on 19 June 2014 for public consultation, together with associated documents. The consultation was anticipated to commence on 25 August 2014 for an eight week period to 17 October 2014 and arrangements had now been put in place for this to commence.

Ordinarily the Head of Service would have sought delegated authority to make non-substantive changes to the MIR text and associated documents to correct any errors and omissions which had come to light when finalising the documents for publication. However a request for such delegated was omitted from the report to Council Executive on 19 June 2014.

Therefore it was recommended that the Council Executive agree to delegate authority to the Head of Planning and Economic Development in consultation with the Leader of the Council and Executive Councillor to make non-substantive changes to the Main Issues Report for the West Lothian Local Development Plan (LDP) and associated documents prior to public consultation.

Decision

To approve the terms of the report.

4. ALCOHOL DIVERSIONARY ACTIVITIES

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy seeking approval for the release of funds to undertake activities in relation to the Alcohol Diversionary Fund, as detailed in the four applications attached to the report.

The Head of Social Policy advised that a new governance process for the Alcohol Diversionary Fund was approved by the Council Executive on 21 January 2014, placing the responsibility for the funding with Social Policy.

As part of that approved process the four applications detailed in the report had proceeded through their Local Area Committee and had met the West Lothian Drug Partnership Joint Commissioning Plan outcomes. The four applications were as follows :-

| <u>Project Name</u> | <u>Funding Request 2014/15</u> |
|-------------------------|--------------------------------|
| Late Lounge Club Nights | £5,304 |
| Your are Here | £12,220 |
| Friday Night Project | £11,140 |
| Polbeth Drop-In | £6,800 |

It was recommended that the Council Executive agree the release of £35,464 from the Alcohol Diversionary Fund to support the applications submitted by Linlithgow Young People's Project, Firefly Arts Ltd, Deans Community High School and West Lothian Youth Action Project.

Decision

To approve the terms of the report

5. ALCOHOL DIVERSIONARY ACTIVITIES

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy seeking approval to release funds from the Alcohol Diversionary Fund in accordance with the application submitted by West Lothian Youth Action Project.

Attached to the report at Appendix 1 was an application received from West Lothian Youth Action Project seeking £11,414 for the project known as "Craigshill – Offbeat". The application had proceeded through the Local Area Committee and had met the West Lothian Alcohol Drug Partnership Joint Commissioning Plans outcomes, who had assessed the merits of the application at its meeting on 24 July 2014.

Therefore it was recommended that the Council Executive agree to the release of £11,414 from the Alcohol Diversionary Fund to support the application submitted by West Lothian Youth Action Project.

Decision

To approve the terms of the report.

6. APPLICATION TO CHALLENGE FUND

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy seeking approval for funding to be released from the Challenge Fund following the recommendation of the Senior People's Forum Sub-Group and the Social Policy, Policy Development and Scrutiny Panel.

A copy of the application, received from Dementia Friendly West Lothian, was attached to the report and if approved the proposal was to develop an initial dementia friendly community in Bathgate and to roll out concept elsewhere to fit with local and national strategies.

The application was considered to have met the Challenge Fund criteria.

It was recommended that the Council Executive approve the release of monies from the Challenge Fund to support the application received from Dementia Friendly West Lothian for the sum of £29,501 for a one year period.

Decision

To approve the terms of the report

7. REPORT ON WEST LOTHIAN COUNCIL'S RESPONSE TO SCOTTISH GOVERNMENT SUPPLEMENTARY CONSULTATION ON "COMMUNITY JUSTICE REDESIGN" (APRIL 2014)

The Council Executive considered a report (copies of which had been

circulated) by the Head of Social Policy seeking approval for a response to be submitted to the Scottish Government consultation on Community Justice Redesign.

The Head of Social Policy explained that this consultation was a follow-up to an earlier consultation and that the draft response acknowledged that the proposed way forward met the general aspirations of justice partners in West Lothian and that the explicit commitment to a locally-managed model for future delivery of community justice services was welcome.

It was recommended that the Council Executive :-

1. Note that the proposed model was in general terms similar to that endorsed by the council and its partners in 2013;
2. Agree to the submission of the consultation response to the Scottish Government; and
3. Acknowledge that updates on Scottish Government planning on the matter would be provided as they became available.

Decision

To approve the terms of the report

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - TAXI FARE REVIEW

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the outcome of the consultation with regard to taxi fares and to seek approval for no changes to be made to the current fare table.

The report recommended that the Council Executive:-

- Note that consultation had taken place with the relevant trade organisations as required in terms of section 17(4A)(a) of the Civic Government (Scotland) Act 1982;
- Note that notice of the proposal had been published in a newspaper circulated in the council's area as required in terms of section 17(4A)(d) of the 1982 Act;
- Note that in terms of section 17(4A)(d) of the 1982 Act, that the council was obliged to consider any representations made in writing regarding its proposal received within a month of the date on which the notice of the proposal was published;
- Note that at the meeting on 19 June 2014 the Environment PDSP agreed to recommend to the Council Executive that the proposal that no changes should be made to the current fare table was approved; and
- Agree that in all the circumstances no changes be made to the

current fare table and to approve a new fare table containing the same maximum fare scales which had been in place since October 2012.

The report advised that under Section 17 of the Civic Government (Scotland) Act 1982, the council as licensing authority was required to fix maximum fares for taxis in West Lothian and to review the fare table on a regular basis. The current taxi fare table for West Lothian came into force on 22 October 2012 and required to be reviewed.

Section 17(4A)(a) of the 1982 Act required the council, in carrying out a taxi fare review, to first consult with persons or organisations appearing to be representative of the operators of taxis operating within the area. Therefore in accordance with previous practice the Licensing Team consulted with representatives of the West Lothian Taxi Owners Association and West Lothian Taxi and Private Hire Car Owners and Drivers Association. Each of the organisations indicated to the council that they did not wish there to be any changes to be made to the taxi fare table in West Lothian.

Also in accordance with Section 17(4)(c) of the 1982 the Licensing Team arranged for a notice to be published in the West Lothian Courier on 15 May 2014. A copy of the notice was attached to the report at Appendix 1.

As there were no proposed changes to the fare table the Taxi Examination Centre would not require to reconfigure taxi meters to a new fare table.

In conclusion the Council Executive was asked to note that the fare table referred to in the report, would apply for a period of 18 months from 5 September 2014 and to approve the level of maximum fares.

Decision

To approve the terms of the report.

9. COMMUNITY COUNCIL SPECIAL PROJECTS GRANT APPLICATION 2014/15

The Council Executive considered a report (copies of which had been circulated) providing details of an application for a special project grant received from Blackridge Community Council.

The report advised that a special project grant scheme currently operated for community councils in West Lothian to allow them to carry out projects in their areas. The scheme allowed community councils to apply for a maximum of £750 special project funding in each financial year. The total budget for the financial year 2014-15 was £3,000 with a balance of £450

The report went on to advise that an application for funding had been received from Blackridge Community Council. Full details of the project were contained in Appendix 1 to the report.

It was further noted that if the application was granted as recommended there would be no further special project grant funds available for the remainder of the current financial year.

It was recommended that the application received from Blackridge Community Council for £600 to allow the continued production of the community council newsletter be approved and part-funded to the sum of £450.

Decision

To approve the terms of the report

10. PROCUREMENT ARRANGEMENTS - TRAFFIC SIGNAL MAINTENANCE AND ANCILLARY SUPPORT SERVICES

The Council Executive considered a report (copies of which had been circulated) seeking approval to utilise an external four year collaborative framework agreement, tendered by the City of Edinburgh on behalf of all 32 Scottish Local Authorities for the provision of Traffic Signal Maintenance and Ancillary Support Services, where the evaluation criteria for provision was below the recommended 50% weighting.

The report advised that Roads and Transportation Services provided an integrated service to construct, manage and maintain the road, footpath and transportation network in West Lothian in the safest way possible.

In 2009, West Lothian Council tendered on behalf of eight local authorities for the provision of traffic signal maintenance contract. The evaluation criteria applied at the time of tendering was 40% Price and 60% Quality. The Council Executive approved the award of a three year collaborative contract from 1 December 2009 with a two year extension option and which was due to expire on 30 November 2014 with no further extensions available.

The Head of Finance and Estates explained that on 20 May 2014 the City of Edinburgh tendered for the provision of Traffic Signal Maintenance and Ancillary Support Services. The requirement was advertised in accordance with the European Union Directives and took the form of an Open Procedure whereby all suppliers expressing an interest were allowed to tender.

The award criteria applied at tender stage was Price 30% and Quality 70%, reflecting the importance of overall cost of provision of the services whilst placing significant importance on service quality, health and safety and sustainability elements of the evaluation.

Local Authorities who intended to use this framework could conduct mini competitions across the appointed framework suppliers for their own scope of work. The criteria for awarding contracts would be the same as set out in the framework agreement.

The Head of Finance and Estates advised that an annual revenue budget of £124,000 per year was available within Operational Services for the provision of Traffic Signal Maintenance and Ancillary Support Services.

The report recommended that the Council Executive approve:-

1. The use of this external collaboration framework agreement;
2. The award criteria as set out in Section D of the report for all contract awards emanating from the use of this external collaborative framework agreement.

Decision

To approve the terms of the report.

11. PROCUREMENT ARRANGEMENTS - KING GEORGE V SKATE PARK

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates seeking approval to carry out a tendering process for the procurement of a wheeled sports facility using the open tendering procedure, taking account that the evaluation criteria for price was below the recommended 50% weighting for the criteria set out in the report.

The Head of Finance and Estates explained that under National Planning Policy Guidelines the council undertook an audit in which parks were scored according to quality, condition and functionality criteria. This audit informed the open space strategy to improve the King George V Park, Whitburn. Community placemaking consultations were held and a wheeled sport facility was identified as a facility that would be beneficial for people of all ages to exercise, relax, learn and socialise.

The design of a wheeled sports facility was of a specialist nature which required experienced design input. The project would be managed in-house by the relevant Briefing & Liaison Officer who would prepare all the necessary contract documentation (including project brief) and manage the contract during on-site operations.

The requirement would be advertised in accordance with the European Union Directive and as this market was relatively limited, it was proposed that the Open Procedure would be used whereby all suppliers expressing an interest in the contract would be invited to tender. It was also being recommended that the award criteria for quality was rated higher than the price to ensure the design was rated high and therefore it was proposed to apply the weighting of 30% for price and 70% for quality. The anticipated start date for the contract was October 2014.

Further information pertaining to the contract concerning budget implications and sustainability considerations were detailed in the report.

It was recommended that the Council Executive approve :-

1. The use of the Open Procedure for the procurement of a specialist contractor for the design and works of a skate park at the King George V Park using the evaluation weighting of 30% price/70% quality; and
2. The award criteria as set out in Section D of the report.

Decision

To approve the terms of the report.

12. PROVISIONAL LOCAL GOVERNMENT FINANCE SETTLEMENT 2015/16

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates providing an update in relation to the provisional local government finance settlement for 2015-16 as published in Finance Circular No.6/2014 dated 7 July 2014.

The Head of Finance and Estates advised that the Scottish Government published Local Government Finance Circular No.6/2014 on 7 July 2014 which provided details of revenue and capital grant allocations for 2015-16. The circular had been issued for information only at this stage and as such the figures were only provisional.

The figures provided an update on those contained in the letter to councils by the Cabinet Secretary for Finance, Employment and Sustainable Growth of 21 February 2014 but had been updated to take account of new funding for the implementation of the early learning and childcare commitments and supply teachers' pay.

The circular also set out the amount of money that would be held back from individual councils who did not set a council tax freeze for 2015-16. The amount that could be held back for West Lothian Council was £2.084 million. There were no other requirements included in the finance circular.

It was recommended that the Council Executive :-

1. Note the outcome of the local government finance settlement in respect of provisional revenue and capital funding for 2015-16;
2. Note that the figures contained in the settlement would be incorporated into revenue and capital financial planning assumptions; and
3. Note that the Scottish Government would confirm final revenue and capital funding allocations for 2015-16 following conclusion of their budget consultation process later in 2014.

Decision

To note the terms of the report.

13. ST JOHN'S HOSPITAL STAKEHOLDER GROUP

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive, Community Health & Care Partnership, inviting the Council Executive to note the terms of the Minute of the St John's Hospital Stakeholder Group meetings held on 7 May 2014 and 4 June 2014, copies of which were attached to the report.

Decision

To note the terms of the report

14. PRIVATE SESSION

The committee resolved under Section 50 (A)(4) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting during consideration of the following item of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 of Schedule 7A of the Act.

15. SOCIAL WORK COMPLAINTS REVIEW COMMITTEE RECOMMENDATIONS

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy advising of the outcome of a meeting of the Social Work Complaints Review Committee held on 30 June 2014 and to ask the Council Executive to note the outcome of the review.

The Head of Social Policy explained that the council was required by legislation and statutory guidance to have a Social Work Complaints Review Committee in place to deal with complaints by users of social work services. The committee was made up of one councillor and two independent members who were to have a background in social work, tribunal processes or legal/judicial experience. The committee could not make decisions but could make recommendations as to actions it considered the council should take

On 30 June 2014 the Social Work Complaints Review Committee met to consider a complaint made by a Grandmother in relation to the provision of council services for her Granddaughter who had been placed in her temporary care on 23 July 2013, following an incident the previous day. The grounds of the complaint were summarised in the report.

The committee found that the grounds of the complaint had not been substantiated in that the requests for information from the Grandmother were dealt with appropriately and that Social Work had met the Grandmother on several occasions to provide as much information as possible taking into consideration data protection legislation and that the Grandmother had no parental rights.

Therefore the committee made no recommendations for actions or steps to be taken by the council. Nevertheless in terms of the guidance about the statutory complaints system there was an expectation that elected members were made aware of the outcome of hearings of the committee.

Therefore it was recommended that the Council Executive note that the Social Work Complaints Review Committee met on 30 June 2014 and heard a statutory complaint and decided that the grounds of the complaint were not upheld and that no recommendations were to be made to the council.

Decision

To note the terms of the report

**COUNCIL EXECUTIVE****WEST LOTHIAN COUNCIL COSLA MEMBERSHIP****REPORT BY HEAD OF CORPORATE SERVICES****A. PURPOSE OF REPORT**

To advise Council Executive of the terms of Paragraph 16 of the COSLA Constitution and requirements for the Council if membership of the convention is terminated.

B. RECOMMENDATION

1. Council Executive note the terms of Paragraph 16 of the COSLA Constitution and
2. Advise of any further actions required.

C. SUMMARY OF IMPLICATIONS

| | |
|---|---|
| I Council Values | Making best use of our resources; Working in partnership |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | COSLA Constitution |
| III Implications for Scheme of Delegations to Officers | None |
| IV Impact on performance and performance Indicators | None |
| V Relevance to Single Outcome Agreement | None |
| VI Resources - (Financial, Staffing and Property) | The Council shall be required to meet its share of costs incurred during the currency of its membership of COSLA. |
| VII Consideration at PDSP | None |
| VIII Other consultations | Legal Services |

D. TERMS OF REPORT

Background

In terms of Paragraph 16.1 of the COSLA Constitution (The Constitution), convention members are required to give 12 months notice of their intention to terminate their membership. On 4 March 2014, West Lothian Council gave notice of intention to terminate as at 1 April 2015, but reserved the right to withdraw that notice at any point during 2014/15.

COSLA Constitution

The Council currently pays an annual subscription for membership of COSLA . Paragraph 16.2 of the Constitution provides that any member council who terminates their membership of the convention, shall be liable to pay their share of the liabilities incurred by COSLA on behalf of member councils, during the currency of the council's membership. The share of liabilities will be calculated in the same proportion as the subscription paid when the council was a member.

COSLA's Chief Executive has set out his interpretation of the council's liabilities, in Confidential letters to the Council's Chief Executive, dated 10 and 15 April and 27 May. In these letters, it is made clear that COSLA's position is that the Council will be liable to pay a share of COSLA's ongoing running costs, such as rent of premises or employee costs, even after membership has been terminated. This is on the basis that the Council was a convention member when, for example, the 20 year lease of premises was entered into by COSLA on behalf of the members and when current staff were recruited.

Officers have considered the terms of the Constitution and do not agree with the interpretation applied by COSLA's Chief Executive.

E. CONCLUSION

The Council shall be liable to meet a share of the costs incurred by COSLA on behalf of member council's, during the council's membership. The council disagrees with the interpretation of that liability which has been applied by COSLA's Chief Executive.

F. BACKGROUND REFERENCES

None

Appendices/Attachments: none

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Julie Whitelaw

Head of Corporate Services

Date of meeting: 19 August 2014



West Lothian
Council

COUNCIL EXECUTIVE

FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 – AN UPDATE

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to outline the progress being made implementing the requirements of the Flood Risk Management (Scotland) Act 2009, to update the 'Scheme of Delegations to Officers and to outline the process, key stages and proposed decision-making arrangements.

B. RECOMMENDATION

It is recommended that the Council Executive:

- (i) notes the progress that is being made implementing the requirements of the FRM (Scotland) Act 2009;
- (ii) approves the proposed revision to the 'Scheme of Delegations to Officers which has been subject to consultation with the Executive Councillor for the Environment and reflects the new duties placed on the Council by the Flood Risk Management (Scotland) Act 2009;
- (iii) agrees that decision making powers in relation to high-level and technical matters associated with the development of Local Flood Risk Management Plans (LFRMPs) be delegated to the Head of Operational Services; and
- (iv) notes that in addition to private homes and businesses that a number of council owned properties and critical non-council infrastructure may be susceptible to the risk of flooding and that internal arrangements are being put in place to raise awareness and allow the consideration of safety, business continuity and mitigation measures.

C. SUMMARY OF IMPLICATIONS

I Council Values

Focusing on our customers' needs; being honest, open and accountable; making best use of our resources and working in partnership.

| | |
|---|--|
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | <p>Legal: The Flood Risk Management (Scotland) Act 2009</p> <p>Strategic Environmental Assessment (SEA): SEPA will be preparing a report, which will determine the scope of the environmental assessment necessary for the Flood Risk Management Strategies in liaison with the Consultation Authorities. The lead local authority is to liaise further with the Consultation Authorities to determine whether a SEA will be required for the Local Flood Risk Management Plan.</p> <p>Equality & Health: The various measures to reduce flood risk are intended to minimise negative impacts over time. The measures included in the plan are aimed at reducing the risk of flooding to homes and businesses (regardless of their equality-protected characteristics) with consequent benefits for all (a safer environment, avoidance of economic flood damages, improved health & wellbeing, etc.)</p> |
| III Implications for Scheme of Delegations to Officers | <p>See Section 3 of report.</p> |
| IV Impact on performance and performance Indicators | <p>Performance indicators are currently being developed specific to the requirements of the Act and effective from the date of publication of the Local Flood Risk Management Plan in January 2016.</p> |
| V Relevance to Single Outcome Agreement | <p>SOA 3. Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business;</p> <p>SOA 4. We live in resilient, cohesive safe communities;</p> <p>SOA 5. People most at risk are protected and supported to achieve improved life chances;</p> <p>SOA 7. We live longer, healthier lives and have reduced health inequalities;</p> <p>SOA 8. We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p> |
| VI Resources - (Financial, Staffing and Property) | <p>Financial: Revenue has been provided to the council in recognition of the additional burdens associated with complying with the requirements of the Act. Capital funding is in place for the first</p> |

two years of the first Local Flood Risk Management Plan cycle. Bids for further substantial sums can be expected for the following four year period.

VII Consideration at PDSP

Considered and approved at Environment Policy Development & Scrutiny Panel- 19 June 2014

VIII Other consultations

Not applicable

D. TERMS OF REPORT

1.0 Introduction

1.1 The Flood Risk Management (Scotland) Act 2009 introduced a proactive, planned, catchment-wide and risk-based approach to manage the risk of flooding across Scotland. Land and property owners, however, continue to be responsible for their own assets and for avoiding damages where possible.

1.2 Local authorities, Scottish Environment Protection Agency (SEPA) and Scottish Water have a legal duty to work together to produce the National Flood Risk Assessment, flood hazard maps, Flood Risk Management Strategies and Local Flood Risk Management Plans. The process of risk assessment, mapping and planning is to be repeated every six years.

1.3 For the purposes of managing flood risk, Scotland has been divided into 14 Local Plan Districts (LPDs). Each LPD has a partnership and a lead local authority. SEPA will produce a Flood Risk Management Plan (commonly referred to as the 'Strategy') for each district and the lead local authority will produce a Local Flood Risk Management Plan in liaison with member authorities. Officers from West Lothian are working closely with representatives from ten other local authorities, Scottish Water and SEPA as part of a local statutory framework known as the Forth Estuary Local Plan District; a partnership to develop a Local Flood Risk Management Plan for the area, which is due for publication by June 2016.

1.4 There are a number of key stages leading to publication of the LFRM including characterisation of the catchments, objective setting and short listing of measures for coastal, fluvial and pluvial risk as well as public consultation.

2.0 Flood Risk Management Strategies

2.1 The Flood Risk Management Strategies being produced by SEPA will identify the main flood hazards and impacts, setting out objectives for reducing the risk of flooding and identifying the best combination of actions to achieve this. The Local Flood Risk Management Plan takes these objectives and explains what actions will be taken to deliver them within the six-year planning cycle. The first cycle will run from 2015 to 2021. SEPA is currently overseeing a process of appraisal for flood risk management measures to be included in the plans. The process is in three distinct parts: (i) characterisation, (ii) objective setting and (iii) the short listing of potential measures.

2.2 Characterisation is the process of identifying potential sources of flooding and the receptors that could be impacted (commercial and domestic properties, infrastructure, cultural heritage etc.) in the Potentially Vulnerable Areas (PVAs) identified across Scotland.

2.3 Having summarised the causes and consequences of flooding in PVAs, objectives are set to reduce the potential risk.

2.4 Short listing is a screening exercise to develop and refine objectives. Measures will be reviewed and prioritised. It may be the case that a number will be discounted as a potential solution might prove not to be technically or economically viable or could not be delivered for legal reasons. Measures might potentially include structural solutions, monitoring, early warning and intervention in the form of inspection and maintenance operations or any combination of these.

