

MINUTE of MEETING of the PARTNERSHIP AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL of WEST LoTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LoTHIAN CIVIC CENTRE, LIVINGSTON, on 1 AUGUST 2014.

Present – Councillors John McGinty (Chair), Cathy Muldoon, Martyn Day, Peter Johnston, Angela Moohan, George Paul

In Attendance – John Cochrane (Senior People's Forum), Robin Lever (WL Association of Community Councils) and Jim Gallagher (Voluntary Sector Gateway).

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTE

The Partnership and Resources Policy Development and Scrutiny Panel approved the minute of its meeting held on 6 June 2014. The minute was then signed by the Chair.

Matter Arising – Workplan

Referring to the decision recorded at page 182, the Chair apologised that the current Workplan had not been updated to include the additional item of business as agreed at the previous meeting. He advised that an updated Workplan would be presented to the next meeting.

3. PRESENTATION ON TREASURY MANAGEMENT BY HEAD OF FINANCE AND ESTATES

Donald Forrest (Head of Finance and Estates) and Lynda Ferguson (Group Accountant) had been invited to provide the Panel with an overview of Treasury Management.

Lynda provided a definition of Treasury Management as undernoted:-

- Management of cash flow, banking, money and capital market activities.
- Effective control of risk associated with these activities.
- Pursuit of optimum performance associated with those risks.
- Treasury strategy needed to be considered in tandem with revenue and capital strategy.

Lynda then informed the Panel that outstanding borrowing at 31 March 2014 was £489.4 million and that investments at 31 March 2014 totalled

£114.4 million. The ratio of financing costs to income stream at 31st March 2014 was 7.3% for General Fund, and 20.8% for Housing.

The presentation included information on Governance Arrangements, Prudential Code, Treasury Management Reporting, Audit Scotland Borrowing and Treasury Management in Councils Audit, and Treasury Management and Reporting and Training in 2014/15.

In relation to the Audit Scotland audit, the Panel noted that this was a Scottish wide audit focussing on affordability and sustainability of borrowing decisions and governance arrangements. It was anticipated that the report on the audit would be published in December 2014.

In closing, the Group Accountant informed the Panel that West Lothian Council had robust treasury arrangement policies and procedures and that effective treasury management had facilitated significant investment in the council's assets improving condition, suitability and accessibility.

Finally, the Chair thanked the Group Accountant for her informative presentation.

Decision

To note the presentation providing an update on Treasury Management.

4. COUNCILLORS' CODE OF CONDUCT - ANNUAL REVIEW 2013/14

A report had been circulated by the Chief Legal Officer advising that, under the Code of Corporate Governance, the council was required to review the operation of the Code annually, and to maintain awareness of the provisions of the Councillors' Code of Conduct in order to promote high standards of conduct.

The Chief Legal Officer advised that a training session for members of the West Lothian Licensing Board had been held on 5 November 2013. The annual training sessions for councillors for 2013/14 had been held on 26 November 2013. 14 councillors had 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 Panel noted that, since the Code came into operation in 2003, there had been a total of 40 cases of complaint made to the Commissioner against West Lothian councillors. The report provided an analysis of the subject matters covered in all complaints since the start of the Code.

The Chief Legal Officer concluded that the council had 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 had resulted in a finding of a breach of the Code by the Commissioner. In 2013/14, three complaints had been submitted to the

Commissioner, one less than the yearly average of four. Four complaints had been received by the council in 2013/14, a decrease of two over the previous year. None of those four complaints had found a breach of the Code.

The Chief Legal Officer concluded that the council continued to demonstrate that high standards of conduct were being maintained. To assist in maintaining such standards of conduct in future, more briefing sessions for members would 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 was available from the Chief Executive, Chief Legal Officer/Monitoring Officer, Head of Corporate Services, and the Committee Services Manager.

The Panel was asked to note the content of the report.

A question was raised concerning the nature of the “breach of confidentiality” referred to on page 2 of the report. In response, the Chief Legal Officer undertook to provide Panel members with details of the particular cases(s) investigated by the Standards Commission.

The Chief Legal Officer also advised that the circumstances concerning breaches of confidentiality which he had read about in the Commissioner’s decided cases related to the release of information in confidential council reports, but they also dealt with other confidential information.

Decision

1. To note the terms of the report.
2. To agree that the report be forwarded to Council Executive for consideration.

5. WEST LOTHIAN DEVELOPMENT TRUST REVIEW - PROGRESS REPORT

A report had been circulated by the Head of Area Services updating the Panel on the progress made to date on implementation of the recommendations of the review of West Lothian Development Trust (WLDT).

The Panel was informed that in June 2006, the Council had agreed a framework for engaging with developers on the community benefit potentially associated with wind farms and other developments. The adopted policy required that any community benefit received from wind farms should be distributed within 10 km of the development (70% within 5 km and the remaining 30% within 10 km). It had been agreed that a Trust would distribute all community benefit payments. The Trust representation comprised a third of representatives from the council, a third from the local communities and up to a third from developers.

WLDT had been established in December 2007 and, since then, WLDT had been distributing community benefit from Pateshill and Blacklaw wind farm in line with the wind farm community benefit policy.

The report went on to advise that, in June 2012 WLDT had commissioned an external consultant to carry out a review of the Trust. This was to determine if the current legal structure was still fit for purpose and to ensure that the Trust had the capacity to take on additional and potentially more complex negotiations and community benefit packages in future. The council had provided £10,000 funding for the review and the contract had been awarded to The Pool.

The report provided details of the scope of the review. The recommendations arising from the review were set out in the report.

Changes that had been implemented since the Trust Review were:-

Transparency: Financial reporting procedures had been agreed. A summary of activity to date was now available on the WLDT page of West Lothian Council website and annual accounts would be produced. Also now available to view on the webpage were the Trust Review report and the WLDT Deed of Trust.

Publicity: Guidance application forms were available on the webpage and a yearly schedule of application deadlines was also available.

Board/Structure Changes: (a) a three year fixed term of office had been introduced for trustees, (b) It had been agreed that the Chair would serve a two year term and then be re-elected, (c) The Trust had decided that an AGM would be introduced, commencing in September 2014. A new Chair would be elected at this time.

There were a number of points that had been agreed but not yet implemented, and these were outlined in the report.

The Head of Area Services concluded that the long term strategic direction of the Trust would be reconsidered if the Trust income significantly increased in the future.

It was recommended that the Panel note the actions taken to implement the review recommendations, in particular those which had improved the transparency of the trust and the changes that had been made to trustees' terms of office.

Decision

To note the terms of the report.

6. RESPONSE TO CONSULTATION ON PROPOSALS TO REFORM FATAL ACCIDENT INQUIRY LEGISLATION

A report had been circulated by the Head of Corporate Services attaching

a proposed response to the Scottish Government's Consultation on Proposal to Reform Fatal Accident Inquiries Legislation.

The Scottish Government was consulting upon the recommendations made by Lord Cullen, with a view to modernising the way in which fatal accident inquiries were handled in Scotland. This included 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 focussed specifically upon building on recommendations implemented by the Crown Office to make the system more efficient, extending the categories of death in which it was 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 FAls into death of Scots abroad where the body is repatriated to Scotland and options for holding FAls in alternative accommodation out-with sheriff courts.

The Panel noted that the council was recently represented in an inquiry following