2.5 The characterisation, objectives and short listing of measures will be the subject of a public consultation which will be led by SEPA and will commence in December 2014. Initially, the consultation will focus on characterisation with objectives being introduced part way through the process. It is anticipated that the short list of measures will be available for consultation in March 2015. The public consultation will end three months after the publication of the short list of measures. The Scottish Government will confirm the prioritisation of measures when considering the plans from all 14 Local Plan Districts across Scotland.

3.0 Scheme of Delegations

3.1 The Council's current 'Scheme of Delegations to Officers' refers to previous flood-related legislation, now repealed. It is proposed that the wording in the 'Scheme of Delegations to Officers' be revised to reflect the requirements outlined in the Flood Risk Management (Scotland) Act 2009 as follows:

- act with a view to reducing overall flood risk;
- act to secure compliance with the European Floods Directive;
- act with a view to achieving the objectives set out in the flood risk management plans; have regard to the social, environmental and economic impact of carrying out those functions; prepare flood risk management plans and local flood risk management plans; prepare maps of bodies of water etc.; assess bodies of water; obtain information.

So far as is consistent with flood risk functions, local authorities must also:

- act in the way best calculated to manage flood risk in a sustainable way;
- promote sustainable flood management; and
act with a view to raising awareness of flood risk and; act in the way best calculated to contribute to the achievement of sustainable development.

4.0 Governance

4.1 Partnership working is underpinned by a clear governance and decision making framework. The governance arrangements should promote accountability and co-ownership of the Flood Risk Management Strategies and Plans among partners. Members were previously advised that a joint-working and governance framework was being established for members of the Forth Estuary Local Plan District. This process was delayed following the temporary withdrawal of the City of Edinburgh Council as lead local authority. The City of Edinburgh Council has now resumed its role and the group is working hard to recover some lost time in the process.

4.2 Three possible partnership working arrangements were identified by the Society of Chief Officers of Transportation in Scotland (SCOTS) and the Scottish Government. These were: loose partnerships; joint working group or joint committee.

4.3 Officers representing the authorities which make up the Forth Estuary Local Plan District have pursued the 'loose partnership' model whereby the nominated officer from each authority reports directly to the elected members of his authority through its normal governance processes.

4.4 Officers have tentatively indicated to the lead local authority that high-level catchment characterisation and objective setting processes would be signed off on behalf of the council at a technical level by the Roads & Transportation Manager. The delegation of authority will not, however, apply to potentially contentious strategic decisions but to those of a more technical nature relating to development of the Local Flood Risk Management Plans.

4.5 It is anticipated that it should be possible for LPD partners to reach agreement on technical matters. However, it is acknowledged that this may not always be possible. For this reason, a steering group comprising senior officers and Service Managers from the respective stakeholder organisations is to be established to help resolve conflict.

4.6 It is proposed that the opinion of the Policy Development & Scrutiny Panel be sought prior to decisions being recommended to the Council Executive for the short listing of measures, the draft Surface Water Management Plans and the draft Local Flood Risk Management Plan. These are considered the points at which public interest is likely to be greatest.

5.0 Surface Water Management Planning

5.1 Ministerial guidance on delivering sustainable flood risk management in Scotland states that surface water flooding will be addressed through Surface Water Management Plans and that local authorities will lead on the preparation of these plans, which will be co-ordinated within the flood risk management planning process.

5.2 Surface Water Management Plans are not a legal requirement. Flood risk management strategies and Local Flood Risk Management Plans will identify the production of Surface Water Management Plans (SWMPs) as a measure to manage the risk of surface water flooding in our communities.

5.3 Four surface water management plan priority areas have been identified in SEPA's catchment characterisation reports within the area administered by this authority. This is based on the number of residential and business properties estimated at risk of flooding. These priority areas are Bathgate, Broxburn, Linlithgow and Livingston.

5.4 Surface water flooding is a significant problem in West Lothian. Based on pluvial flood hazard data provided by SEPA, it is estimated that some 1954 properties may be at risk of flooding from the 1:200-year, three-hour duration storm.

5.5 The council is shortly to embark on the preparation of Surface Water Management Plans (SWMPs) for the four priority areas. Although the SWMPs are only in the early stages of scoping, it is likely that the measures that are eventually identified will impact on or will influence a number of other council services including development planning, emergency planning, operational services and climate change adaptation. It is important, therefore, that the plans be aligned with the policies, strategies and plans that are being prepared and delivered in these functional areas of the organisation. It is possible that they may eventually require that these policies, strategies and plans be reviewed in light of the measures that are eventually agreed and included in the finalised SWMPs which will, in turn, inform the Local Flood Risk Management Plan.

5.6 A short-life officers' working group is currently being established to oversee the development of Surface Water Management Plans and other Flood Risk Management processes. It will comprise representatives from disciplines including Roads & Transportation, Development Planning, Emergency Planning & Climate Change Adaptation. The group will be chaired by the Roads and Transportation Manager. In time, membership of the group will be extended to include representatives from Scottish Water.

6.0 Flood Hazard Maps

6.1 The Scottish Environment Protection Agency (SEPA) published its new flood hazard maps on its website on 15 January 2014. The maps represent the most comprehensive national source of data on flood hazard and risk for Scotland. The new flood maps are an important step in increasing the understanding of the sources and impacts of flooding and will be a key tool in producing Scotland's first ever coordinated plans to tackle flood risk. The maps can be viewed on line at: http://www.sepa.org.uk/flooding/flood_maps.aspx

6.2 The maps, which have been developed in partnership with local authorities and Scottish Water, share more information on flooding and make this accessible to the public. They show different types of flooding, the likelihood of it happening and the impact when it does occur. The new national map features areas at risk from out of bank flows in rivers as well as surface water flooding and includes information on estimated depths and velocity where this is available.

6.3 The maps should be used with caution as they do not show risk posed by physical constraints or the threat that may potentially be presented by groundwater flooding. Similarly the maps do not yet show flooding from sewers. The latter is, however, available to the council for the Bathgate and Linlithgow sewer catchments though we do not have a high level of confidence in the quality of the data at this time. The flood hazard maps also make assumptions about the loss to ground of surface water which in practice might differ from what is represented.

6.4 SEPA, local authorities and Scottish Water, are using the new flood hazard maps to develop Flood Risk Management Strategies Surface Water Management Plans and Local Flood Risk Management Plans.

7.0 Awareness raising & communication

7.1 Under section 1 of the Flood Risk Management (Scotland) Act 2009, Scottish Ministers, SEPA and responsible authorities have a general duty to act with a view of raising public awareness of flood risk. The tools and resources required to deliver this are being developed by a Communications Group set up under the Scottish Advisory and Implementation Forum for Flooding (SAIFF) and also by SEPA as the national flooding communications lead.

7.2 This group includes a mix of technical and communications representatives from SEPA, local authorities, Scottish Water, Scottish Flood Forum and Scottish Government. It is currently developing guidance as to what is required by “awareness raising” and will also publish a best practice guide on engagement (expected mid-July). To support the public consultation on Flood Risk Management Strategies and Local Flood Risk Management Plans at the end of 2014 the group will develop a communications strategy and the tools that local authorities can use to promote the public consultation. To help manage enquiries there will also be a comprehensive Frequently Asked Questions (FAQ) document.

7.3 Throughout the implementation of the Act officers have engaged with SEPA and will use the national tools available to raise awareness of flood risk. This includes public leaflets, a flooding animation and information and advice on how to be prepared for flooding. We have also received regular updates on the implementation of the Act which has helped to inform our work and engage with elected members. Briefing packs have also been shared to support key milestones such as the publication of the new flood hazard maps. Together this helps promote consistent public messages and raise awareness of flood risk.

8.0 Potential Risk to Council Assets and other Critical Infrastructure

8.1 During the latter part of 2013, new, more detailed flood hazard data was made available to local authorities to help identify the extent of flood risk in Scotland. The flood hazard data included refined fluvial flood data, (that which derives from out of bank flows from watercourses), and pluvial flooding which results from rainfall-generated overland flows, before runoff enters any watercourse or drain.

8.2 The new data includes information on the assumed depths of floods. It was developed using refined topographic data derived from aerial survey along with a selection of rainfall intensity and duration data and an assumed loss of water to ground. The hazard maps provide only relatively coarse information, which should not be considered absolute. A more detailed, site-specific exercise would be required before mitigation measures could, for example, be considered.

8.3 On receipt of the data, officers embarked on a three-part exercise to assess the potential impact of flooding on (i) council-owned premises; (ii) critical non-council owned infrastructure and (iii) council housing stock. A preliminary report was presented for senior managers following completion of the first part (council owned premises) and arrangements are being put in place to ensure that relevant service managers are made aware of the potential risk and can put business continuity plans etc. in place. Now that the second and third parts of the exercise have been completed a further report will initially be compiled for senior managers. A more detailed report will be prepared for the Council Executive in due course.

E. CONCLUSION

The Flood Risk Management (Scotland) Act 2009 introduced a proactive, plan-led,

catchment-wide and risk-based approach to manage the risk of flooding across Scotland over separate six-year cycles.

In order to ensure compliance with corporate governance requirements associated with the Act the Scheme of Delegations to Officers needs to be revised to delegate day-to-day technical decisions to the Roads & Transportation Manager.

There are a number of stages in the process leading to the publication of the Local Flood Risk Management Plans. It is proposed that nominated officers sign-off the high-level and technical stages of the process but that members be afforded the opportunity of making the milestone decisions where there is likely to be greater level of public interest.

A key component of the process will be the preparation of Surface Water Management plans. It is proposed to involve officers from across a number of council service areas in this process due to the wide-ranging implications of the plans.

A communications strategy is in place led by SEPA and is running in tandem with the process in order to heighten awareness of flood risk and to ensure that the messages being issued by the various stakeholder organisations are consistent.

The process will draw on information detailed on the flood hazard maps produced by SEPA, detailed versions of which have been made available to the Council. The plans can be viewed on the Internet.

F. BACKGROUND REFERENCES

The Flood Risk Management (Scotland) Bill - Report by Head of Operational Services to the Environment Policy Development and Scrutiny Panel - 04 December 2008

Flood Risk Management (Scotland) Bill - Report by Head of Operational Services to the Council Executive - 23 December 2008

Flood Risk Management (Scotland) Bill 2009 - Report by Head of Operational Services to the Environment Policy Development and Scrutiny Panel - 23 April 2009

Flood Risk Management (Scotland) Bill 2009 - Report by the Head of Operational Services to the Council Executive - 05 May 2009

Consultation on Delivering Partnership Approaches to Implement the Flood Risk Management (Scotland) Act 2009 - Report by Head of Operational Services to the Council Executive - 12 October 2010

Consultation on Delivering Partnership Approaches to Implement the Flood Risk Management (Scotland) Act 2009 - Report by the Head of Operational Services to the Environment Policy Development and Scrutiny Panel - 04 November 2010

National Flood Risk Assessment - Report by Head of Operational Services to the Council Executive - 07 August 2012

Flood Risk Management (Scotland) Act 2009 – An Update – Report by Head of Operational Services to the Environment Policy Development & Scrutiny Panel – 19 June 2014

Appendices/Attachments: None.

Contact Person: Graeme Hedger, Team Leader, Flood Risk Management 01506 776924

Jim Jack, Head of Operational Services

19 August 2014



COUNCIL EXECUTIVE

DRAFT REGULATIONS RELATING TO PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014 – SET 2 – CONSULTATION RESPONSE

REPORT BY DEPUTE CHIEF EXECUTIVE, COMMUNITY HEALTH AND CARE PARTNERSHIP

A. PURPOSE OF REPORT

The purpose of this report is to seek approval for the draft response to Set 2 of the draft Regulations relating to the Public Bodies (Joint Working) (Scotland) Act 2014 for submission to the Scottish Government.

B. RECOMMENDATION

The Council Executive is asked to approve the draft response to Set 2 of the draft Regulations relating to the Public Bodies (Joint Working) (Scotland) Act 2014 for submission to the Scottish Government.

C. SUMMARY OF IMPLICATIONS

- | | |
|---|---|
| I Council Values | <ul style="list-style-type: none">• Focusing on our customers' needs• Being honest, open and accountable• Providing equality of opportunities• Making best use of our resources• Working in partnership |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | The Public Bodies (Joint Working) (Scotland) Act 2014 received Royal Assent on 1 April 2014. |
| III Implications for Scheme of Delegations to Officers | None at present. |
| IV Impact on performance and performance Indicators | Working in partnership. |
| V Relevance to Single Outcome Agreement | We live longer, healthier lives. We have tackled the significant inequalities in |

| | |
|--|---|
| | West Lothian society. |
| | Our children have the best start in life and are ready to succeed. |
| | People most at risk are protected are supported to achieve improved life chances. |
| VI Resources - (Financial, Staffing and Property) | Within existing resources. |
| VII Consideration at PDSP | Health & Care PDSP 5 th August 2014 |
| VIII Other consultations | None. |

D. TERMS OF REPORT

The Public Bodies (Joint Working) (Scotland) Act 2014 received Royal Assent on 1 April 2014 with a requirement for councils and health boards, working together, to submit an integration scheme for Ministerial approval by 31 March 2015. This puts in place the framework for integrating health and social care in Scotland and provides the legislative basis for NHS boards and local authority partners to establish Integration Authorities.

The policy intention is to achieve the integration of adult health and social care functions, while providing local flexibility to integrate further for other specified functions of local authorities.

The key features of the legislation are nationally agreed outcomes, Integration Scheme, Strategic Plan, locality planning and integrated budgets. It is intended that budgets and resources will be integrated to focus attention on the outcome for the individual, which will build on the valuable work already in place in West Lothian to continually improve people's health and care experience across home, community and hospital settings.

The Scottish Government is currently consulting on the secondary legislation that will underpin the Act and public consultation will follow on the broader statutory guidance that will further support integrated service provision.

Consultation on the first set of draft Regulations will run for 12 weeks from 12 May until 1 August 2014. Consultation on the second set will run for 12 weeks from 27 May until 18 August 2014. (The Scottish Government has agreed to accommodate the meeting schedule of the Council and accept the response on the day following the original date for submission.) Following the completion of consultation on both sets of draft Regulations an analysis of written responses will be published.

The final versions of each will be laid before Parliament from late September 2014 before coming in to force by the end of 2014. Copies of the draft Regulations can be accessed by going to <http://www.scotland.gov.uk/Publications/2014/05/5284/downloads> and <http://www.scotland.gov.uk/Publications/2014/05/6659/downloads>

There are five areas covered by the second consultation as follows

- Prescribed groups which must be consulted when preparing or revising Integration Schemes; preparing draft strategic plans; and when making decisions affecting localities
- Membership, powers and proceedings of Integration Joint Boards
- Establishment, membership and proceedings of integration joint monitoring committees
- Prescribed membership of strategic planning groups
- Prescribed form and content of performance reports.

E. CONCLUSION

This report informs the Council Executive of the draft Regulations relating to the Public Bodies (Joint Working) (Scotland) Act 2014 along with the council's proposed response.

F. BACKGROUND REFERENCES

Public Bodies (Joint Working) (Scotland) Act 2014

Appendices/Attachments: 1

Draft Response to the Consultation on Set 2 of the draft Regulations relating to the Public Bodies (Joint Working) (Scotland) Act 2014.

Contact Person: Jim Forrest, CHCP Director

01506 281977

Jim.Forrest@westlothian.gov.uk

Date: 19th August 2014

PRESCRIBED GROUPS WHICH MUST BE CONSULTED WHEN PREPARING OR REVISING INTEGRATION SCHEMES; PREPARING DRAFT STRATEGIC PLANS; AND WHEN MAKING DECISIONS AFFECTING LOCALITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

West Lothian Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ **Please tick as appropriate**

Surname

Forrest

Forename

Jim

2. Postal Address

West Lothian CHCP

Civic Centre

Howden South Road

Livingston

Postcode EH54 6FF

Phone 01506 281002

Email jim.forrest@westlothian.gov.uk

3. Permissions - I am responding as...

Individual

/

Group/Organisation

☐

Please tick as appropriate

☒

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

Are you content for your **response** to be made available?

Please tick as appropriate

☒ Yes ☐ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate ☒ Yes ☐ No

4. Additional information – I am responding as:
Please tick as appropriate

| | |
|---|--|
| 1. NHS Health Board | |
| 2. Other NHS Organisation | |
| 3. General Practitioner | |
| 4. Local Authority✓ | |
| 5. Other statutory organisation | |
| 6. Third sector care provider organisation | |
| 7. Independent / private care provider organisation | |
| 8. Representative organisation for professional group | |
| 9. Representative organisation for staff group e.g. trade union | |
| 10. Education / academic group | |

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| 11. Representative group for patients / care users | | |
| 12. Representative group for carers | | |
| 13. Patient / service user | | |
| 14. Carer | | |
| 15. Other – please specify | | |

ANNEX 1(D)

PRESCRIBED GROUPS WHICH MUST BE CONSULTED WHEN PREPARING OR REVISING INTEGRATION SCHEMES; PREPARING DRAFT STRATEGIC PLANS; AND WHEN MAKING DECISIONS AFFECTING LOCALITIES RELATING TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Do these draft Regulations include the right groups of people?

Yes ☒

No ☐

2. If no, what other groups should be included within the draft Regulations?

3. Are there any further comments you would like to offer on these draft Regulations?

No.

ANNEX 2(C)



MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Forename

2. Postal Address

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| Postcode | Phone | Email |

3. Permissions - I am responding as...

Individual

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Group/Organisation

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Please tick as appropriate

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(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Are you content for your **response** to be made available?

Please tick as appropriate

☐ Yes ☐ No

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate ☐ Yes ☐ No

4. Additional information – I am responding as:
Please tick as appropriate

| | |
|--|--|
| 1. NHS Health Board | |
| 2. Other NHS Organisation | |
| 3. General Practitioner | |
| 4. Local Authority | |
| 5. Other statutory organisation | |
| 6. Third sector care provider organisation | |
| 7. Independent / private care provider organisation | |
| 8. Representative organisation for professional group | |
| 9. Representative organisation for staff group e.g. trade union | |
| 10. Education / academic group | |

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| 11. | Representative group for patients / care users | |
| 12. | Representative group for carers | |
| 13. | Patient / service user | |
| 14. | Carer | |
| 15. | Other – please specify | |

ANNEX 2(D)

MEMBERSHIP, POWERS AND PROCEEDINGS OF INTEGRATION JOINT BOARDS ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

CONSULTATION QUESTIONS

1. Are there any additional non-voting members who should be included in the Integration Joint Board?

Yes ☐

No ☒

2. If you answered 'yes', please list those you feel should be included:

3. Are there any other areas related to the operation of the Integration Joint Board that should also covered by this draft Order?

4. Are there any further comments you would like to offer on this draft Order?

Clarification required regarding how non-voting members would be selected in particular carer / service user representatives to ensure collective rather than individual representation.

ANNEX 3(C)



ESTABLISHMENT, MEMBERSHIP AND PROCEEDINGS OF INTEGRATION JOINT MONITORING COMMITTEES ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Forename

2. Postal Address

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3. Permissions - I am responding as...

Individual

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Group/Organisation

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Please tick as appropriate

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(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

Are you content for your **response** to be made available?

Please tick as appropriate

☐ Yes ☐ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate ☐ Yes ☐ No

4. Additional information – I am responding as:
Please tick as appropriate

| | |
|---|--|
| 1. NHS Health Board | |
| 2. Other NHS Organisation | |
| 3. General Practitioner | |
| 4. Local Authority | |
| 5. Other statutory organisation | |
| 6. Third sector care provider organisation | |
| 7. Independent / private care provider organisation | |
| 8. Representative organisation for professional group | |
| 9. Representative organisation for staff group e.g. trade union | |
| 10. Education / academic group | |

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| 11. Representative group for patients / care users | | |
| 12. Representative group for carers | | |
| 13. Patient / service user | | |
| 14. Carer | | |
| 15. Other – please specify | | |

ANNEX 3(D)

ESTABLISHMENT, MEMBERSHIP AND PROCEEDINGS OF INTEGRATION JOINT MONITORING COMMITTEES ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

Consultation Questions

1. Do you agree with the proposed minimum membership of the integration joint monitoring committee, as set out in the draft Order?

Yes ☒

No ☐

2. If you answered 'no', please list those you feel should be included:

3. Are there any other areas related to the operation of the integration joint monitoring committee that should also covered by the draft Order?

No.

4. Are there any further comments you would like to offer on this draft Order?

No.

**PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS
ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING)
(SCOTLAND) ACT 2014**

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ **Please tick as appropriate**

Surname

Forename

2. Postal Address

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| Postcode | Phone | Email |

3. Permissions - I am responding as...

Individual

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Group/Organisation

☐

Please tick as appropriate

☐

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ **Yes** ☐ **No**

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

Are you content for your **response** to be made available?

Please tick as appropriate

☐ Yes ☐ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate ☐ Yes ☐ No

4. Additional information – I am responding as:
Please tick as appropriate

| | |
|---|--|
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| 3. General Practitioner | |
| 4. Local Authority | |
| 5. Other statutory organisation | |
| 6. Third sector care provider organisation | |
| 7. Independent / private care provider organisation | |
| 8. Representative organisation for professional group | |
| 9. Representative organisation for staff group e.g. trade union | |
| 10. Education / academic group | |

| | | |
|---|--|--|
| 11. Representative group for patients / care users | | |
| 12. Representative group for carers | | |
| 13. Patient / service user | | |
| 14. Carer | | |
| 15. Other – please specify | | |

**PRESCRIBED MEMBERSHIP OF STRATEGIC PLANNING GROUPS
ESTABLISHED UNDER THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND)
ACT 2014**

CONSULTATION QUESTIONS

1. The draft Regulations prescribe the groups of people that should be represented on the strategic planning group. Do you think the groups of people listed are the right set of people that need to be represented on the strategic planning group?

Yes ☐

No ☒

2. If no, what changes would you propose?

The Strategic Planning Group should include staff-side representation.

Also there needs to be an explicit link to community planning to ensure connectivity between this group and the local community planning agenda.

3. Are there any further comments you would like to offer on these draft Regulations?

No.

**PRESCRIBED FORM AND CONTENT OF PERFORMANCE REPORTS
RELATING TO THE PUBLIC BODIES (JOINT WORKING)
(SCOTLAND) ACT 2014**

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation

Organisation Name

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ **Please tick as appropriate**

Surname

Forename

2. Postal Address

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| Postcode | Phone | Email |

3. Permissions - I am responding as...

Individual / Group/Organisation

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Please tick as appropriate

☐

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

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or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

Are you content for your **response** to be made available?

Please tick as appropriate

☐ Yes ☐ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate ☐ Yes ☐ No

4. Additional information – I am responding as:
Please tick as appropriate

| | |
|---|--|
| 1. NHS Health Board | |
| 2. Other NHS Organisation | |
| 3. General Practitioner | |
| 4. Local Authority | |
| 5. Other statutory organisation | |
| 6. Third sector care provider organisation | |
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| 8. Representative organisation for professional group | |
| 9. Representative organisation for staff group e.g. trade union | |
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| 11. Representative group for patients / care users | | |
| 12. Representative group for carers | | |
| 13. Patient / service user | | |
| 14. Carer | | |
| 15. Other – please specify | | |

**PRESCRIBED FORM AND CONTENT OF PERFORMANCE REPORTS
RELATING TO THE PUBLIC BODIES (JOINT WORKING)
(SCOTLAND) ACT 2014**

CONSULTATION QUESTIONS

1. Do you agree with the prescribed matters to be included in the performance report?

Yes ☒

No ☐

2. If no, please explain why:

3. Are there any additional matters you think should be prescribed in the performance report?

Yes ☐

No ☒

4. If yes, please tell us which additional matters should be prescribed and why:

5. Should Scottish Ministers prescribe the form that annual performance reports should take?

Yes ☐

No ☒

6. If you answered yes, what form should Scottish Ministers prescribe?

7. Are there any further comments you would like to offer on these draft Regulations?

No.



COUNCIL EXECUTIVE

RESPONSE TO NHS Lothian DRAFT STRATEGIC PLAN 2014 - 24

REPORT BY DEPUTE CHIEF EXECUTIVE, COMMUNITY HEALTH AND CARE PARTNERSHIP

A. PURPOSE OF REPORT

The purpose of this report is to invite Council Executive to consider and approve the appended draft response to NHS Lothian's draft Strategic Plan 2014 – 2024.

B. RECOMMENDATION

It is recommended that Council Executive approves the proposed draft response for submission to NHS Lothian.

C. SUMMARY OF IMPLICATIONS

| | |
|---|---|
| I Council Values | <ul style="list-style-type: none">• Focusing on our customers' needs• Being honest, open and accountable• Working in partnership. |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | None. |
| III Implications for Scheme of Delegations to Officers | None. |
| IV Impact on performance and performance Indicators | Delivery of the plan will have a positive impact on the delivery of health and social care outcomes. |
| V Relevance to Single Outcome Agreement | The delivery of the plan will contribute to local Health and Wellbeing outcomes in the SOA. |
| VI Resources - (Financial, Staffing and Property) | Within existing budgets. |
| VII Consideration at PDSP | Health & Care PDSP 29 May 2014 |
| VIII Other consultations | West Lothian Community Planning Partnership Board (February 2014) |

D. TERMS OF REPORT

NHS Lothian's Strategic Plan sets out the intended direction of travel for the redesign and transformation of health, healthcare and care more generally in the Lothian area over the next ten years.

The draft plan was launched in April and has been the subject of staff and public consultation across Lothian.

Appended to this report is a draft response reflecting comments in relation to the delivery of the plan in West Lothian on behalf of West Lothian Council.

E. CONCLUSION

NHS Lothian is seeking views on its draft Strategic Plan 2014 – 2024. A draft response on behalf of West Lothian Council is appended for consideration. Council Executive is invited to consider and approve the proposed draft response.

F. BACKGROUND REFERENCES

Our Health, Our Care, Our Future - NHS Lothian's Draft Strategic Plan for 2014 – 2024

<http://www.westlothianchcp.org.uk/CHttpHandler.ashx?id=4293&p=0>

Appendices/Attachments: 1

1 Response to NHS Lothian draft Strategic Plan 2014 - 24

Contact Person: Jim Forrest, Depute Chief Executive, CHCP

01506 281977

Jim.Forrest@westlothian.gov.uk

Date: 19/8/14

RESPONSE TO NHS Lothian Draft Strategic Plan 2014 - 2024

FROM WEST Lothian Council

West Lothian Council welcomes the opportunity to comment on NHS Lothian's Strategic Plan 2014 – 24 and appreciates the extension to the consultation deadline to 19th August 2014.

Given the future direction and importance of the integration of health and social care and the consequent need to ensure capacity within community settings Council is concerned that the current plan is light on primary care details. Day surgery for hospitals is welcome, however to support this change in the model of service investment will be required to increase the number of GPs and Community Nurses.

Council is also concerned that the plan is light in relation to developments in West Lothian and does not focus on local population needs.

Council supports the development of site master planning for St John's and particularly the potential for further development at the St John's campus to reduce spend on elective activity in the private sector and to consolidate Head and Neck services as the Regional centre at St John's.

The potential for further development for increasing other elective activity at St John's such as elective orthopaedics is also welcomed, as is the long term benefit that would result from consolidating high dependency and critical care facilities in a single location to help make the site more attractive and sustainable. The Council will be an important partner in developing and working with NHS Lothian through the planning process for this development and Council would want to support measures which deliver a manageable transport / travel / parking plan for the site.

West Lothian Community Health and Care Partnership is actively engaged in developing integrated care pathways, particularly regarding long term patients through the work of the West Lothian Pathways Collaborative and would expect this valuable work to continue in light of the need to develop a primary care capacity plan to address the pressures arising from the move to a 2 week target for delayed discharge.

Council would hope that the Unscheduled Care Strategy would be developed to take account of the pressure on St John's in relation to the performance of the Royal Infirmary of Edinburgh / Western General Hospital / City of Edinburgh residents and limit the volume of Bed Bureau and orthopaedic rehabilitation patients transferred from Edinburgh for admission to St John's who then require repatriation to Edinburgh and experience delays which then adversely impact West Lothian residents.

More detail is required to describe how the vision and outcomes will be delivered and who will be responsible for delivery.

Further detail is also required in relation to performance and management indicators to ensure delivery in a more integrated arrangement.



COUNCIL EXECUTIVE

POTENTIAL IMPACT OF INDEPENDENCE

REPORT BY HEAD OF FINANCE AND ESTATES

A. PURPOSE OF REPORT

The purpose of this report is to consider the potential financial impact on the council in the event of Scotland becoming an independent nation state and also to consider related matters that could impact on West Lothian.

B. RECOMMENDATIONS

It is recommended that the Council Executive notes the report and advises of any further action required.

C. SUMMARY OF IMPLICATIONS

| | | |
|-------------|--|--|
| I | Council Values | Being honest, open and accountable Making the best use of our resources. |
| II | Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | None. |
| III | Implications for Scheme of Delegations to Officers | None. |
| IV | Impact on performance and performance Indicators | Funding for the council is a key determinant of resources available, which could impact on performance indicators. |
| V | Relevance to Single Outcome Agreement | None. |
| VI | Resources (Financial, Staffing and Property) | There are a wide range of factors that could impact on the financial resources. |
| VII | Consideration at PDSP | Not relevant. |
| VIII | Other consultations | Officers have reviewed publications from various sources |

D. TERMS OF REPORT

D.1 Background

A council motion in December 2012 asked for an assessment of what the financial impact on the council would be in the event of Scotland becoming an Independent nation state.

D.2 Information Sources and General Issues

Officers have been reviewing information from a wide range of sources on the potential impact of Scotland becoming an independent nation state. Some of the key issues to be considered are as follows:

- **Level of Public Debt and division of assets**
Under the current fiscal framework, UK public sector net debt is incurred for the country as a whole and not directly for Scotland or any other part of the UK. Two potential approaches could be used to allocate a notional share of UK net debt to Scotland, population share or historic share.
- **Future spending and revenue levels**
Scotland currently has an ageing population, with expectations that public spending will require to increase. In the event of independence, Scotland would receive a share of the North Sea Oil and gas revenues, which would have to be negotiated. Oil receipts are a volatile source of revenue. Scotland will have to take account of volatile resources when setting its fiscal policy.
- **Currency options facing an independent Scotland**
In the event of independence, there would be a range of possible scenarios in relation to currency.

At this stage it is impossible to determine the potential financial impact on local authorities in Scotland but some of the key factors impacting on the finances of the council are set out below in section D.3.

Links to Scottish Government, and UK Government papers, are provided as background references in section F of this report.

D.3 Key Issues for Delivery of Services in West Lothian

In the current economic climate, there are a number of key factors that could affect West Lothian Council's ability to provide services to local communities. Although there is no consensus on the impact independence would have on the finances, it is possible to identify key issues as follows:

Adequate Financial Settlements for Local Government

There is a clear link between the level of funding available to local government and the ability of councils to sustain services where resources are static or reducing. To ensure the continued delivery of essential services, local government revenue and capital funding must be adequate and sustainable.

Flexible and Responsive Local Taxation

The drive for greater fiscal decentralisation focuses on empowering local communities to influence choices about the services they need and how these services will be funded. This can only be achieved where there is a flexible and responsive local

taxation system that can be tailored to incorporate local demand for services. If there is not flexibility to make taxation decisions, at local authority level, this limits the ability of local elected representatives to make local decisions on the types of services suitable for their area.

Focus on Outcomes

Although there has been a substantial reduction in the level of ring fenced grant funding over recent years, there are conditions attached to financial settlements which are largely input based. If local government is to be responsive to local needs and requirements, and deliver on shared outcomes with community planning partners, there is a need to move from input based conditions to outcome based measures. To focus on outcomes such as school attainment, local government should be able to direct resources to local priorities with only statutory restrictions imposed.

Ensuring Capital Programmes are Prudent, Affordable and Sustainable

The Prudential Code governs local authority decisions on capital investment by providing a framework for assessing the prudence, affordability and sustainability of borrowing proposals. This framework has served local authorities well and supported significant improvement in the condition, suitability and accessibility of local assets. Local taxation authority will assist the ability of local communities to influence decisions on capital investment and how it is funded. In addition, it is important that the council continues to have access to attractive interest rates to ensure that future programmes are not compromised.

In West Lothian, the approval of the council's eight priorities and nine workstreams will help considerably in ensuring that constrained financial resources are targeted towards delivering services that meet shared outcomes, however there remains some structural issues, such as local taxation and financial settlements, that could impact on the continued effective service delivery.

D.4 Key Considerations for Development of West Lothian

There are a range of factors that will impact on future developments in West Lothian and will result in a financial impact on the council. These are outlined in this section.

Population

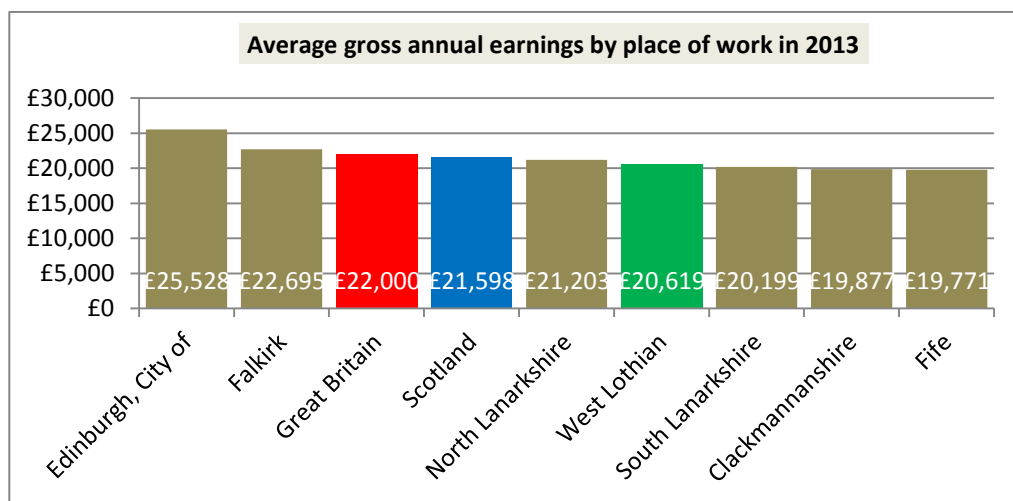
West Lothian's total population in mid-2012 was estimated to be 175,990, representing an increase of 900 since the 2011 census. This is lower than the average increase of 1,500 per year experienced from 2001 to 2011. This slower increase is largely a result of reduced house building since the economic downturn in 2008. In addition, the population growth experienced since 2011 has largely been driven by the "natural change" rate (i.e. more births than deaths). This means that West Lothian's population has become younger. In the period 2001 to 2011, West Lothian had the highest "natural change" rate (+4.1%) of any local authority in Scotland. The next highest was Shetland Islands at +1.7% while 18 of Scotland's 32 authorities had a negative rate.

West Lothian has the youngest and fastest growing population in Scotland. Continued population growth is expected as developments in West Lothian's Core Development Areas continue to progress over the next decade.

Income and Expenditure

The average gross annual salary for jobs located in West Lothian is slightly below both the UK and Scottish averages. This is largely the result of the strong presence of some

relatively low pay sectors (e.g. retail) within the area. The pay gap between West Lothian and Scotland has narrowed in the last five years. Investment and expansion decisions by UK based companies impact on the West Lothian economy, including pay levels.



Source: ONS, Annual Survey of Hours and Earnings

Unemployment

The West Lothian JSA rate is below the Scottish average but above the Great Britain rate. Unemployment (JSA claimants) in West Lothian stands at 2.5% as of June 2014. The rate is slightly lower than the Scotland rate (2.8%) but slightly above the Great Britain rate (2.4%).

Youth Unemployment

West Lothian youth unemployment (JSA rate) is a higher proportion than the Scotland rate. West Lothian has a higher proportion (5.7%) for April 2014 than Scotland (4.7%) of youth unemployment.

Employment

It is estimated that there are 30,400 jobs in the key sectors within West Lothian. It is difficult to estimate potential future job losses or growth without a clear understanding of the Scottish Government's plans and proposals for specific business sectors and regulation. Decisions by national governments have an impact on local economies such as West Lothian. The key sectors for employment in West Lothian are as follows:

| Sector | Estimated Employees |
|----------------------------|---------------------|
| Retail | 10,300 |
| Construction | 5,300 |
| Logistics and Distribution | 5,000 |
| Electronics | 3,000 |
| Life Sciences | 2,500 |
| Food and Drink | 2,500 |
| Engineering | 1,800 |

Source: West Lothian Business Directory 2014

Business Support

The council's Economic Development service provides considerable assistance to business start-ups, including providing advice and support for the survival of new businesses. In West Lothian, business start-up numbers (459) have exceeded targets for 2013/14 by more than 10%. In total, 507 growth businesses have been supported this financial year, of which 435 have received targeted additional support in the areas including expansion, funding, market diversification and e-commerce.

The council relies on substantial funding from Europe and the Scottish Government in providing support to local businesses. The nature and the extent of future support funding will be influenced by national economic decisions and by support from the European Union.

Key Private Sector Employers by Country of Origin

An analysis of the origins of companies based in West Lothian is set out in the table below.

| Sector | Employees (All) | Employees (Medium to Large Companies Only)* |
|---------------|------------------------|--|
| Indigenous | 24,350 | 9,900 |
| Rest of UK | 10,250 | 7,600 |
| Foreign Owned | 11,300 | 10,400 |
| Total | 45,900 | 27,900 |

Source: West Lothian Business Directory 2014

* Companies employing 50 or more employees

For companies employing over 50 employees, 100 are indigenous companies, 40 are companies owned within the rest of the UK and 30 are foreign owned. The overall top private sector employers in West Lothian by country of origin are as follows:

| Employer | Sector | Headquarters | Employ | Scotland/ UK/ Foreign | Parent Country Origin |
|---------------------------|----------------------|----------------------|---------------|------------------------------|------------------------------|
| Sky Television | Service | Livingston | 4,000 | F | Australia |
| Tesco | Retail/ Distribution | Livingston | 2,200 | UK | - |
| ASDA Wal*Mart | Retail | Livingston | 800 | F | USA |
| Morrisons | Retail | Bathgate/ Livingston | 700 | UK | - |
| Johnson & Johnson Medical | Manufacturing | Livingston | 500 | F | USA |
| Quintiles | Manufacturing | Livingston | 500 | F | USA |
| Mitsubishi Electric | Manufacturing | Livingston | 450 | F | Japan |
| SEH Europe | Manufacturing | Livingston | 400 | F | Japan |
| WL Gore | Manufacturing | Livingston | 400 | F | USA |
| DHL Excel Supply Chain | Distribution | Livingston | 350 | F | Germany |

Source: West Lothian Business Directory 2014

Public Sector Employers

West Lothian currently has the smallest number of public sector as a percentage of total employees of any local authority area in Scotland, with less than 30% of the total workforce employed in the public sector.

In total the approximately 15,200 people within West Lothian are employed within the public sector, split into the following organisations:

- West Lothian Council and West Lothian Leisure – 8,300
- Healthcare (NHS Lothian and Scottish Ambulance Service) – 4,200
- UK Government Agencies – 1,100
- Police and Fire Services – 600
- Scottish Government Agencies – 500
- Education Sector (non West Lothian Council) - 500

Tourism

In 2012, West Lothian was visited by more than 1.17 million tourists. This generated an estimated spend of £154 million in the local economy. In addition, over 300 full time jobs in West Lothian's retail sector are estimated to be supported by tourist spending.

West Lothian Economic Growth Plan

The Economic Growth Plan focuses on supporting community regeneration and long term growth through innovation and development. West Lothian is an enterprise area, with a greater focus on core development areas (CDAs), including Heartlands at Whitburn. Key elements which are essential to supporting the Economic Growth Plan include:

- Partnership working to ensure investment and contracts in West Lothian
- Supporting company relocation and expansion in West Lothian
- Impact of the housing market ensuring affordability of housing and buyer income levels
- National construction company investment in house building in West Lothian

European Structural Funding to Support Economic Development in West Lothian

Although referred to as European funding, Structural and Investment Funds are managed through member states with operational delivery coordinated via regional/devolved administrations (i.e. Scottish Government). West Lothian has benefited from a number of specific programmes including:

- European Social Fund (ESF) – which supports employability and training initiatives, mainly targeting young people who are furthest from the labour market
- European Regional Development Fund (ERDF) which supports Business Gateway additional activity, East of Scotland Investment fund and Economic Growth Plan
- West Lothian LEADER supporting community led development in rural areas

The Scottish Government is currently developing operational programmes and delivery arrangements for the 2014 to 2020 period. This is being undertaken in negotiation with UK Government and the European Union. It is anticipated that new programmes will become operational from January 2015. From a West Lothian perspective, it is anticipated that there will continue to be significant levels of ERDF, ESF and LEADER monies to support activity in West Lothian in the 2015 to 2020 period.

The programme delivery arrangements are being developed on the basis that the

programmes will operate for the full period to 2020 irrespective of any change in the UK or Scotland's constitutional position.

Telecommunications and Connectivity

West Lothian Council is investing £2.5 million as part of the wider £264 million Step Change programme for digital infrastructure investment. This investment programme includes funding from local government, the Scottish Government, the UK Government and the European Union. This programme will increase the availability of superfast broadband from 73% of West Lothian premises to an estimated 99.4% of all premises. Delivery of the upgrade in West Lothian will commence in 2016 and is estimated to be complete by mid-2017.

Economic output

West Lothian's per resident gross value added (GVA) figure of £19,738 is close to the Scottish level at £20,013 and significantly higher than other non-city local authority areas. This figure is subject to fluctuations based on productivity levels within industry. West Lothian's GVA is higher than other non-city local authorities due to the strong, diverse range of sectors in West Lothian, including retail, logistics and distribution, life sciences, electronics and engineering.

E. CONCLUSION

This report sets out general issues that would be impacted by Scotland becoming an independent nation, and then explores key local issues for the council and for the development of West Lothian. This illustrates the very broad range of factors that could influence the council's financial position in the future.

F. BACKGROUND REFERENCES

Scottish Government Website

<http://www.scotreferendum.com/topic/the-economy/>

UK Government's Scotland Analysis Series

<https://www.gov.uk/government/collections/scotland-analysis>

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Donald Forrest
Head of Finance and Estates
19 August 2014



COUNCIL EXECUTIVE

PROCUREMENT ARRANGEMENTS –SUPPLY, INSTALLATION AND MAINTENANCE OF FLOOR COVERINGS.

REPORT BY HEAD OF FINANCE AND ESTATES

A. PURPOSE OF REPORT

To seek Council Executive's approval to commence tendering procedures for the procurement of a three year contract, with option of two year extension, for the service, installation, repair and maintenance of floor coverings throughout West Lothian employing the evaluation methodology and criteria detailed in the recommendation below.

B. RECOMMENDATION

It is recommended that the Council Executive approves:

- 1) The use of the Open Procedure for procurement of a contractor to supply, install and maintain floor coverings, whereby all suppliers expressing an interest will be invited to tender.
- 2) The award criteria as set out in Section D of the report.

C. SUMMARY OF IMPLICATIONS

| | | |
|------------|--|--|
| I | Council Values | Focusing on our customers' needs. Being honest, open and accountable Providing equality of opportunities Making best use of our resources Working in partnership |
| II | Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | Tenders will be issued, received and analysed in accordance with Standing Orders of West Lothian Council and the Public Contracts (Scotland) Regulations 2012. |
| III | Implications for Scheme of Delegations to Officers | None |

| | | |
|-------------|---|---|
| IV | Impact on performance and performance Indicators | None |
| V | Relevance to Single Outcome Agreement | None |
| VI | Resources - (Financial, Staffing and Property) | The costs are estimated to be around £500,000 per annum funded through the General Fund Revenue, in the case of uplifting and repairing damaged floor coverings and making good sub flooring, and the approved capital budget in the General Services capital programme for the supply and fit of floor coverings for refurbishments, extensions and other capital works. |
| VII | Consideration at PDSP | None |
| VIII | Other consultations | The specification will be provided by Housing Construction and Building Services who will also participate in the evaluation. The Corporate Finance Manager was consulted on budget implications. The Community Benefits Officer was consulted on inclusion of community benefit clauses. |

D. TERMS OF REPORT

Background

The service being tendered is to provide a supply, installation and maintenance of floor coverings encompassing Rubber, plaster, cork, linoleum, carpet, tiling, sheeting, timber boarding and strip flooring across the property portfolio.

The contract will include a 24/7 Emergency call out service for the full period of the contract including all public holidays with a response time of three hours for emergency call outs.

The contract will ensure that all work is done in compliance with BS8000 Basic Workmanship, which relates to recommendations on working methods within the province and responsibility of the contractor wherein compliance will be deemed to be a matter of general industry good practice, and floor coverings complying with BS EN ISO 10874:2012 (classifying resilience and durability of floor coverings) and BS 14041 (specifying health, safety and energy requirements for resilient floor coverings made from plastics, linoleum, cork, rubber, textile and laminate floor covering and their methods of testing, marking and labelling) Commercial standards (as appropriate). All in accordance with the Scottish Building Contract Committee Measured Term Contract Conditions (2011) edition. The contract will ensure regular checks are carried out to the Council's systems and make certain records are kept up to date. The contract will also allow for any remedial works

required to be carried out, ensuring compliance with said standards.

The contract period will be from 1 September 2014 to 31 August 2017 with a possible further two years extension on an annual basis.

In House Capability

The requirements of this contract are such that specialist staff must carry out the work.

Procurement Issues

The requirement will be advertised in accordance with the European Union Directives. It is proposed that Open Procedure is used as this is predominately a Supply contract. The following award criteria will be applied at the tender stage:

| | |
|---------|-------|
| Price | - 70% |
| Quality | - 30% |

Sustainability Considerations

Following consultation with the Community Benefits Lead Officer, initial investigations indicate that there is scope to incorporate a non-evaluation Community Benefits clause into the contract documentation. As a minimum, the Council will expect the successful Contractor to deliver such benefits as part of the Contract, and will be monitored as such.

Budget Implications

The estimated cost of approximately £500,000 is contained within the General Fund Revenue budget and the approved Capital budget in the General Services capital programme.

E. CONCLUSION

It is recommended that the Council Executive approves the application of the evaluation methodology detailed in Section D above for the tendering of the supply, installation and maintenance of floor coverings.

F. BACKGROUND REFERENCES

A copy of the specification for this contract is available on request from Corporate Procurement.

Appendices/Attachments: None

Contact Person: Douglas Niven, Category Manager

Email: douglas.niven@westlothian.gov.uk

Tel: 01506 282614

Donald Forrest

Head of Finance and Estates

Date: 19 August 2014



COUNCIL EXECUTIVE

CHANGES TO THE STANDING ORDERS FOR THE REGULATION OF CONTRACTS

REPORT BY HEAD OF FINANCE AND ESTATES

A. PURPOSE OF REPORT

To consider changes to the council's procurement financial thresholds and business case exemption authorisation process within the Standing Orders for the Regulation of Contracts.

B. RECOMMENDATION

It is recommended that the Council Executive:

1. Approves the revisions to the council's procurement financial thresholds, as set out in section D.4.1 of the report and as summarised in Appendix 1;
2. Approves the revisions to the council's Standing Orders for the Regulation of Contracts in regards to the authorisation of business case exemptions, as set out in section D.4.2 of the report and as summarised in Appendix 1;
3. Authorises the Chief Solicitor, in consultation with the Head of Finance and Estates, to make the necessary amendments to the council's Standing Orders for the Regulation of Contracts and the council's Scheme of Delegation to Officers and to publish those changes, effective from 19 August 2014.

C. SUMMARY OF IMPLICATIONS

| | |
|---|---|
| I Council Values | Being honest, open and accountable, making best use of our resources. |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | Amendments required to financial thresholds and authorisation processes within the council's Standing Orders for the Regulation of Contracts. No changes required to the role of Council Executive and Elected Members in regards to the approval of tender contracts above the OJEU Threshold. |
| III Implications for Scheme of Delegations to Officers | Amendments required to financial thresholds and authorisation processes within the council's Scheme of Delegations to Officers. No changes required to the role of Council Executive and Elected Members in regards to the approval of tender contracts above the OJEU Threshold. |

| | |
|--|--|
| IV Impact on performance and performance Indicators | None. |
| V Relevance to Single Outcome Agreement | Our public services are high quality, continually improving, efficient and responsive to local people's needs. |
| VI Resources - (Financial, Staffing and Property) | None. |
| VII Consideration at PDSP | None. |
| VIII Other consultations | Legal Services, Corporate Procurement Unit, Audit and Risk Management Unit, Financial Management Unit. |

D. TERMS OF REPORT

D.1 Background

In June 2013, the Council Executive approved the proposals within the Delivering Effective Procurement report. As a result of the agreed recommendations, amendments were required to the council's Standing Orders for the Regulation of Contracts. The Council Executive agreed that the changes proposed to the council's Standing Order for the Regulation of Contracts in relation to low value contracts and exemptions from Standing Orders would be subject to and form part of a fuller review of those Standing Orders to be carried out through the Working Group on Contracts Standing Orders and the Corporate Procurement Board.

To date, the Working Group has yet to commence with the full review of Standing Orders and it is now proposed that because of urgent operational requirements certain limited changes be made in advance of a wider review. The purpose of this report is to highlight the proposed improvements to the current Standing Orders processes by implementing changes to the council's procurement financial thresholds and business case exemption authorisation process.

D.2 Current Procurement Financial Thresholds

The council's procurement financial thresholds are set out in the Standing Orders for the Regulation of Contracts which specifies the procurement requirements that must be met for each contract value.

The contract value is the estimated aggregate purchase value, excluding VAT, over the entire term of the project and use across the whole council, including all options, permitted extensions and variations. The table below summarises the current procurement requirements for each of the different procurement financial thresholds:

| Contract Type | Contract Value | Minimum Procurement Requirement |
|-----------------------------|--|--|
| Supplies / Services / Works | £0 to £999 | Obtain Two quotes |
| Supplies / Services / Works | £1,000 to £49,999 | Three quotes sought via Quick Quote |
| Supplies / Services / Works | £50,000 to OJEU (Official Journal of the European Union) Threshold | Three tenders sought via Public Contracts Scotland |
| Supplies / Services / Works | Above OJEU Threshold | Five tenders sought via Public Contracts Scotland and OJEU |

D.3 Current Business Case Exemption Process

The Standing Orders for the Regulation of Contracts also outlines the exemption process where the minimum procurement requirement cannot be met. At present the Chief Executive (and no other officer) may, in exceptional circumstances, authorise a contract to be entered into without subjecting the contract to competition where the estimated contract value does not exceed £50,000.

This process is controlled by completing a business case exemption form. The lead officer originating the request completes the exemption form and passes this to the relevant Category Manager within the Corporate Procurement Unit who logs the request in an exemption register. The exemption form is reviewed for adequacy and passed to the Corporate Procurement Manager for approval. The form is then signed by the Head of Finance and Estates as the council's Responsible Officer for procurement. The form is then authorised by the Chief Executive in order to comply with the requirements of the Standing Orders for the Regulation of Contracts.

In practice, this process has proved to be excessively time consuming and bureaucratic for all officers involved. A review of the exemption register from January 2014 to July 2014 confirmed that there has been 354 business case exemption requests. The table below provides a breakdown of these requests:

| From January 2014 to July 2014 | | |
|-------------------------------------|------------------------------|------------|
| Contract Value of Exemption Request | Number of Exemption Requests | Percentage |
| £0 to £999 | 148 | 41.8% |
| £1,000 to £4,999 | 115 | 32.5% |
| £5,000 to £49,999 | 91 | 25.7% |

The table shows that the majority of business case exemption requests are below the £1,000 threshold. The lowest value business case exemption request to date has been £10.20.

There is clearly a cost to the council in implementing the business case exemption process in order to comply with the current requirements of the Standing Orders for the Regulation of Contracts. For a high percentage of exemption requests, the cost of the authorisation process may be higher than the contract value of the business case exemption.

D.4 Proposed Changes to Standing Orders for the Regulation of Contracts

In order to ensure that the council continues to make best use of resources and efficient use of staff time it is proposed that the following amendments be made to the procurement financial thresholds and the business case exemption authorisation process within the Standing Orders for the Regulation of Contracts. A summary table of the proposed changes is provided in Appendix 1 of this report.

D.4.1 Revised Procurement Threshold Requirements

- Where the contract value is less than £1,000, remove the requirement to obtain two quotes and replace this with the requirement for council officers to satisfy themselves that best value has been achieved. This requirement is considered sufficient for the risk related to all purchases less than a value of £1,000.
- Where the contract value is £1,000 or over but less than £50,000, replace the single requirement to seek three quotes via Quick Quote with the following two requirements:
 - where the contract value is £1,000 or over but less than £5,000, requirement is to seek a minimum of two quotes.
 - where the contract value is £5,000 or over but less than £50,000, requirement is to seek a minimum of three Quick Quotes via Public Contract Scotland.
- There are no proposed amendments to the procurement threshold requirements where the contract value is £50,000 or over but below the relevant OJEU threshold.
- There are no proposed amendments to the procurement threshold requirements where the contract value is above the relevant OJEU threshold. Where the contract value exceeds the EU threshold, Council Executive approval will continue to be sought.

D.4.2 Revised Exemption Authorisation Process

- Where the contract value is less than £1,000, remove the requirement to have a business case exemption signed by the Chief Executive. Removal of this requirement is considered sufficient for the risk related to all purchases less than a value of £1,000.
- Where the contract value is £1,000 or over but less than £50,000, replace the single requirement to have a business case exemption signed by the Chief Executive with the following two requirements:
 - where the contract value is £1,000 or over but less than £5,000, business case exemption to be authorised by the relevant Head of Service.
 - where the contract value is £5,000 or over but less than £50,000, business case exemption to be authorised by the Head of Finance and Estates, as the council's Responsible Officer for procurement.
- There are no proposed amendments to the exemption authorisation process where the contract value is £50,000 or over but below the relevant OJEU threshold. For contracts of this value, Council Executive approval will continue to be sought.

D.5 Compliance Monitoring Arrangements

The following monitoring arrangements will be put in place to ensure compliance with the proposed changes to the procurement financial thresholds and business case exemption authorisation process.

Procurement Financial Thresholds

- Where the contract value is less than £1,000, officers may be subject to audit review and must be able to demonstrate that best value has been achieved.
- where the contract value is £1,000 or over but less than £5,000, officers must provide evidence that they have sought two quotes before placing an order via the council's corporate purchase to pay system (PECOS). Orders without evidence of two quotes sought will be rejected. The council's corporate purchase to pay system is open to audit review.
- where the contract value is £5,000 or over but less than £50,000, officers must contact the Corporate Procurement Unit to obtain a Corporate Contract reference number and undertake a quotation exercise via the Public Contracts Scotland Quick Quote facility. Officers must provide evidence of their Corporate Contract reference number and Quick Quote before placing an order via council's corporate purchase to pay system. Orders without evidence will be rejected. The council's Quick Quote processes are subject to audit review on a quarterly basis.
- where the contract value is £50,000 or over but below the relevant OJEU threshold, officers must contact the Corporate Procurement Unit to obtain a Corporate Contract reference number and undertake a tender exercise via the Public Contracts Scotland electronic tendering facility. Officers must provide evidence of their Corporate Contract reference number and tender before placing an order via council's corporate purchase to pay system. Orders without evidence will be rejected. The council's tender processes are open to audit review.

Business Case Exemptions

- Where an exemption form is authorised for contract values between £1,000 and £4,999, each Head of Service will ensure that signed forms are retained and that exemption details have been updated to the council's exemption register. The register will be held centrally within the Corporate Procurement Unit location in Meridio and may be subject to audit review. A revised business case exemption template for the Heads of Service is provided in Appendix 2 of this report.
- Where an exemption is authorised for contract values between £5,000 and £49,999, the Head of Finance and Estates will ensure that signed forms are retained and that exemption details have been updated to the council's exemption register. The register will be held centrally within the Corporate Procurement Unit location in Meridio and may be subject to audit review. A revised business case exemption template for the Head of Finance and Estates is provided in Appendix 3 of this report.

E. CONCLUSION

In order to ensure that the council continues to make best use of resources and efficient use of staff time, the Council Executive is asked to consider the proposed amendments to the procurement financial thresholds and the business case exemption authorisation process within the Standing Orders for the Regulation of Contracts.

F. BACKGROUND REFERENCES

Delivering Effective Procurement – Report by Head of Finance and Estates to Council Executive 4 June 2013

Best Value Framework - Report by Chief Executive to Council Executive 10 June 2014

Appendices/Attachments: Three

- Appendix 1 - Summary Table – Proposed Changes to Procurement Financial Thresholds
- Appendix 2 - Business Case Exemption Template (Head of Service)
- Appendix 3 - Business Case Exemption Template (Head of Finance and Estates)

Contact Person: Stuart Saunders, Community Benefits and Compliance Officer,
Telephone: 01506 281574, e-mail: stuart.saunders@westlothian.gov.uk

Donald Forrest

Head of Finance and Estates

Date of meeting: 19 August 2014

SUMMARY TABLE – PROPOSED CHANGES TO PROCUREMENT FINANCIAL THRESHOLDS

| Current Threshold Requirements * | | |
|----------------------------------|--|---------------------------------------|
| Aggregated Purchase Value | Min. No. of Quotes / Tenders | Business Case Exemption Authorisation |
| £0 to £999 | Obtain Two quotes | Chief Executive |
| £1,000 to £49,999 | Three quotes sought via Quick Quote | Chief Executive |
| £50,000 to OJEU Threshold | Three tenders sought via Public Contracts Scotland | Council Executive |
| Above OJEU Threshold | Five tenders sought via Public Contracts Scotland and OJEU | N/A |

| Proposed Threshold Requirements * | | |
|-----------------------------------|--|---------------------------------------|
| Aggregated Purchase Value | Min. No. of Quotes / Tenders | Business Case Exemption Authorisation |
| £0 to £999 | Requirement to ensure Best Value | Not Required |
| £1,000-£4,999 | Two quotes sought | Head of Service |
| £5,000 to £49,999 | Three quotes sought via Quick Quote | Head of Finance and Estates |
| £50,000 to OJEU Threshold | Three tenders sought via Public Contracts Scotland | Council Executive |
| Above OJEU Threshold | Five tenders sought via Public Contracts Scotland and OJEU | N/A |

* The requirements in this table are applicable to all types of contracts: Supplies, Services and Works.

HEAD OF SERVICE

**BUSINESS CASE TEMPLATE FOR EXEMPTION FROM STANDING ORDERS
FOR ORDER VALUES BETWEEN £1,000 AND £4,999**

PLEASE NOTE THAT THIS FORM IS AN EXCEPTIONAL PROCEDURE AND IS ONLY PERMISSIBLE WHERE THE AGGREGATED PURCHASE VALUE IS BETWEEN £1,000 AND £4,999. LEAD OFFICERS SHOULD COMPLETE THIS FORM AND PASS TO THE RELEVANT HEAD OF SERVICE FOR APPROVAL.

| | |
|--|---|
| Service Area: | |
| Lead Officer: | |
| Description of Goods/Services/Works Required: | |
| One Off or Ongoing: | |
| Contract Period: | |
| Aggregated Purchase Value: | £ |
| Supplier(s): | |

Please state reasons why this procurement cannot be subject to competition.
(Reasons may include, but are not limited to : sole/unique supplier, geographical considerations, technical factors, urgency)

| |
|--|
| |
|--|

| Approvers | Signature | Date |
|---|-----------|------|
| Prepared by Lead Officer (Service Area) | | |
| Approved by Head of Service | | |

| |
|------------------------------------|
| HEAD OF FINANCE AND ESTATES |
|------------------------------------|

| |
|--|
| BUSINESS CASE TEMPLATE FOR EXEMPTION FROM STANDING ORDERS FOR ORDER VALUES BETWEEN £5,000 AND £49,999 |
|--|

PLEASE NOTE THAT THIS FORM IS AN EXCEPTIONAL PROCEDURE AND IS ONLY PERMISSIBLE WHERE THE AGGREGATED PURCHASE VALUE IS BETWEEN £5,000 AND £49,999. LEAD OFFICERS SHOULD COMPLETE THIS FORM AND PASS TO THE RELEVANT CATEGORY MANAGER IN THE CORPORATE PROCUREMENT UNIT.

| | |
|--|---|
| Service Area: | |
| Lead Officer: | |
| Description of Goods/Services/Works Required: | |
| One Off or Ongoing: | |
| Contract Period: | |
| Aggregated Purchase Value: | £ |
| Supplier(s): | |

| |
|--|
| Please state reasons why this procurement cannot be subject to competition. <i>(Reasons may include, but are not limited to : sole/unique supplier, geographical considerations, technical factors, urgency)</i> |
| |

| Approvers | Signature | Date |
|---|-----------|------|
| Prepared by Lead Officer (Service Area) | | |
| Reviewed by Corporate Procurement Manager | | |
| Approved by Head of Finance and Estates | | |



COUNCIL EXECUTIVE

18 DUNNET WAY, EAST MAINS INDUSTRIAL ESTATE, BROXBURN **PROPOSED SALE TO GORDON BOW PLANT HIRE LTD SMALL SELF-ADMINISTERED** **SCHEME (SSAS)** **REPORT BY HEAD OF FINANCE AND ESTATES**

A. PURPOSE OF REPORT

To seek Council Executive approval for the sale of 18 Dunnet Way, East Mains Industrial Estate, Broxburn to Gordon Bow Plant Hire Ltd Small Self-Administered Scheme (SSAS).

B. RECOMMENDATION

It is recommended that Council Executive

1. Approves the sale of 18 Dunnet Way, East Mains Industrial Estate, Broxburn to Gordon Bow Plant Hire Ltd SSAS for £530,000, subject to the terms and conditions set out in the report.
2. Grants delegated powers to the Head of Finance and Estate Services to agree to any changes required to the current terms in order to conclude the transaction, on the basis that any revised terms and conditions still represent best value for the Council.

C. SUMMARY OF IMPLICATIONS

| | |
|---|--|
| I Council Values | Being honest, open and accountable, Making best use of our resources, |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | Disposal of property governed by S74 (2) of the Local Government (Scotland) Act 1973 Disposal complies with the policy detailed in "A strategy for the council's non-operational property portfolio" as approved by Council Executive 9 March 2011. |
| III Implications for Scheme of Delegations to Officers | None |
| IV Impact on performance and performance Indicators | Reinvestment of sale proceeds will contribute towards the Delivering Better Outcomes requirement to generate additional rental income. |
| V Relevance to Single Outcome Agreement | We make the most efficient and effective use of resources by minimising our impact on the built |

| | |
|--|--|
| | and natural environment. |
| VI Resources - (Financial, Staffing and Property) | A capital receipt of £530,000 will be received during the financial year 2014/15 for reinvestment in accordance with the strategy referred to above. |
| VII Consideration at PDSP | Not applicable. |
| VIII Other consultations | The local elected members for the ward have been provided with a copy of the report for information. |

D. TERMS OF REPORT

BACKGROUND

18 Dunnet Way is located within the East Mains industrial Estate and is shown hatched black on the attached plan. The property comprises two detached industrial units with a small shared access road between the two units. The area of the combined units extends to 2,327 sq.m (25,050 sq.ft), on a site of 0.88ha (2.174 acres). The original factory and office was constructed in 1975 with the rear warehouse being constructed in 1990.

The property was built in 1975 by Lothian Regional Council for occupation by Kerry Ingredients (UK) Ltd and was subsequently extended in 1982. In 1990 a separate warehouse was constructed on the rear of the site. In February 2011 Kerry Ingredients (UK) Ltd terminated their lease and paid a dilapidation settlement for accrued repairs.

Since 2011 then Council has spent part of the dilapidation receipt in rewiring the property and undertaking a limited refurbishment of the offices as part of marketing the property to let. There has been a single short letting to a haulage company which went into liquidation.

There has been limited interest in the leasing market place for the unit mainly due to size of the property, its condition and its configuration as two separate structures. To attract a tenant of financial strength prepared to commit to a lease for a minimum of five years, it will be necessary to spend in excess of £100,000 capital expenditure to extend the economic life of the property.

However, with continuing uncertainty in the rental market at this location for a property of this size and type, it is considered that the council's best interests would be served by selling the property and reinvesting the proceeds.

CURRENT POSITION

Accordingly, the property has been marketed for sale generating four notes of interest. A closing date was set for 1st July 2014. A single offer was received for £480,000. This offer was considered to be below market value. Following discussion with prospective purchaser a figure of £530,000 has provisionally been agreed.

The purchaser is the pension fund of Gordon Bow Plant Hire Ltd. Gordon Bow Plant Hire Limited is a highly successful local company established in 1981 specialising in the hire of plant machinery, structural engineering and blacksmith work. The business currently employs 140 staff.

It is understood that the pension fund are proposing to undertake a limited refurbishment of the front building and lease part of the property to a local company that has an expanding business in East Mains Industrial Estate which has outgrown their existing premises. This company has been identified by the council's Business Gateway Services as local company with good growth prospects.

The proposed terms of the sale are as follows: -

Purchaser – Gordon Bow Plant Hire Ltd SSAS

Subjects – 0.88Ha (2.174 acres) or thereby, at 18 Dunnet Way, Broxburn

Date of Entry – As soon as possible.

Purchase Price – £530,000

Use – Existing use as storage & distribution

Legal Expenses – each party to meet their own legal costs

Special Conditions

1. Council to repair and make safe electrical circuits damaged by outgoing tenant.
2. Council to provide a report on contamination of the site.

E. CONCLUSION

Given the physical condition of this property, the size of the property, its limited appeal in the leasing market and the risk of a holding this size presents to the TNRP, it is considered to be in the Council's best interest to sell 18 Dunnet Way in accordance with the recommendation contained in this report.

F. BACKGROUND REFERENCES

Report to Council Executive on 9 March 2011 - "A strategy for the council's non-operational property portfolio".

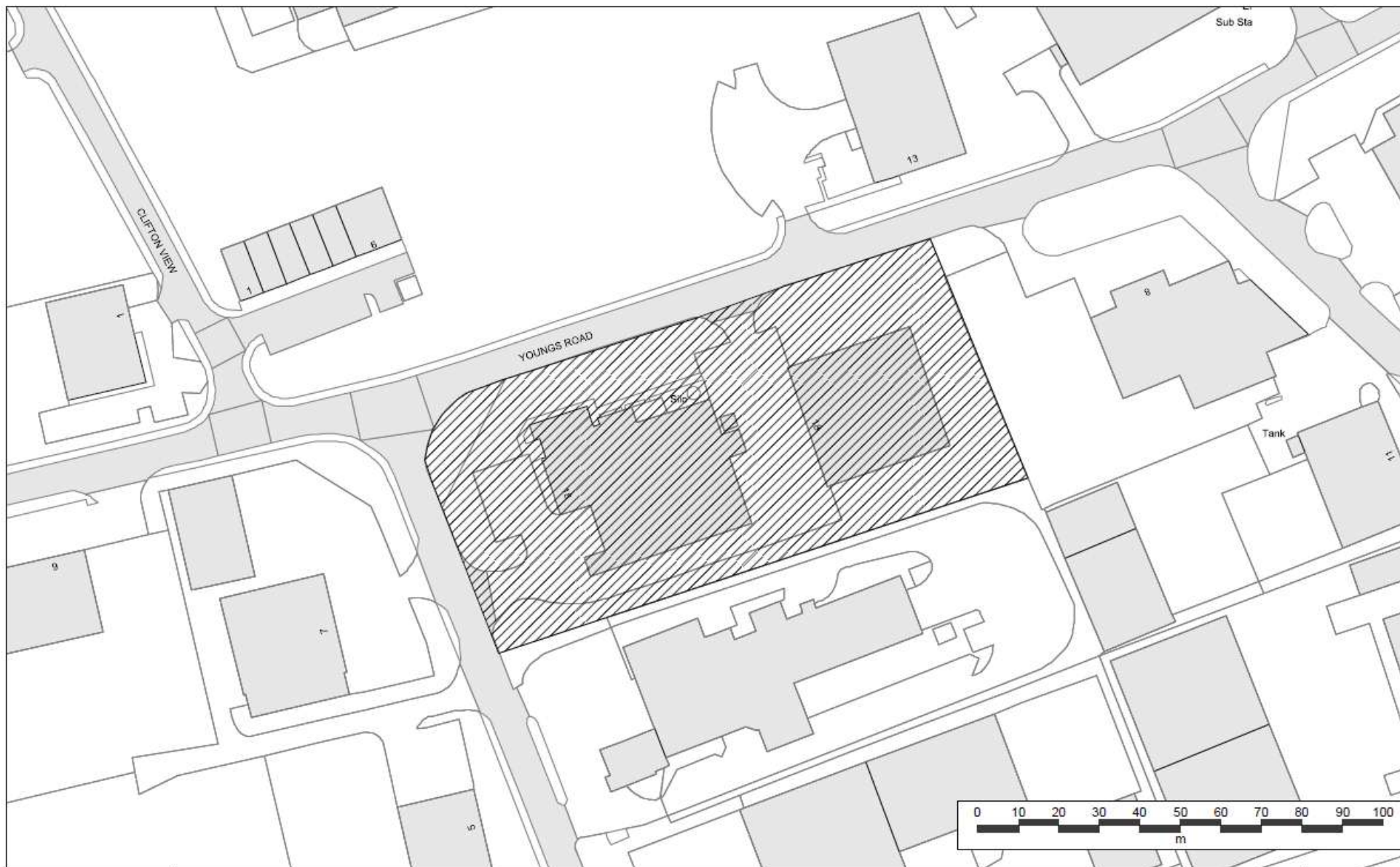
Appendices/Attachments: Location plan attached

Contact Person: Stephen Letch, Commercial Property Surveyor Telephone 01506 281122

Email: stephen.Letch@westlothian.gov.uk

Donald Forrest, Head of Finance and Estates

Date: 19 August 2014



18 Dunnet Way Broxburn

Property Management & Development, West Lothian Civic Centre, Livingston, EH54 6FF

29 July 2014

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COUNCIL EXECUTIVE

REVIEW OF ANTISOCIAL BEHAVIOUR NOISE REGIME

REPORT BY HEAD OF HOUSING CONSTRUCTION AND BUILDING SERVICES

A. PURPOSE OF REPORT

To provide the Council Executive with the proposed response to the Scottish Government's call for evidence to support a policy review of the noise regime under the Antisocial Behaviour (Scotland) Act 2004 Part 5.

B. RECOMMENDATION

It is recommended that the Council Executive approves the response to the Scottish Government on the Review of Antisocial Behaviour noise regime.

C. SUMMARY OF IMPLICATIONS

| | |
|---|--|
| I Council Values | Focusing on our customers' needs |
| | Being honest, open and accountable |
| | Making best use of our resources |
| | Working in partnership |
| | Providing equality of opportunity |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | To provide information about an existing policy and its operation. |
| | The Antisocial Behaviour etc. (Scotland) Act 2004 applies. |
| III Implications for Scheme of Delegations to Officers | None |
| IV Impact on performance and performance Indicators | There is no direct impact however this report is part of the agreed process for strategic performance reporting. |
| V Relevance to Single Outcome Agreement | This report will have a positive impact on the following SOA indicators; |
| | SOA09 – 014 – number of youth related antisocial behaviour calls identified by the Community Safety Unit. |

| | |
|--|--|
| | HQS080_9b.1a – Number of active antisocial cases |
| VI Resources - (Financial, Staffing and Property) | Scottish Government and Community Safety Funding. |
| VII Consideration at PDSP | None. |
| VIII Other consultations | West Lothian Council, Environmental Health & Trading Standards (Head of Service), Housing Construction & Building Services, Legal Services (Chief Solicitor), Safer Neighbourhood Team Officers, Out of Hours Noise Nuisance Officers, Community Councils, West Lothian Tenants Panel and Housing Network. |

D. TERMS OF REPORT

D1 Background

The Antisocial Behaviour etc. (Scotland) Act 2004 (the Act) provides that a person engages in antisocial behaviour if they act in a manner that causes or is likely to cause alarm or distress; or pursue a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household as them.

There is a Scottish Government call for evidence to support a policy review of the noise regime under Part 5 of the Act. The noise provisions which came into force in 2005, introduced a fixed penalty notice deterrent for domestic noise offences for any part of the day or night.

They were designed to be enabling and flexible, with each local authority deciding whether to adopt the noise provisions depending on their local circumstances.

Antisocial noise offences occur if the responsible person within a domestic dwelling does not abate a noise which has exceeded a set noise level as measured on an approved noise measuring device.

West Lothian Council created an Out of Hours Noise Nuisance Service in 2005, which provides a 7-night a week service between the key hours of 7pm – 4am.

D2 Review

When the regime was first introduced it was well received with Local Authorities finding that their noise problems could be resolved quickly.

Since it is ten years since the regime was introduced, the Scottish Government wishes to ensure that it remains relevant. The Scottish Household Survey results suggest that the number of people who are experiencing noisy neighbours and loud parties could be increasing.

This is one of the main reasons the regime is being reviewed with the objective of ensuring that the implementing regulations and guidance remain fit for purpose. The Scottish Government will require an evidence base for any changes that may be suggested.

D3 West Lothian Council Response

West Lothian Council officers have asked for responses from a number of partners and members of the public, in order to formulate the response to the Scottish Government.

The questions to this call for evidence are attached as Appendix 1. The proposed responses are listed in the Appendix 2.

The deadline for submission to the Scottish Government is 25 August 2014. Due to the summer recess, it has not been possible to submit the consultation response to the Services for the Community PDSP. The next Services for the Community PDSP is scheduled for 26 August 2014.

Officers have contacted the Scottish Government requesting an extension for the response to be submitted however, this has been declined. As such it has been necessary to present this paper to the Council Executive without consideration at the Services for the Community PDSP.

E. CONCLUSION

The Antisocial Behaviour Noise legislation came into force in 2005 to act as a deterrent for domestic noise for any part of the day or night. The Scottish Government has called for evidence to support a policy review of the noise regime.

The proposed response to the call for evidence outlines the council's position in relation to these proposals.

F. BACKGROUND REFERENCES - Antisocial Behaviour (Scotland) Act 2004 Part 5

Appendices/Attachments: 2

Appendix 1 - Call for Evidence – Review of Antisocial Behaviour Noise Regime

Appendix 2 – Proposed Response to Review of Antisocial Behaviour Noise Regime

Siobhan Mullen, Housing Construction & Building Services

Siobhan.mullen@westlothian.gov.uk

Alistair Shaw, Head of Housing, Construction and Building Services

Date: 19 August 2014.

Review of Antisocial Behaviour Noise Regime Call for Evidence

May 2014

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Summary

This is a Call for Evidence to support a policy review of the noise regime under the Antisocial Behaviour (Scotland) Act 2004 Part 5. The noise provisions which came into force on 2005 introduced a fixed penalty notice deterrent for domestic noise offences for any part of the day or night. They were designed to be enabling and flexible, with each local authority deciding whether to adopt the noise provisions depending on their local circumstances. An antisocial noise offence occurs if the responsible person within a domestic dwelling does not abate a noise which has exceeded a set noise level as measured on an approved noise measuring device, after a given period, on receiving a warning notice from a local authority officer or police officer.

The Antisocial Behaviour Noise provisions go beyond any scheme in the EC in terms of tackling domestic noise.

The regime is being reviewed with the objective of ensuring that the implementing regulations and guidance remain fit for purpose.

This Call for Evidence presents the key aspects of the regime, asks if they are still effective and if not what can be done to improve the measures. It also outlines the background to the regime when it was introduced in 2004, highlighting what the regime was aiming to provide and asking how effective it has been.

We welcome any comments and ideas you have on how well it is working along with suggestions for improvement. We will of course require an evidence base for any changes that may be suggested.

The Antisocial Behaviour (Scotland) Act 2004 applies to Scotland only. The Act itself covers other aspects of antisocial behaviour but this Call for Evidence only relates to part 5 although we are happy to consider evidence of how part 5 interacts with other sections such as part 2.

Details:

<http://www.legislation.gov.uk/asp/2004/8/contents>

Associated regulations:

- The Antisocial Behaviour (Noise Control) (Scotland) Regulations 2005 ([2005 No 43](#))

Guidance:

- Guidance on the noise aspects aimed primarily at Local Authorities at:
<http://www.scotland.gov.uk/Publications/2004/10/20151/45699>.

The Call for Evidence is open for twelve weeks from 19 May to 25 August 2014.

Responses should be sent by email to noise@scotland.gsi.gov.uk

The responses will be used to inform any changes to secondary legislation or to the guidance if appropriate. Any proposed changes will be subject to a separate public consultation.

Why Have this Call for Evidence now.

When the regime was first introduced it was well received and Local Authorities reported that it was working well. Many people were finding that for the first time their noise problems could be resolved quickly. Previously, addressing domestic noise problems could be time consuming and difficult. It is ten years since the regime was introduced and we wish to ensure that it is still fit for purpose.

The tables below taken from the Scottish Household Survey suggest that the number of people who are experiencing noisy neighbours and loud parties could be increasing. These are the main issues that the regime was designed to address.

It should be noted that this survey is about perception rather than complaints. The question asks “how common would you say the following things are in this neighbourhood?” (Table 1) and “Have you experienced noisy neighbours or regular loud parties?” (Table 2) rather than asking whether the respondent is bothered by the problem. In both cases however the trend for Scotland as a whole would appear to be upwards.

Table 1: Percentage of people saying noisy neighbours or regular loud parties are very/fairly common in their neighbourhood.

| Year | 99/00 | 01/02 | 03/04 | 05/06 | 07/08 | 09/10 | 2012 |
|--|-------|-------|-------|-------|-------|-------|------|
| Scotland | 8 | 8 | 8 | 8 | 10 | 10 | 12 |
| Source: Scottish Household Survey http://www.scotland.gov.uk/Publications/2013/08/6973/4#table4.4 | | | | | | | |

Table 2: Experience of noisy neighbours or regular loud parties.

| Year | 05/06 | 07/08 | 09/10 | 2012 |
|--|-------|-------|-------|------|
| Scotland | 7 | 9 | 9 | 10 |
| Source: Scottish Household Survey http://www.scotland.gov.uk/Publications/2013/08/6973 | | | | |

Audit Scotland figures show a sharp increase in the number of domestic noise complaints following the introduction of the regime, which was expected. A slight decline in the numbers between 2011 and 2013 may indicate the first signs of the numbers of complaints dropping or levelling off. See table 3 below:-

| Noise complaints received by Local Authorities in Scotland | | | | | | | | | | |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Year | | | | | | | | | | |
| 01/02 | 03/04 | 04/05 | 05/06 | 06/07 | 07/08 | 08/09 | 09/10 | 10/11 | 11/12 | 12/13 |
| Number | | | | | | | | | | |
| 9,165 | 10,323 | 11,537 | 28,217 | 45,070 | 46,976 | 49,666 | 55,207 | 55,886 | 52,290 | 43,997 |
| Source: Audit Scotland http://audit-scotland.gov.uk/performance/service/index.php?year=2012 | | | | | | | | | | |

It would be helpful if Local Authorities can help to identify reasons for these apparent discrepancies.

History and Purpose of the Antisocial Behaviour Noise Provisions

Part 5 of the Antisocial Behaviour etc. (Scotland) Act 2004 (ASBA) contains provisions in relation to domestic noise. It was intended to offer a swift, effective deterrent to the problem of antisocial noise and gave local authorities powers and funding to tackle the problems of night time noise in dwellings. Scottish Ministers wished to give Local Authorities the power to implement a noise nuisance service in their area, up to 24 hours a day, 7 days a week. The legislation, the guidance and the training was developed in partnership with Local Authorities and other related organisations including the Royal Environmental Health Institute for Scotland, in response to growing concerns about domestic noise problems.

The ASBA offence was intended as a further tool to complement, not replace, existing provisions for dealing with noise complaints e.g. Civic Government (Scotland) Act 1982, Environmental Protection Act 1990, Control of Pollution Act 1974, civil actions and the use of mediation services.

These provisions are contained within sections 41 to 54 of Part 5 of the Act. If an officer of the Local Authority considers that the noise being emitted from a dwelling exceeds, or may exceed, the relevant permitted noise level, as measured from a relevant place, the officer may issue a warning notice. Where that warning notice is not complied with, within the stated time period, the person responsible for the noise will have committed an offence. The officer may then issue a fixed penalty notice.

The permitted noise levels are determined by order from the Scottish Ministers - The Antisocial Behaviour (Noise Control) (Scotland) Regulations 2005. These regulations were based on a feasibility study to determine noise levels for enforcement purposes. [This report](#) identified the permitted levels appropriate for the different time of the day as follows:-

7 am to 7 pm in any day - 41 decibels, where the underlying level of noise does not exceed 31 decibels; or where the underlying level of noise exceeds 31 decibels, 10 decibels in excess of that underlying level of noise.

7 pm to 11 pm in any day - 37 decibels, where the underlying level of noise does not exceed 27 decibels; or where the underlying level of noise exceeds 27 decibels, 10 decibels in excess of that underlying level of noise.

11 pm on any day to 7 am in the following day - 31 decibels, where the underlying level of noise does not exceed 21 decibels; or where the underlying

level of noise exceeds 21 decibels, 10 decibels in excess of that underlying level of noise.

It was recognised that not all Local Authorities within Scotland will require the same level of service. Part 5 of the Act provides Local Authorities with the discretion to adopt a service, according to local needs, and to set the times and days over which such a service would operate. The service has been adopted by twenty five of Scotland's thirty two Local Authorities. Local Authorities who adopt the service are required to make a noise resolution explaining the details of the service they provide. Only one Local Authority to date has made a minor change to their resolution, indicating that Local Authorities are still providing a similar level of service as they did in 2004/05.

The offence was based on exceeding an objective measured sound level value ('the permitted level'). It has the advantage of not being subject to the same subjective uncertainties about judgements of nuisance which can prolong court proceedings for noise offences. The availability of a fixed penalty system, as well as providing a swifter sanction, was intended to prevent some cases being brought to court and to relieve pressure on the Police to respond to complaints of party noise.

While the ASBA does not define the type of noise to which the ASB noise offence might apply, technical aspects of measuring the complained of noise means that there may be difficulties in assessing some impulsive or sporadic noises e.g. slamming doors and isolated incidents of shouting. It was anticipated that the ASBA noise offence would be most appropriate for cases of disturbance from persistent noises e.g. amplified music or prolonged noisy DIY activity. Reports from Local Authority officers indicate that this has been the case in practice.

It was envisaged that to maximise efficiency in dealing with noise complaints Local Authorities would require effective routing of incoming complaints of domestic noise and would be required to streamline initial investigations so as to ensure that the most appropriate course of action is taken. The routing of complaints of domestic noise would require alignment with the local antisocial behaviour strategies required by Part 1 of the ASBA.

Early monitoring indicated that the regime was working well and the Police reported to Local Authorities that it helped to free up police time. More recently Local Authority officers at a forum event suggested that some of the early partnership arrangements between Local Authority departments and with the Police may not be working as well as they had been in the past. This may be causing difficulties in enforcement.

The Future of the ASBA Noise Regime

The policy objectives for this review are to:

1. Establish if the provisions are still working effectively.
2. Establish if the provisions are still meeting the original aims.
3. Address any issues.

Next Steps

Following the completion of this Call for Evidence exercise, the scope and ambition of the review will be assessed. Based on available evidence, consideration will be given to the future role of the Act and types of regulatory and non regulatory changes which best fulfil the policy objectives. Any proposed legislative changes will then be the subject of a public consultation. The Scottish Government intend to review the guidance on the provisions and we welcome suggestions as to how this can be improved.

About this Call for Evidence

The purpose of this Call for Evidence is to invite you to help us understand how the Act affects Local Authorities and communities and to contribute your views for future improvements.

We have asked a series of questions relating to how well the regime is working and seek your views on improvements. You can choose to answer all questions or questions relating only to specific points. Responses should be sent to noise@scotland.gsi.gov.uk using the respondent information form by 25 August 2014.

Evidence Gathering

A robust evidence base is an important input for the review of the regime to inform future policy development. When the regime was first introduced the Scottish Government collected information from Local Authorities which allowed us to see how the scheme was working. Information included:

- Number of complaints received monthly

- Number of complaints visited monthly
- Number of warning notices issued monthly
- Number of fixed penalty notices issued monthly
- Number of non-payments of fixed penalty notices and criminal proceedings occurring monthly
- Number fully resolved using only a verbal warning monthly
- Number fully resolved using mediation monthly
- Number of malicious complaints received monthly
- Number of occasions on which equipment seized monthly

We stopped requiring this information when the noise grant scheme was incorporated into the General Capital Grant. The returns indicated that the regime was well received by Local Authorities and the Police with Local Authorities reporting that the scheme was working as a swift, effective deterrent and for the first time noise sufferers had a swift resolution to their problem.

In 2007/8 42,665 complaints resulted in 4,781 verbal warnings, 2,835 warning notices, 191 fixed penalty notices and 24 equipment seizures across Scotland.

Many Local Authorities advertised their new service, some more proactively than others, and found that an increase in advertising always brought an increase in the number of complaints. In order to ensure that the new service was not swamped, Local Authorities had to be careful to get the level of advertising right.

The results of this Call for Evidence will be assessed to inform the scope of the review and allow better understanding of future antisocial behaviour noise requirements.

Stakeholders

This Call for Evidence is intended to help us gather information and views from organisations and individuals who directly work with or have obligations under the ASBA noise regime. We are particularly keen to hear from the following:

- All Local Authorities including environmental health officers, antisocial behaviour officers and housing officers.
- Housing Associations.
- All members of the public but in particular those who live in areas where the ASBA Noise Regime has been adopted.
- Police.

If you have any questions about this Call for Evidence please contact Linda Story on 0131 244 1521 email linda.story@scotland.gsi.gov.uk

Your Views

Responding Organisation

Review of Antisocial Behaviour Noise Regime

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Forename

2. Postal Address

| | | |
|----------------------|-------|-------|
| <input type="text"/> | | |
| <input type="text"/> | | |
| <input type="text"/> | | |
| <input type="text"/> | | |
| Postcode | Phone | Email |

3. Permissions - I am responding as...

Individual

/

Group/Organisation

☐

Please tick as appropriate

☐

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick ONE of the following boxes

Please tick as appropriate

☐ Yes ☐ No

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☐ Yes

☐ No

Issues

This section seeks to identify the main aims of the regime and explore whether they have been successful. We would require an evidence base to justify any proposed changes to each aspect covered.

1. Enabling and Flexible

The provisions were intended to be enabling and flexible with discretion for Local Authorities to adopt an ASBA noise service for what periods of day and week they wish, depending on resource and needs assessment. Local Authorities are required to make a resolution specifying:

(a) A date (being a date at least 2 months after the passing of the resolution) on and after which the noise control provisions are to have effect in the area of the authority (the “commencement date”); and:

(b) periods of the week during which noise is to be controlled by virtue of those provisions (each such period being a “noise control period”).

Q1.1 Do you think this flexible arrangement is still appropriate? If not what would you recommend?

Q1.2 Only one minor change to the Local Authority resolutions have been made since the scheme was introduced. This would imply that despite the current financial climate, Local Authorities are still providing the same level of noise service that they did in 2005/6. Do you agree? Should the system of resolutions be changed?

2. Complementary Powers

The provisions of the ASBA in relation to noise nuisance were intended to complement the existing provisions for dealing with noise complaints e.g. Civic Government Scotland Act 1982, Environmental Protection Act 1990, Control of Pollution Act 1974, civil actions and the use of mediation services.

Q2.1 Has the regime filled the necessary legislative gaps?

Q2.2 Do you have any further suggestions for improvements?

3. Alternative Quick Resolution

ASBA established a fixed penalty notice system for breach of permitted noise levels within domestic dwellings if a warning notice deterrent is ignored.

Q3.1 Is the system currently well understood and used by Local Authorities?

Q3.2 Does the warning notice system work and if not can you give an indication of the scale of the problem?

4. Powers

The legislation gives powers to Local Authority “authorised” officers and police officers to implement the regime.

Q4.1 Is there scope to extend the powers in the legislation to others such as registered social landlords? If so do you think there are enough checks and balances in the registration process to ensure that landlords are suitable candidates to enforce this regime?

Q4.2 Do you think there is a need to extend the powers available to Local Authority officers and if so can you justify such an extension?

5. Noise Levels and Periods

The time periods and corresponding permitted noise levels are defined as:

| | |
|---|--|
| 7 am to 7 pm in any day | 41 decibels, where the underlying level of noise does not exceed 31 decibels; or where the underlying level of noise exceeds 31 decibels, 10 decibels in excess of that underlying level of noise. |
| 7 pm to 11 pm in any day | 37 decibels, where the underlying level of noise does not exceed 27 decibels; or where the underlying level of noise exceeds 27 decibels, 10 decibels in excess of that underlying level of noise. |
| 11 pm on any day to 7 am in the following day | 31 decibels, where the underlying level of noise does not exceed 21 decibels; or where the underlying level of noise exceeds 21 decibels, 10 decibels in excess of that underlying level of noise |

Q5.1 Are these levels working in practice?

Q5.2 Are the levels the correct levels? If not, do you have any evidence or support for any changes?

6. Measurement Protocols

Noise levels are to be measured by Local Authority “authorised” officers on approved equipment as defined in The Antisocial Behaviour (Noise Control) (Scotland) Regulations 2005 ([2005 No 43](#))

Q6 Are these protocols still fit for purpose? If not, what needs to be changed?

7. Training

The Institute of Acoustics (IOA) and Royal Environmental Health Institute of Scotland (REHIS) provide accredited internal noise measurement training courses. The courses include:

- familiarisation with basic acoustic theory;
- a recognised minimum level of formal training into the use of dedicated sound level meters for indoor measurement;
- familiarisation with issues relating to sound insulation and potential legal remedies;
- safety training including how to deal with potential conflicts;
- serving of s.80 EPA abatement notices;
- training in ASBA provisions and procedures;
- training in the appropriate use of the Civic Government (Scotland) Act.

Q7.1 Do the training courses still provide adequate training for authorised officers?

Q7.2 Is there a need for more or fewer courses or top up training?

8. Guidance

The existing guidance was produced in October 2004 under the Scottish Executive.

Q8.1 Is the guidance still fit for purpose?

Q8.2 Do you have any suggestions for updating the guidance?

Q8.3 Do you have any other suggestions for improvements?

9. Any Other Comments You Have on this Call for Evidence.



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Appendix 2:

Response Template



Your Views

Responding Organisation

Review of Antisocial Behaviour Noise Regime

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

West Lothian Council

Title Mr ☐ Ms ☒ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Mullen

Forename

Siobhan

2. Postal Address

West Lothian Civic Centre

Howden South Road

Livingston

West Lothian

Postcode EH54 6FF

Phone 01506 - 280000

Email

Siobhan.mullen@westlothian.gov.uk

3. Permissions - I am responding as...

Individual

/

Group/Organisation

☐

Please tick as appropriate

☒

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☒ Yes ☐ No

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☒

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

Are you content for your **response** to be made available?

Please tick as appropriate

☒ **Yes** ☐ **No**

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ **Yes**

☐ **No**

Call for Evidence – Review of Antisocial Behaviour Noise Regime

1. Enabling & Flexible

Q1.1 Do you think this flexible arrangement is still appropriate? If not what would you recommend?

We feel that in general the flexible arrangement is appropriate, although we do recognise that this may lead to lack of consistency across Scotland. However we appreciate that authorities differ greatly in geography, population and demand for noise nuisance teams.

We feel that the Act itself generally works well and is effective in West Lothian, as we fully utilise the legislation and the council fund's a full 7 -night a week service. Our police colleagues also feel that the service has assisted them greatly in freeing them up to deal with crime. Our customer surveys consistently show that our public are more than happy with the service and the vast majority would use it again and again if required. We feel that there is no substitute for responding quickly to a complaint and dealing with it in person, face to face, with the customer and perpetrator.

Warning notices work the majority of the time, as do verbal warnings where appropriate. Seizure of equipment has worked well to stop further noise from particular cases. While we appreciate that the court system is under tremendous pressure, we would like to be more confident that the Procurator Fiscal 'chases' all unpaid Fixed Penalties on our behalf.

Q1.2 Only one minor change to the Local Authority resolutions have been made since the scheme was introduced. This would imply that despite the current financial climate, Local Authorities are still providing the same level of noise service that they did in 2005/6. Do you agree? Should the system of resolutions be changed?

Our service has remained unchanged since this time however we are of the understanding that some neighbouring authorities have reduced their level of service to meet financial pressures. We do not feel that the system of resolutions should be changed.

2. Complementary Powers

Q2.1 Has the regime filled the necessary legislative gaps?

Yes, we feel that the regime has filled the necessary legislative gaps.

Q2.2 Do you have any further suggestions for improvements?

We would like to raise the requirement to measure noise from a "habitable room". We would like consideration to be given to making it possible for officers to record the noise from any room within the house. At the moment, as the act requires measurement to be taken from a habitable room, e.g. bedroom or living room, we are unable to measure noise from rooms such as bathrooms or kitchens.

3. Alternative Quick Resolution

Q3.1 Is the system currently well understood and used by Local Authorities?

Yes we believe so.

Q3.2 Does the warning notice system work and if not can you give an indication of the scale of the problem?

Yes, the warning system is very effective and for the minority of individuals who do not heed it, the FPN & Seizure powers are effective, as noted above.

4. Powers

Q4.1 Is there scope to extend the powers in the legislation to others such as registered social landlords? If so do you think there are enough checks and balances in the registration process to ensure that landlords are suitable candidates to enforce this regime?

We do not feel that the powers should be extended to Registered Social Landlords (RSLs). We feel this could cause difficulty regarding who was dealing with the calls. Often the customer does not know the tenure of the neighbour so routing of the call would be difficult and there is also the risk of one person going to local authority and another to RSL about the same incident, and both taking action.

We think it is 'cleaner' to maintain the status quo. We also feel that some of the smaller RSLs struggle to deal with antisocial behaviour as it is and also do not operate outwith office hours generally, so require the assistance of Local Authority services who already operate Out of Hours. Therefore we feel that dealing with Part 5 of the 2004 Act is best left to the specialist teams already in place.

Q4.2 Do you think there is a need to extend the powers available to Local Authority officers and if so can you justify such an extension?

No, we feel that the powers available are sufficient.

5 Noise Levels and periods

Q5.1 Are these levels working in practice?

We have some concerns around the way in which, due to the changes in permitted noise levels, the process of issuing warning notices can be affected. There are 3 permitted noise levels throughout the 24-hour period. If a warning notice is served during the 19:00 – 23:00 noise control period, it will expire at 23:00 and if the noise continues a further notice would need to be served after 23:00. This is often problematic. When the service attends calls between 22:00 and 23:00, they are aware that by the time they serve a notice it will shortly expire. The service cannot wait until after 23:00 as this raises issues concerning surveillance and also there may be out-standing calls.

It should therefore be considered whether a warning notice that is served prior to 23:00 should still be enforceable after 23:00. It could be considered that a notice last for at least the whole of the period of the resolution we have adopted, or even several days, in the same manner that the Police Section 54 lasts over time. (S54 Civic Government (Scotland) Act 1982 - which allows a police officer in uniform to provide a warning for someone to stop 'making a noise' it comes with a power to use reasonable force to enter premises if necessary and remove the cause of the noise which would become a production in a court case).

Consideration should also be given to the requirement that an average noise reading is taken over a 5 minute period. The Act should consider the spikes in music, (or LAeq max as they are technically known), recorded during this period. For example if someone plays short bursts of really loud music for a few seconds at a time, this may not be enough to breach the permitted levels over a 5 minute period. However, if consideration was given to the maximum volume recorded during this period, it would make it easier to enforce any warning notices.

It would also be welcomed if the period of measurement were to be reduced or made more flexible. At the moment it is five minutes, but officers are fairly often faced with cases where the perpetrator blasts music out for a minute or two then goes silent, resulting in a skewed assessment of the severity. A shorter measurement period would alleviate this.

Q5.2 Are the levels the correct levels? If not, do you have any evidence or support for any changes?

We believe that the current levels are correct.

6 Measurement Protocols

Q6 Are these protocols still fit for purpose? If not, what needs to be changed?

We believe that the protocols are fit for purpose.

7 Training

Q7.1 Do the training courses still provide adequate training for authorised officers?

Yes however see below

Q7.2 Is there a need for more or fewer courses or top up training?

We feel that some form of refresher training for officers who have the Part 5 Noise Qualification would be beneficial, especially as there is a scientific element to the training.

8 Guidance

Q8.1 Is the guidance still fit for purpose?

Yes.

Q8.2 Do you have any suggestions for updating the guidance?

Please see section 5.1 above.

Q8.3 Do you have any other suggestions for improvements?

We feel that it would be of benefit for the Scottish Government to look at further professional qualifications for noise enforcement and ASB practitioners in general. It is our belief that there are currently there are no courses available in Scotland other than the noise proficiency course.



COUNCIL EXECUTIVE

UPDATE ON THE 1,000 NEW BUILD COUNCIL HOUSES PROGRAMME

REPORT BY HEAD OF HOUSING, CONSTRUCTION AND BUILDING SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to update Council Executive on the 1,000 New Build Council Houses Programme and to seek approval for changes in the approved programme.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Notes that a site start has been made at West Main Street, Broxburn;
2. Notes that the conversion of the property at 43 - 47 Adelaide Street, Livingston, to six flats will be completed in August 2014;
3. Notes that a planning application for planning permission in principle has been submitted for council housing at Deans South;
4. Notes that Lovell Partnership is the successful contractor for Lots 1 and 2;
5. Notes that tender returns for Lot 3 are due on 27 August 2014;
6. Notes the indicative timescale for progressing Lots 4 and 5 as set out in section D.5 of this report;
7. Notes that it has been necessary to reduce the number of units proposed at Lammermuir, Almond Link Road, Mill Road and Bathville Cross to meet anticipated planning requirements and that the number of units proposed at Eastfield, Deans South and Drumshoreland have been increased to help compensate;
8. Agrees that the sites at Mayfield and Philpstoun are moved from the reserve list to be included in the programme to compensate for the reduction in units on other sites;
9. Notes that there has been positive engagement with several of the home owners at Bathville Cross but there is a risk that some of the proposed new build units in this location may not be delivered and that there is a need to identify a fall back site if some of the units cannot be delivered;
10. Agrees that land at Glen Road, Deans is included as a provisional site in Lot 5 in case there is any difficulty in delivering the proposed new build at Bathville Cross;

and

11. Agrees that four additional sites are added to the reserve list of sites for the programme.

C. SUMMARY OF IMPLICATIONS

| | |
|---|---|
| I Council Values | <ul style="list-style-type: none">• Focusing on our customers' needs;• Being honest, open and accountable;• Providing equality of opportunity;• Making best use of our resources; and• Working in partnership. |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | <p>The policy of building new council houses is covered in the West Lothian Local Housing Strategy.</p> <p>Some of the sites proposed for new build council housing are allocated for residential development in the adopted West Lothian Local Plan. Specialist legal advice has been sought on the procurement process.</p> <p>Environmental and equality assessments will be carried out as appropriate.</p> |
| III Implications for Scheme of Delegation to Officers | None. |
| IV Impact on performance indicators | None. |
| V Relevance to Single Outcome Agreement | <p>Our economy is diverse and dynamic and West Lothian is an attractive place to do business.</p> <p>We live in resilient, cohesive and safe communities.</p> <p>We make the most efficient use of our resources by minimising our impacts on the built and natural environment.</p> |
| VI Resources - (Financial, Staffing and Property) | <p>The Housing Capital Programme 2013/14 to 2017/18 approved by West Lothian Council on 29 January 2013 approved £90 million for the New Build Council Housing Programme.</p> <p>Taking account of Government Grant and other sources of funding, a total budget of £102.451m has been identified.</p> <p>Land to the value of £8.396m will be transferred from General Services to HRA to support the new build programme.</p> |

| | |
|----------------------------------|---|
| VII Consideration at PDSP | The Services for the Community PDSP considered reports on the new build programme on 7 February 2012, 17 June 2013, 8 April 2014 and 20 May 2014. |
| VIII Other consultations | Planning & Economic Development, Finance and Estates, Legal Services |

D. TERMS OF REPORT

D.1 Background

The council's Corporate Plan 2013 to 2017 commits the council to increasing the number of council houses available for rent through the New Build Council Housing Programme.

Council Executive approved an initial list of eight sites on 26 February 2013 with potential to accommodate 603 houses.

On 25 June 2013, Council Executive approved a further list of 14 sites capable of accommodating 371 houses.

On 15 April 2014, Council Executive approved a revised list of sites for the new build programme capable of accommodating 1,000 houses.

On 19 June 2014, Council Executive approved additional sites for the reserve list.

The full list of approved and reserve sites is attached as Appendix 1.

D.2 Progress on site

A site start has been made at West Main Street, Broxburn (18 units). This site is due for completion in June 2015.

A site start was made on the conversion of an existing property at 43-47 Adelaide Street to six flats in April 2014. The flats are due for completion by the end of August 2014.

D.3 Lots 1 & 2

Lot 1 comprises sites in Bathgate, Pumpherston and Blackburn. In total, 195 houses are proposed across the three sites. The successful contractor for this Lot is Lovell Partnerships. A planning application has been submitted for the Pumpherston site. Planning applications for Wester Inch and Redhouse are expected to be submitted before the end of August.

Lot 2 is a large site at Kirkhill, Broxburn. The successful contractor for this Lot is Lovell Partnership. The contractor is currently undertaking a number of detailed studies needed to support a planning application for the site.

D.4 Lots 3

Lot 3 is currently out to tender and tender returns are due on 27 August 2014. It has been necessary to reduce the site capacity at Lammermuir to 70 units and at Almond Link Road to 20 units to meet anticipated planning requirements. To help compensate, the number of units at Eastfield has been increased to 36. As a result of these changes, the total number of units for Lot 3 is reduced by 8 and the shortfall will be made up in future Lots.

The list of sites in Lot 3 and the capacity of each site is listed below:

- Nelson Park, Armadale (26 units)
- Lammermuir House, Livingston (70 units)
- Almond Link Road, Livingston (20 units)
- Glasgow Road, Bathgate (10 units)
- Eastfield, Fauldhouse (36 units)

D.5 Lots 4 and 5

The timescale for progressing Lots 4 and 5 is as follows:

| Lot | Invitation to tender | Submission of tenders |
|------------|-----------------------------|------------------------------|
| 4 | 4 August 2014 | 5 November 2014 |
| 5 | 8 September 2014 | 10 December 2014. |

The sites for Lot 4 are:

- Winchburgh CDA (41 units)
- Drumshoreland, Pumpherston (90 units)
- Deans South (42 units)
- Auldhill (5 units)
- Mill Road, Linlithgow Bridge (15 units)

It has been necessary to reduce the number of units at Mill Road to meet anticipated planning requirements. To partly address the shortfall, the number of units at Drumshoreland has been increased from 82 to 90 and the units at Deans South increased from 40 to 42.

In Lot 5, it has been necessary to reduce the number of units proposed at the Trim Track site from 45 to 40 to meet anticipated planning requirements. To address the shortfalls in the programme, it is proposed to bring forward the Mayfield site (Armadale) and the Philpstoun site (5 units) from the reserve list and include them in Lot 5. This will ensure that 1,000 new build homes continue to be included in the programme.

The proposed sites for Lot 5 are:

- Almondvale Stadium, Livingston (40 units)
- Trim Track, Livingston (40 units)
- Almondell (36 units)
- Raw Holdings, East Calder (17 units)
- Appleton Parkway, Livingston (10 units)
- Mayfield (22 units)
- Philpstoun Bowling Green (5 units)

D.6 Former Winchburgh Day Centre

The conversion of the former Winchburgh Day Centre to eight houses is being progressed outwith the new build Framework Agreement and will not therefore be included in any of the Lots. Construction Services are progressing the design for the project.

D.7 Bathville Cross, Armadale

The erection of new build flats at Bathville Cross, Armadale is approved as part of the new build programme but is outwith the Framework Agreement and will not be included in any of the Lots. Construction Services has begun to progress the design. In addition to the new build, the existing blocks are to be refurbished as part of the Housing Capital Programme.

The scope of the project has recently been reviewed and it is necessary to reduce the number of new build units from 21 to 18 in order to achieve a satisfactory layout.

The Bathville Cross project comprises five phases with phases 2 – 5 involving new build (see Appendix 3). Five existing home owners and their lenders will be required to agree to title changes to allow 15 of the 18 new build units at Bathville Cross to progress. Further details of the Bathville Cross Project are contained in Table 1 below:

Table 1

| Phase | Address | Flats | Owners | New Build | Demolitions | Owners agreed in principle |
|-------|------------------------|-------|--------|-----------|-------------|----------------------------|
| 1 | 1-10 Mayfield Court | 10 | 0 | 0 | 0 | N/A |
| 2 | 138 – 160 South Street | 12 | 0 | 3 | 0 | N/A |
| 3 | 176-186 South Street | 6 | 1 | 3 | 0 | 1 |
| 4 | 143-161 South Street | 10 | 2 | 3 | 0 | 2 |
| 5 | 1-27 Station Road | 14 | 2 | 9 | 4 | 1 |
| Total | | 52 | 5 | 18 | 4 | 4 |

Four of the five owners have indicated that they would be prepared to agree to their title deeds being changed to allow the new build proposals to progress. Discussions with the fifth owner have not yet progressed. Until the necessary changes to title deeds are concluded, there are parts of this project which are at risk of not being delivered and for this reason there is a need to identify a fall back position.

To provide some flexibility if there is difficulty delivering new build units at Bathville Cross, it is proposed that a site at Glen Road, Deans is included as a provisional site in Lot 5. This site has capacity for up to 20 houses.

D.8 Updated list of sites

Appendix 2 sets out the updated list of sites for the new build programme. A summary of the changes is provided below:

| | |
|------------------------------|------------|
| Lammermuir, Livingston | - 10 units |
| Mill Road, Linlithgow Bridge | - 15 units |
| Bathville Cross, Armadale | - 3 units |
| Trim Track, Livingston | - 5 units |
| Almond Link Road | - 10 units |
| Eastfield, Fauldhouse | + 6 units |
| Drumshoreland, Pumpherston | + 8 units |
| Deans South | + 2 units |
| Mayfield, Armadale | + 22 units |
| Philpstown Bowling Green | +5 units |

As a result of the proposed changes, the number of sites in the programme will increase from 23 to 25.

Given that there has been a need to bring forward some sites from the reserve list into the new build programme over recent months, it is recommended that the following additional sites are added to the reserve list:

Little Boghead, Bathgate (20 units)
Kirkton North 10B (part), Livingston (12 units)
Former Swimming Pool site, Mid Street, Bathgate (6 units)
Drumshoreland North (65 units)

This will widen the choice of sites that can be considered as potential substitute sites if some parts of the programme cannot progress for any reason. Plans of the additional reserve sites are provided in Appendix 4.

D.9 Funding

The financial model for the programme continues to be updated to reflect changed circumstances. At this stage, the programme remains affordable.

E. CONCLUSION

The changes set out in this report will enable the council to meet the 1,000 new build programme, with all wards continuing to be represented in the programme. The timescales for procurement and delivery of the new build programme remain challenging.

F. BACKGROUND REFERENCES

New Build Council Housing Programme – Council Executive report 25 June 2013.

New Build Council Housing Programme – Council Executive report 26 February 2013

New Build Council Housing Programme – Services for the Community PDSP 17 June 2013

Funding for Phase 3 of Council new build houses for rent – Services for the

Community PDSP report 7 February 2012

2014/15 to 2017/18 General Services Capital Programme update

New Build Council Housing Programme – Services for the Community PDSP report 8 April 2014

New Build Council Housing Programme – Council Executive Report 15 April 2014

New Build Council Housing Programme – Services for the Community PDSP report 20 May 2014

New Build Council Housing Programme – Council Executive 19 June 2014

Appendices/Attachments: Four

Contact Person: Colin Miller, Housing Strategy and Development Manager, 01506 281379

Email: colin.miller@westlothian.gov.uk

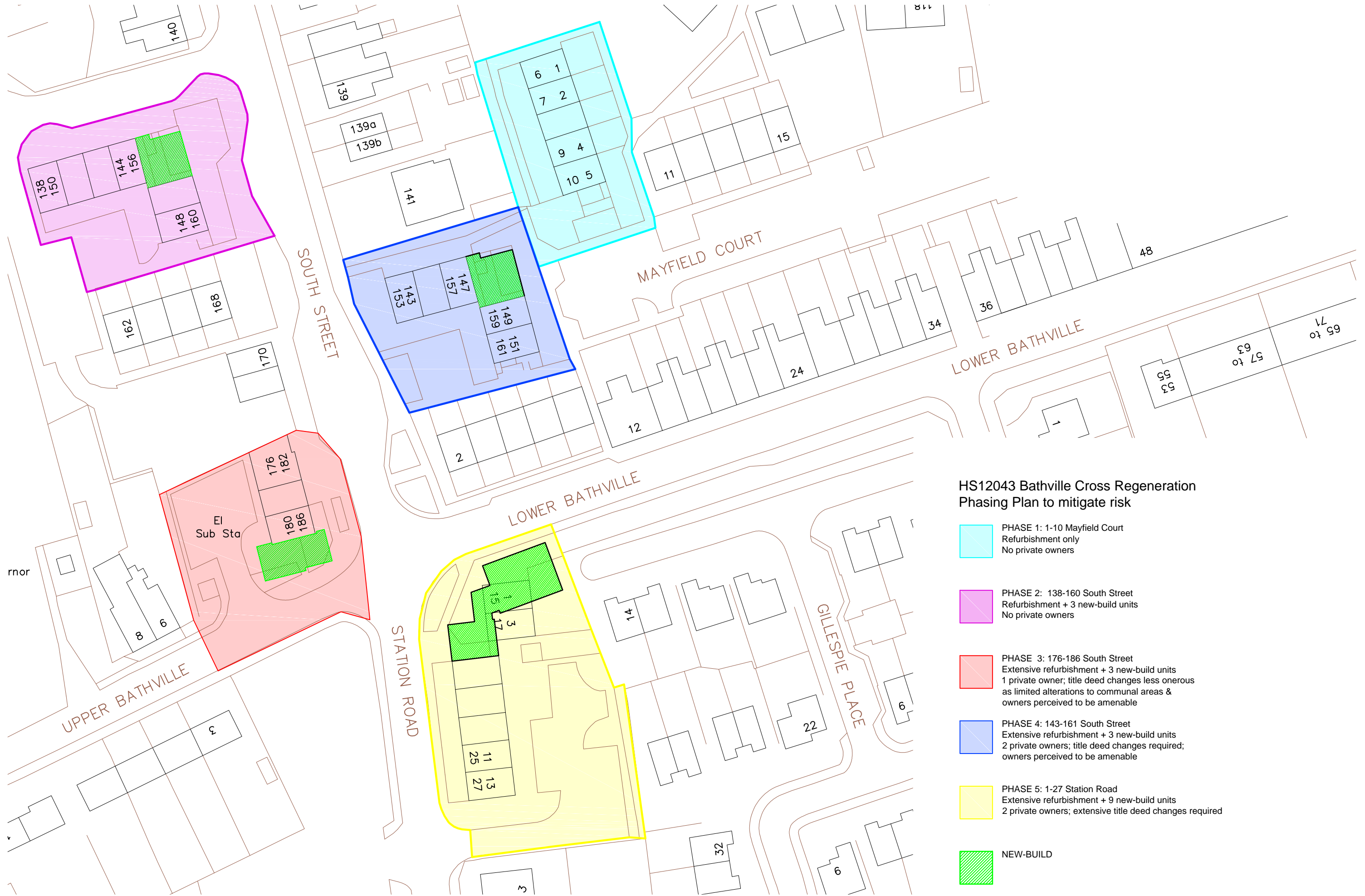
Alistair Shaw

Head of Housing, Construction and Building Services

19 August 2014

| List of new build sites – June 2014 | | | Appendix 1 |
|---|------------------|------------|------------|
| | Account | No. houses | Lot |
| 1. Wester Inch | General Services | 80 | 1 |
| 2. Redhouse West | General Services | 100 | 1 |
| 3. Former School & Institute site, Pumpherston | General Services | 15 | 1 |
| 4. Kirkhill | HRA | 230 | 2 |
| 5. Former Lammermuir House | General Services | 80 | 3 |
| 6. Eastfield, Fauldhouse | General Services | 30 | 3 |
| 7. Nelson Park, Armadale | HRA | 26 | 3 |
| 8. Glasgow Road (Windyknowe), Bathgate | HRA | 10 | 3 |
| 9. Almond Link Road (Civic Centre Junction), Livingston | General Services | 30 | 3 |
| 10. Winchburgh CDA | Developer | 41 | 4 |
| 11. Drumshoreland, Pumpherston | General Services | 82 | 4 |
| 12. Mill Road, Linlithgow Bridge | General Services | 30 | 4 |
| 13. Deans South, Livingston | HRA/Private/RSL | 40 | 4 |
| 14. Auldhill, Bridgend | HRA | 5 | 4 |
| 15. Almondell (Calderwood CDA), East Calder | Developer | 36 | 5 |
| 16. Raw Holdings (Walker Group), East Calder | Developer | 17 | 5 |
| 17. Almondvale Stadium (Sites A & B), Livingston | General Services | 40 | 5 |
| 18. Appleton Parkway, Eliburn | Developer | 10 | 5 |
| 19. Trim Track, Almondvale, Livingston | General Services | 45 | 5 |
| 20. West Main Street (Old School site), Broxburn | General Services | 18 | N/A |
| 21. Bathville Cross, Armadale | HRA | 21 | N/A |
| 22. Adelaide Street, Livingston | HRA | 6 | N/A |
| 23. Former Day Centre, Winchburgh | General Services | 8 | N/A |
| Total | | 1,000 | |
| Reserve sites | | | |
| 1. Community Centre, Bathgate | General Services | 6 | |
| 2. Glen Road, Deans, Livingston | General Services | 20 | |
| 3. Rear of new Deans House, Livingston | General Services | 10 | |
| 4. Armadale CDA | Developer | 40 | |
| 5. Philpstoun Bowling Green | General Services | 5 | |
| 6. Deans South, Livingston | HRA/Private/RSL | 64 - 200 | |
| 7. Mayfield | General Services | 25 | |
| 8. Former Woodmuir Primary School | General Services | 8 | |
| 9. Redcroft Place, Bents | HRA | 5 | |
| 10. Meadow Place, Bents | HRA | 10 | |
| 11. Burnlea Place, Bents | HRA | 5 | |
| Total | | 198 - 334 | |

| List of new build sites – August 2014 | Account | No. houses | Appendix 2 Lot |
|---|------------------|---------------|--------------------------|
| 1. Wester Inch | General Services | 80 | 1 |
| 2. Redhouse West | General Services | 100 | 1 |
| 3. Former School & Institute site, Pumpherston | General Services | 15 | 1 |
| 4. Kirkhill | HRA | 230 | 2 |
| 5. Former Lammermuir House | General Services | 70 | 3 |
| 6. Eastfield, Fauldhouse | General Services | 36 | 3 |
| 7. Nelson Park, Armadale | HRA | 26 | 3 |
| 8. Glasgow Road (Windyknowe), Bathgate | HRA | 10 | 3 |
| 9. Almond Link Road (Civic Centre Junction), Livingston | General Services | 20 | 3 |
| 10. Winchburgh CDA | Developer | 41 | 4 |
| 11. Drumshoreland, Pumpherston | General Services | 90 | 4 |
| 12. Mill Road, Linlithgow Bridge | General Services | 15 | 4 |
| 13. Deans South, Livingston | HRA/Private/RSL | 42 | 4 |
| 14. Auldhill, Bridgend | HRA | 5 | 4 |
| 15. Almondell (Calderwood CDA), East Calder | Developer | 36 | 5 |
| 16. Raw Holdings (Walker Group), East Calder | Developer | 17 | 5 |
| 17. Almondvale Stadium (Sites A & B), Livingston | General Services | 40 | 5 |
| 18. Appleton Parkway, Eliburn | Developer | 10 | 5 |
| 19. Trim Track, Almondvale, Livingston | General Services | 40 | 5 |
| 20. Mayfield, Armadale | General Services | 22 | 5 |
| 21. Philpstoun Bowling Green | General Services | 5 | 5 |
| 22. West Main Street (Old School site), Broxburn | General Services | 18 | N/A |
| 23. Bathville Cross, Armadale | HRA | 18 | N/A |
| 24. Adelaide Street, Livingston | HRA | 6 | N/A |
| 25. Former Day Centre, Winchburgh | General Services | 8 | N/A |
| Total | | 1,000 | |
| Reserve sites | | | |
| 1. Community Centre, Bathgate | General Services | 6 | |
| 2. Glen Road, Deans, Livingston | General Services | 20 | |
| 3. Rear of new Deans House, Livingston | General Services | 10 | |
| 4. Armadale CDA | Developer | 30 | |
| 5. Deans South, Livingston | HRA/Private/RSL | 25 | |
| 6. Former Woodmuir Primary School | General Services | 8 | |
| 7. Redcroft Place, Bents | HRA | 5 | |
| 8. Meadow Place, Bents | HRA | 10 | |
| 9. Burnlea Place, Bents | HRA | 5 | |
| 10. Little Boghead, Bathgate | HRA | 20 | |
| 11. Former Swimming Pool site, Mid Street, Bathgate | General Services | 6 | |
| 12. Kirkton North 10B (part), Livingston | General Services | 12 | |
| 13. Drumshoreland North | General Services | 65 | |
| Total | | 222 | |



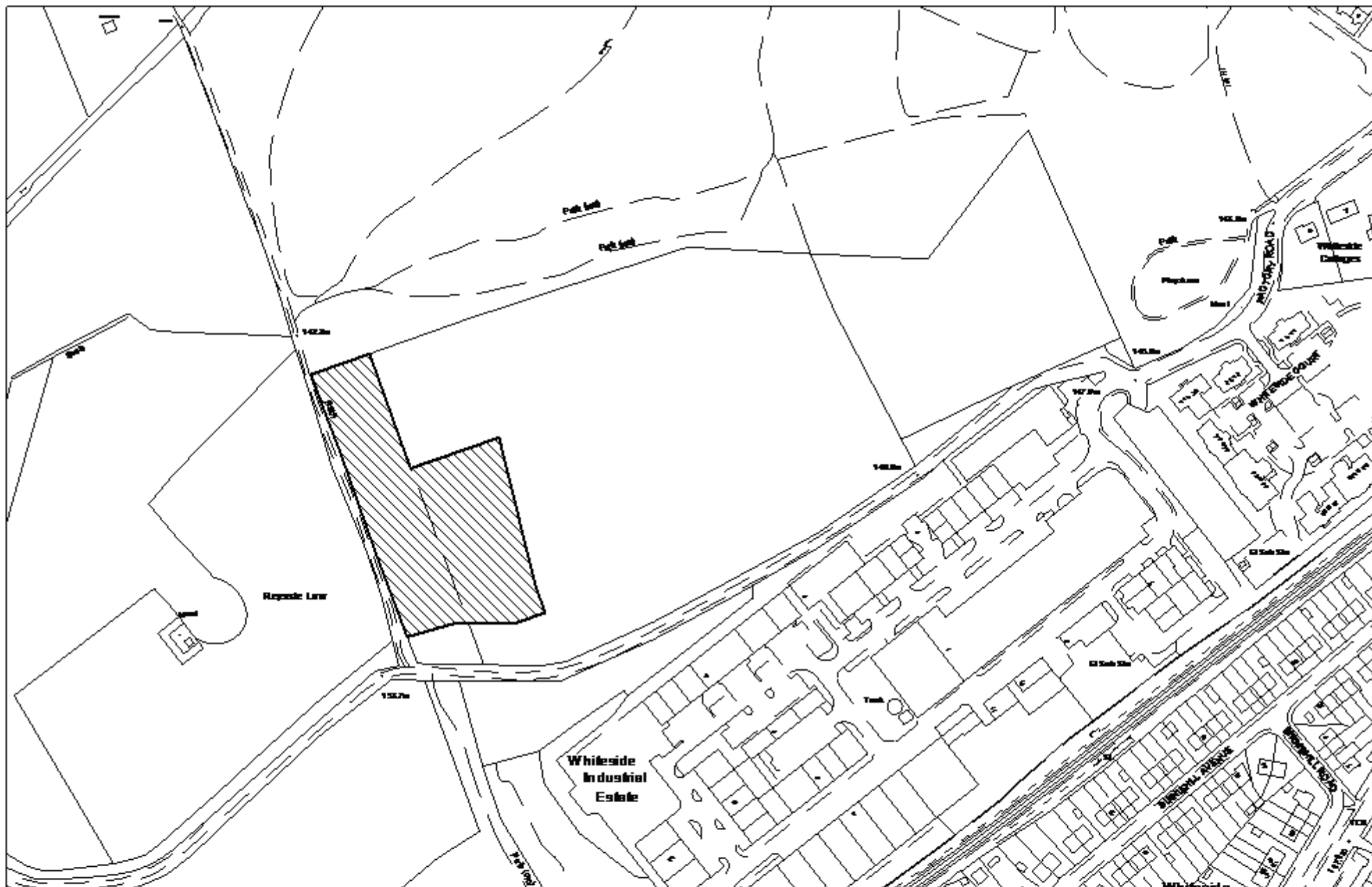
Appendix 4 – Additional Reserve Sites



Little Boghead , Bathgate (20 units)

Kirkton North 10B, Livingston (12 units)

Former Swimming Pool, Mid Street, Bathgate (6 units)

Drumshoreland North (65 units)



| | | | |
|---|---|---|---|
|  | <p>Little boghead, Bathgate</p> <p>Property Management & Development, Civic Centre, Livingston, West Lothian, EH54 6FF.</p> | <p>1:2500</p> <p>3:14 PM 31/07/2014</p> |  |
|---|---|---|---|

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| | | | |
|---|---|---|---|
|  | <p>Deans South, Additional Phase</p> <p>Property Management & Development, Civic Centre, Livingston, West Lothian, EH54 6FF.</p> | <p>1:2500</p> <p>3:20 PM 31/07/2014</p> |  |
|---|---|---|---|

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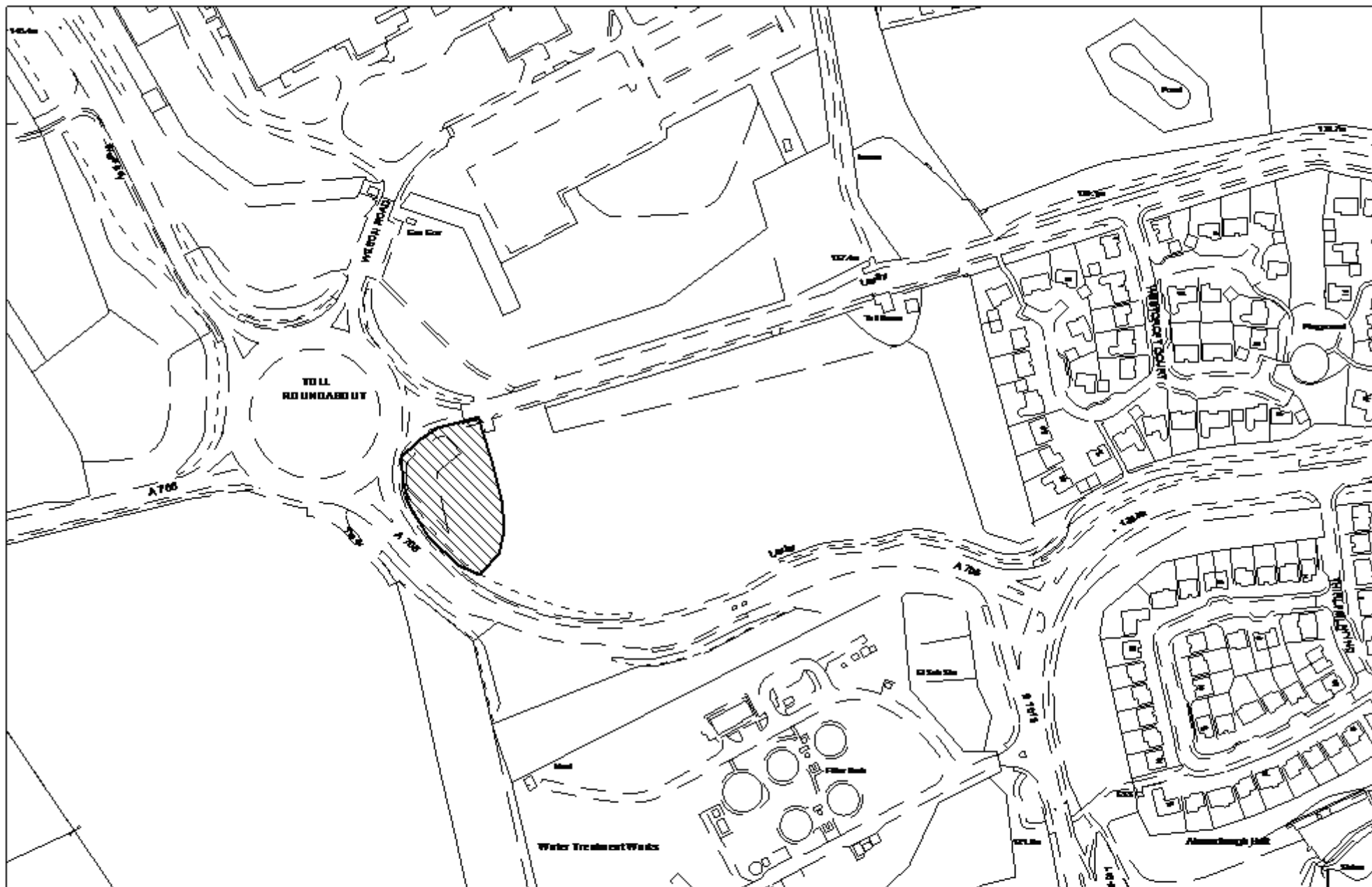
West Lothian Council. All rights reserved.





| | | | |
|---|---|--|---|
|  | Additional Drumshoreland Land Properly Management & Development, Civic Centre, Livingston, West Lothian, EH54 6FF. | 1:2500 3:31 PM 31/07/2014 |  |
|---|---|--|---|

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| | | | |
|---|---|-------------------------------------|---|
|  | Kirkton North, Affordable Housing Plot Property Management & Development, Civic Centre, Livingston, West Lothian, EH54 6FF. | 1:2500 3:39 PM 31/07/2014 |  |
|---|---|-------------------------------------|---|

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COUNCIL EXECUTIVE

RESPONSE TO CONSULTATION ON PROPOSALS TO REFORM FATAL ACCIDENT INQUIRY LEGISLATION

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To invite the Council Executive to consider the response to the Consultation on Proposals to Reform Fatal Accident Inquiries Legislation.

B. RECOMMENDATION

It is recommended that the Council Executive approves the response set out in appendix 1, for submission to the Scottish Government

C. SUMMARY OF IMPLICATIONS

| | |
|---|--|
| I Council Values | <ul style="list-style-type: none">• focusing on our customers' needs;• being honest, open and accountable |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | The Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 |
| III Implications for Scheme of Delegations to Officers | None |
| IV Impact on performance and performance Indicators | None |
| V Relevance to Single Outcome Agreement | None |
| VI Resources - (Financial, Staffing and Property) | There are potential financial and staffing implications should legislative changes be introduced following consultation |
| VII Consideration at PDSP | Considered at Partnership & Resources PDSP on 1 August 2014 and recommended that the proposed response be considered by Council Executive for approval. No amendments to the proposed response were suggested. |

D. TERMS OF REPORT

In 2008 a Consultation Paper – The Review of Fatal Accident Inquiry Legislation - was released by the Scottish Government. West Lothian Council submitted a response to that Consultation. In 2009, The Scottish Government released a report on that consultation.

In 2009, Lord Cullen carried out a full review of the legislative framework relative to Fatal Accident Inquiries, and released a report in respect of his findings. The report made recommendations affecting the existing legislative framework and how Fatal Accident Inquiries were dealt with by agencies such as the Scottish Court Service, The Crown Office and Procurator Fiscal Service. The Scottish Government published a response to Lord Cullen's review in March 2011. The Scottish Government is now consulting upon the recommendations made by Lord Cullen, with a view to modernising the way in which fatal accident inquiries are conducted and managed in Scotland. This includes proposals to implement new legislation to govern Fatal Accident Inquiries and update the existing legislative framework contained within the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

The consultation focusses specifically upon building on recommendations implemented by the Crown Office to make the system more efficient, extending the categories of death in which it is mandatory to hold a fatal accident inquiry, obliging those to whom Sheriffs direct recommendations at the conclusion of the inquiry to respond to the Sheriff about compliance, permitting discretionary FAIs into deaths of Scots abroad where the body is repatriated to Scotland and options for holding FAIs in alternative accommodation out-with sheriff courts.

The Council is not often represented at FAIs, but was recently represented in an inquiry following a fatal road incident. As a result, the Council has recent, relevant experience of the current framework for fatal accident inquiries, allowing reflection on the process and informing consideration of improvements which could be introduced. This is reflected in the proposed responses contained within Appendix 1.

The impact upon the Council should an amended or new legislative framework be introduced, will be limited. The Council has limited involvement in fatal accident inquiries but will benefit from improvements introduced following consultation, should the Cullen recommendations be implemented.

The Partnership and Resources PDSP considered the report and proposed response on 1 August 2014. The PDSP agreed that the report and proposed response should be considered at Council Executive for approval and submission to the Scottish Government. The Partnership and Resources PDSP did not suggest any amendments to the proposed response.

E. CONCLUSION

The Scottish Government is seeking the views of West Lothian Council on the proposals to reform the legislative framework relating to Fatal Accident Inquiries. There are issues of relevance to the Council in this consultation. Council Executive is invited to consider the response to the consultation and to approve the proposed response attached at Appendix 1 for submission to the Scottish Government.

F. BACKGROUND REFERENCES

1. Consultation on Proposals to Reform Fatal Accident Inquiries Legislation, Scottish Government: <http://www.scotland.gov.uk/Publications/2014/07/6772>
2. Review of Fatal Accident Inquiry Legislation, The Report, author Rt Hon Lord Cullen of Whitekirk KT: <http://www.scotland.gov.uk/Publications/2009/11/02113726/0>**Error! Bookmark not defined.**

Appendices/Attachments:

Appendix 1: Draft response to the Consultation

Contact Person: Caroline Kubala, Solicitor, Litigation Team, West Lothian Council, 01506 283190, caroline.kubala@westlothian.gov.uk

Julie Whitelaw

Head of Corporate Services

Date of meeting: 19 August 2014

CONSULTATION ON PROPOSALS TO REFORM FATAL ACCIDENT INQUIRIES LEGISLATION



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. This consultation closes on Tuesday 9 September 2014.

1. Name/Organisation

Organisation Name

West Lothian Council

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ *Please tick as appropriate*

Surname

Forename

2. Postal Address

Legal Services

West Lothian Council, West Lothian Civic Centre

Howden South Road

Livingston

Postcode EH54 6FF

Phone

Email

3. Permissions - I am responding as...

Individual

☐

/ Group/Organisation

Please tick as appropriate

☒

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate X Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

X Yes

☐ No

CONSULTATION QUESTIONNAIRE

Mandatory categories of FAIs

Question 1:

Do you think that the current mandatory provision for work-related deaths is sufficient?

Yes X No ☐

Question 2:

Do you agree that a death which occurs when a person is 'arrested or detained by police' should be subject to a mandatory FAI?

Yes X No ☐

Question 3:

Should the death of a child in 'secure care' be subject to a mandatory FAI?

Yes No X

There ought to be mandatory investigation although it is not clear that FAI is the appropriate forum. The process can be unnecessarily distressing and formal for the family and relatives of the child or young person, and delays in progress of the FAI arising from eg Court timetabling can adversely impact upon progress. An alternative may be to consider the appointment of a judicial reporting or investigating officer following notification of death in terms of the Looked After Children (Scotland) Regulations 2009, in terms of which the Local Authority must notify the Scottish Ministers and Social Care and Social Work Improvement Scotland following death of a child or young person

Question 4:

Do you agree that any other categories of residential childcare, which are not defined as 'secure care', should not result in a mandatory FAI?

Yes X No ☐

Consideration could be given to implementing procedures similar to that suggested in the previous answer.

Question 5a:

Do you think the aim of an independent investigation into the death of a person subject to compulsory detention by a public authority, that retains the traditional role of the Lord Advocate, should be met by an investigation by the procurator fiscal and exercise of the Lord Advocate's discretion on completion of that investigation?

Yes ☐ No ☒

Please see comment below.

Or

Question 5b:

Alternatively, do you think the option of a case review by a public authority such as the Mental Welfare Commission could be combined with a discretionary power to hold an FAI?

Yes ☒ No ☐

A case review by a public authority such as the Mental Welfare Commission alongside the discretionary power to hold an FAI should provide a higher level of scrutiny to such cases, and would potentially do more to ensure that improvements are made.

Question 6:

What impact do you think that the proposals in relation to the mandatory categories of FAIs will have on you, your organisation or community?

If the deaths of children in secure care were to be included in the mandatory category then it is possible that West Lothian Council and parents of the child or young person looked after by it will be represented in more FAIs.

Deaths abroad

Question 7:

Should the Lord Advocate have discretion to hold an FAI into the death of a person domiciled in Scotland who dies abroad where the body is repatriated to Scotland?

Yes ☒ No ☐

Question 7a:

If you answered 'yes' to question 7, should the criteria to consider include:

(i) Whether there had been circumstances which called for investigation

Yes ☐ No ☐

(ii) Whether there had been a satisfactory investigation (in the country where the death took place) Yes ☐ No ☐

(iii) Whether there was a prospect of an FAI yielding significant findings Yes ☐ No ☐

Question 7b:

If you answered 'no' to any of the criteria in question 7a, please provide reasons for your answer

West Lothian Council has no comments on this issue.

Question 8:

What impact do you think this proposal will have on your, your organisation or community?

Very little impact – the authority is rarely engaged in such proceedings and is unlikely to require to be represented

Delays

Question 9:

Do you agree with Lord Cullen's view that "it is plainly not practical or realistic to make it mandatory that an FAI must open within a certain period of the date of the death of the deceased... because of the diversity and potential complexity of the cases" which may mean that an incident is not properly investigated?

Yes X No ☐

The respondent agrees that it is not in the public interest to make it mandatory that an FAI must open within a certain period of time. Whilst it is desirable that matters are dealt with as quickly as possible, a variety of factors can mitigate against progress within a set timescale. It is necessary that the process should not take an unreasonable period of time, but it is considered that direction and guidance could be issued by the Scottish Government which would assist in mitigating undue delay

Question 10:

Do you agree that preliminary hearings should be held to help speed up the process of FAIs?

Yes X No ☐

Yes, Preliminary hearings would assist in focussing parties and issues/scope and remit for consideration at FAI

Question 11:

Will having pre-hearing meetings of experts speed up FAIs?

Yes ☒ No ☐

Potentially this will assist in focussing issues for consideration and determination by FAI

Question 12:

Will hearing some business in sheriffs' chambers help speed up FAIs?

Yes ☒ No ☐

Potentially this could assist in speeding FAIs up as allocation of Chambers hearings is often simpler than finding available court time within the Courts diary

Question 13:

Do you agree the proposal of permitting the submission of statements to the sheriff in advance of the FAI?

Yes ☒ No ☐

This may allow issues to be focussed and allow for restriction the scope of discussions at FAI to those matters which require detailed exploration

Question 14:

Should the sheriff principal be able to transfer the case to a different sheriffdom (area) if this is thought appropriate and if it may speed up the holding of the FAI?

Yes ☒ No ☐

Yes, where this would achieve convenient and expeditious progress of the FAI

Question 15:

What impact do you think that the proposals to speed up FAIs will have on you, your organisation or community?

West Lothian Council does not have an active role in FAIs very often, therefore moves made to speed up FAIs are likely to have little immediate impact although the Council will benefit from positive changes to the process when it does have occasion to participate

Fatal Accident Inquiry accommodation

Question 16:

Do you agree with the proposal that the majority of FAIs should be dealt with in ad hoc locations, but FAIs which relate to deaths in rural or remote areas should still be dealt with in local sheriff courts?

Yes ☒ No ☐

FAIs ought to be held in the most convenient location having regard to the participants. In some areas that will be the Sheriff Court but need not necessarily be

Question 17:

Do you think that all FAIs in Scotland should be held in three bespoke, dedicated centres?

Yes ☐ No ☒

No, as this would potentially result in inconvenience to the participants. Consideration should be given to the option of having dedicated FAI facilities within wider integrated justice centres, and existing facilities

Question 18:

What impact do you think that the use of FAI centres, or taking FAIs out of sheriff courts, will have on those attending FAIs?

West Lothian Council has no comments on this issue.

Sheriffs' recommendations

Question 19:

Should it be mandatory for all FAI determinations, subject to redaction, to appear on the SCS website and be fully searchable?

Yes ☒ No ☐

Question 20:

Do you think that sheriffs should instruct the dissemination of their recommendations (if any) to the parties to whom they are addressed and any appropriate regulatory bodies?

Yes ☒ No ☐

This would be helpful in advancing change in the public interest

Question 21:

Do you agree that parties to whom sheriffs' recommendations are addressed should be obliged to respond to the sheriff who presided over the FAI indicating what action had been taken? This would be on the basis that those parties would not be obliged to comply with the sheriff's recommendations, but if they have not complied they would be obliged to explain why not.

Yes ☒ No ☐

This is important to ensure accountability and ensure credibility and scrutiny of FAI recommendations and permit monitoring of recommendations which could inform practice and legislative development

Question 22:

What impact do you think that the proposals regarding sheriffs' recommendations will have on you, your organisation or community?

Impact will depend upon the nature and extent of recommendations made. It is conceivable that there could be financial and policy considerations

Legal aid for bereaved relatives

Question 23:

Do you agree that the existing arrangements for legal aid for bereaved families at FAIs should remain?

Yes ☒ No ☐

This is important to ensure access to judicial proceedings for those who have a legitimate need to participate and be represented although robust assessment criterion are essential to ensure that representation is necessary for the purposes of ensuring a full inquiry

Question 23a:

If you answered 'no' to question 23, in what ways would you change the arrangements for legal aid for bereaved families?

West Lothian Council has no comments on this question.

Question 24:

What impact do you think this proposal will have on you, your organisation or community?

There should be no discernable impact provided that there is merit in representation on behalf of the bereaved families for the purposes of the

End of Questionnaire

EQUALITY IMPACT ASSESSMENT

The purpose of carrying out an Equality Impact Assessment is to aid the Scottish Government in discharging its Public Sector Equality Duty under section 149 of the Equality Act 2010. The Scottish Government is required to assess the impact of applying a new or revised policy or practice against the needs in the public sector equality duty - to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations.

The protected characteristics that must be profiled against the policies are:

- Age
- Sex
- Pregnancy and maternity
- Disability
- Race
- Religion or belief
- Gender Reassignment
- Sexual Orientation

To help inform our Equality Impact Assessment of the policy proposals to reform FAI legislation, it would be helpful if you could answer the following question.

Please tell us about any potential impacts, either positive or negative, you feel any or all of the proposals in this consultation may have on a particular group or groups of people.

Developments in the legislative framework will benefit all participants in FAI proceedings and ensure robust, open and transparency of process and outcomes. Consideration in relation to publication of FAI reports and recommendations, in addition to monitoring of recommendation implementation/reasons for failure to implement recommendations, will support informed development of practice and policy.



COUNCIL EXECUTIVE

CLOSURE OF ROYAL BANK BRANCHES

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To advise the Executive of plans announced by the Royal Bank of Scotland (RBS) to close two branches in West Lothian.

B. RECOMMENDATIONS

It is recommended that the Executive -

1. Notes the details of the proposed branch closures.
2. Considers Council's response to the proposals.

C. SUMMARY OF IMPLICATIONS

| | | |
|-------|---|------------------|
| I. | Council Values | None |
| II. | Policy and Legal | None |
| III. | Implications for Scheme of Delegation to Officers | None |
| IV. | Impact on performance and performance indicators | None |
| V. | Relevance to Single Outcome Agreement | None |
| VI. | Resources – (Financial, Staffing and Property) | None |
| VII. | Consideration at PDSP | Not at this time |
| VIII. | Other consultations | Ongoing |

D. TERMS OF REPORT

D.1 Background

In April 2014, RBS announced plans to close up to 100 branches across the UK. The bank cited a decrease in the volume of transactions in branches as customers made more use of on-line banking.

Branch closures in the City of Edinburgh have also been announced. In East Lothian, two branches closed at the end of June this year.

On 6th August, RBS announced plans to close two branches in West Lothian, Armadale and Fauldhouse. In addition, the branch in Harthill will also close. .

D.2 Implications for West Lothian

RBS currently has eight branches in West Lothian employing over 90 staff.

The Armadale branch currently employs nine staff; the Fauldhouse branch employs a similar number. Both branches will close on the 4th November this year.

To date, branch closures have been followed by the use of mobile banks together with basic banking offered at local post offices.

E. CONCLUSION

It is recommended that the Executive considers their response to the planned branch closures.

F. BACKGROUND REFERENCES

Nil

Appendices/Attachments: None.

Contact Person: Jim Henderson, Business Development Manager, 01506 283084

Craig McCorriston, Head of Planning & Economic Development, 01506 282443

Date: 19 August 2014



COUNCIL EXECUTIVE

COUNCILLORS' CODE OF CONDUCT - ANNUAL REVIEW 2013/14

REPORT BY CHIEF LEGAL OFFICER

A. PURPOSE OF REPORT

To fulfil the requirement of the council's Code of Corporate Governance which requires an annual review of the operation of the Code, and to maintain awareness of the provisions of the Councillors' Code of Conduct in order to promote high standards of conduct.

B. RECOMMENDATION

To note the report.

C. SUMMARY OF IMPLICATIONS

| | | |
|-------------|--|---|
| I | Council Values | Being honest, open and accountable |
| II | Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | In terms of the Ethical Standards in Public Life (Scotland) Act 2000 (the 2000 Act), the council is under a duty to promote observance by councillors of high standards and to assist councillors to observe the Code |
| III | Implications for Scheme of Delegations to Officers | None |
| IV | Impact on performance and performance Indicators | None |
| V | Relevance to Single Outcome Agreement | None |
| VI | Resources - (Financial, Staffing and Property) | Within existing resources |
| VII | Consideration at PDSP | Partnership and Resources PDSP on 1 August 2014 |
| VIII | Other consultations | Chief Executive, Head of Corporate Services, Committee Services Manager and Corporate |

D. TERMS OF REPORT

1. Background

Under the 2000 Act, the council has a duty to promote observance by councillors of high standards of conduct and to assist councillors to observe the Code.

The council's Code of Corporate Governance, audited by the external auditor, requires an annual training session for councillors to be held, and an annual report to the council on the operation of the Councillors' Code of Conduct.

2. Training

A training session for members of the West Lothian Licensing Board was held on 5 November 2013. One of the main purposes of the session was to explain the application of the Councillors' Code of Conduct to regulatory bodies such as the Board, and how members of such bodies are required by law to act differently from when they are members of other types of body such as policy forums, eg the council's Council Executive, or when they are carrying out their representative role. In particular, the session covered the requirements of the Code in relation to declaring interests at meetings of the Licensing Board and how to manage situations where members are approached or lobbied by applicants or objectors.

The annual training session for councillors for 2013/14 was held on 26 November 2013. 14 councillors attended the session in whole or in part, and 16 officers. The format followed the previous years' style of training sessions by dealing with key areas of the Code through an analysis of recent decisions of the Standards Commission and the Commissioner for Ethical Standards in Public Life in Scotland (the Commissioner). The key areas covered were:-

- the Commissioner's annual report for 2012/13 providing an overview of the complaints and breaches of the Code found across Scotland, and the following conclusions he drew from them –
 - councillors had generally applied high standards of conduct in undertaking their official duties
 - but local authorities must continue, actively and as a priority, to promote high ethical standards as part of their arrangements for corporate governance
- the key issues arising from decisions of the Standards Commission and the Commissioner identified as –
 - time limit on submitting complaints
 - registration of interests
 - declaration of interests
 - use of council facilities
 - breach of confidentiality, and
 - the scope of the Code.

Officers will continue to be invited to attend the annual briefing session as part of the council's duties to promote the Code.

Council officers' awareness of the Code is also addressed through regular and frequent training sessions given by the Committee Services Manager through the HR Learning & Development programme on working in a political environment and with councillors. Those sessions cover the separate Codes of Conduct for elected members and council officers and the relationships involved, as well as the Multi-Member Ward Protocols.

On a very small number of occasions during the year, there arose some differences of approach to the Code's requirements as to when elected members appearing at Development Management Committee as ward members were required to leave the meeting. The same issue may arise in a smaller number of instances at the West Lothian Planning Committee and at the Licensing Committee as well. Advice will be made available to members through a wider training session in the coming year to ensure a clear and uniform approach.

In February 2014 the Scottish Government, in conjunction with the Commissioner and COSLA, issued a document called "Guidance on the Role of Councillors in Pre-Application Procedures". It applies to the involvement of elected members in the procedures required of developers before lodging certain applications for planning permission. The Code refers to elected members being permitted in certain restricted circumstances to express an opinion in advance of the statutory application for planning permission being submitted for determination. It recommends that councils should consider and develop their own pre-application procedures, and it is proposed to bring forward recommendations to PDSP and Council Executive after the summer recess. Advice will thereafter be made available to members through a wider training session in the coming year.

3. Register of Members' Interests including acceptance of Gifts & Hospitality

In accordance with guidance from the Standards Commission, six monthly reminders were issued to members on 3 June and 27 November 2013 to enable them to check their entries on the council's web site and to keep their entries up to date. However, it is the duty of each councillor to intimate to the Chief Legal Officer any change in their entries in the Register of Interests, including receipt of any gifts and hospitality, within one month of any change taking place.

The six monthly reminders also asked if members wished further training in any aspect of the Code. No issues were raised.

4. Protocol for dealing with Complaints against Councillors

As a result of the council's consideration of the council's Local Code of Corporate Governance for 2012/13, a formal procedure for dealing with complaints made to the Chief Executive against members has been developed.

5. Commissioner for Ethical Standards in Public Life in Scotland

From 1 July 2013 the Commission for Ethical Standards in Public Life in Scotland and its two existing members — the Commissioner for Public Appointments and the Public Standards Commissioner — were restructured to establish one new office of the Commissioner for Ethical Standards in Public Life in Scotland (the Commissioner).

Complaints alleging breaches of the Code were previously investigated by the Public Standards Commissioner. They are now submitted to the newly constituted Commissioner who investigates these complaints to determine whether, in his view, there has been a breach of the Councillors' Code of Conduct.

If the Commissioner finds that there has not been a contravention of the Councillors' Code, the matter ends there and summaries of the more interesting reports are posted on his web site.

If the Commissioner concludes that there has been a breach of the Code, he reports accordingly to the Standards Commission which then decides whether to hold a hearing.

The Commissioner's investigations are required under the 2000 Act to be conducted on a confidential basis, which means that no information can be given on any current investigations by the Commissioner. The Standards Commission's hearings are conducted in public.

6. Operation of the Code in West Lothian

(1) Numbers of Complaints to Commissioner in 2004/05 to 2013/14

Since the Code came into operation in May 2003, there has been a total of 40 cases of complaint made to the Commissioner against West Lothian councillors. The breakdown is:-

Table 1: Number of complaints to PSC in West Lothian

| | |
|--------------|-----------|
| 2004/05 | 4 |
| 2005/06 | 6 |
| 2006/07 | 4 |
| 2007/08 | 1 |
| 2008/09 | 7 |
| 2009/10 | 6 |
| 2010/11 | 1 |
| 2011/12 | 2 |
| 2012/13 | 6 |
| 2013/14 | 3 |
| Total | 40 |

Table 1 shows that there were three complaints made to the Commissioner in 2013/14, a decrease of one in the yearly average of four.

(2) Subject Matters covered by Complaints to Commissioner in 2004/05 to 2013/14

The subject matters covered in all complaints since the start of the Code are: -

Table 2: Subjects covered by all complaints to Commissioner in West Lothian

| | |
|--|-----------|
| Conduct in the Chamber | 10 |
| Payment of allowances | 1 |
| Key principles generally | 9 |
| Principles of leadership & accountability | 2 |
| Principle of respect regarding employee of other public body | 1 |
| Dealing with planning applications/declarations of interest | 10 |
| Use of council facilities (circular letters to constituents or personal use) | 3 |
| Declaring financial interests/withdrawal from meeting | 2 |
| Lobbying on planning applications | 1 |
| Other (matters not relevant to Code) | 1 |
| Total | 40 |

Of these 40 cases since the start of the Code in 2003, only two have resulted in the Commissioner or his predecessor finding a breach of the Code. Those two cases were reported to the Standards Commission which decided that in the particular circumstances of both cases, it was not in the public interest to hold a hearing.

(3) Analysis of Complaints to Commissioner in 2013/14

An analysis of the three cases dealt with by the Commissioner in 2013/14 is –

Table 3: Breakdown of Commissioner cases in West Lothian in 2013/14

| Subject Matter | No. | Complainer | PSC's Decision |
|--|-----|------------------------------------|----------------|
| Dealing with planning application/declaration of interests | 2 | 1 Member of public 1 Councillor | Not upheld |
| Conduct at meeting | 1 | Councillors | Not upheld |

Tables 2 and 3 above show that dealing with planning applications/declarations of interest and conduct at meetings continue to be the most common grounds of complaint and will remain key areas for councillors exercising care in such circumstances to ensure compliance with the Code.

(4) Number of Complaints to the Council from 2011/12 to 2013/14

Prior to 2011/12, complaints made to the council about the conduct of councillors were rare. Any such complaints are made to the Chief Executive who appoints an officer to investigate, usually the Monitoring Officer or his Depute. Since 2011, 14 complaints have been received by the council. A breakdown is as follows –

Table 4: Number of complaints to council

| | |
|--------------|-----------|
| 2011/12 | 4 |
| 2012/13 | 6 |
| 2013/14 | 4 |
| Total | 14 |

In 2013/14, four such complaints were received, a decrease of two over the previous year. An analysis of these four cases is -

Table 5: Breakdown of complaints to council in 2013/14

| Subject Matter | No. | Complainer | Decision |
|---------------------------|-----|------------------|------------|
| Key principle of respect | 1 | Member of public | Not upheld |
| Use of council facilities | 1 | Member of public | Not upheld |
| Use of council facilities | 1 | Councillor | Not upheld |
| Conduct at meetings | 1 | Member of public | Not upheld |

In none of these cases was a breach of the Code found. One of the complaints was a repeat of a complaint not upheld in 2011/12.

7. Key Issues arising from Complaints in 2013/14

A number of issues have been highlighted in the cases dealt with in 2013/14. The key ones where particular care needs to continue to be exercised to avoid breaching the Code are -

- Identifying the need to declare both financial and non-financial interests at council meetings, not just when considering planning applications, and, more importantly, in determining the need to withdraw from the meeting. Early advice from officers should be sought before such meetings;
- When discussing issues at council meetings, robust political debate is acceptable but must not become personally abusive, offensive or intimidating;
- Ensuring that council facilities of any kind are not used for party political or campaigning purposes, and only for incidental personal use in accordance with council policy; and
- Avoiding disrespectful or aggressive behaviour when dealing with members of the public.

8. Annual Reports of Standards Commission and Commissioner for 2013/14

The annual reports of the Standards Commission and the Commissioner for 2012/13 are the latest ones available. Statistical information from these annual reports was presented to members at the training session on 26 November 2013. It included information on the national trends in numbers and grounds of complaint.

The annual reports of the Standards Commission and Commissioner for 2013/14 are expected later this year and information from them will be presented to members once they have been received.

9. Consideration by Partnership and Resources PDSP -

The Partnership and Resources Policy Development and Scrutiny Panel, in noting this report at its meeting on 1 August 2014, agreed that it be forwarded to the Council Executive for information.

E. CONCLUSION

Regular training on aspects of the Code of Conduct has been provided to councillors during 2013/14, and this will continue in 2014/15.

The council has experienced 40 complaints submitted to the Commissioner since the start of the Code of Conduct in 2003, averaging four each year. Over that period, only two cases have resulted in a finding of a breach of the Code by the Commissioner. In 2013/14, three complaints were submitted to the Commissioner, one less than the yearly average of four. None of those three complaints found a breach of the Code. Four complaints were received by the council in 2013/14, a decrease of two over the previous year. None of those four complaints found a breach of the Code.

The council continues to demonstrate that high standards of conduct are being maintained. To assist in maintaining such standards of conduct in future, more

briefing sessions for members will be arranged where necessary in order to continue to promote observance of the Code and assist members to observe the Code.

More advice on how to comply with the Code is available from the Chief Executive, Chief Legal Officer/Monitoring Officer, Head of Corporate Services, and the Committee Services Manager.

F. BACKGROUND REFERENCES

Councillors' Code of Conduct containing the Standards Commission's guidance on the Code, available at

http://www.standardscommissionscotland.org.uk/webfm_send/279

Presentations to councillors by Chief Legal Officer/Monitoring Officer on 5 and 26 November 2013

Presentations to councillors and officers by Committee Services Manager

Guidance on the Role of Councillors in Pre-Application Procedures issued by Scottish Government and Convention of Scottish Local Authorities

dated February 2014, available at -

<http://www.scotland.gov.uk/Resource/0044/00444959.pdf>

Annual report for 2012/13 by the Standards Commission for Scotland, available at http://www.standardscommissionscotland.org.uk/webfm_send/327

Annual report for 2012/13 by the Commissioner for Ethical Standards in Public Life in Scotland, available at – <http://www.ethicalstandards.org.uk/site/uploads/publications/fa16805ce89802135fe9847cf7bfd1f6.pdf>

Reports and decisions of the Commissioner for Ethical Standards in Public Life in Scotland available at

<http://www.publicstandardscommissioner.org.uk/decisions/>

Minute of meeting of the Council Executive of 4 June 2013

Appendices/Attachments: None

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Gordon Blair

Chief Legal Officer/Monitoring Officer

Date of meeting: 19 August 2014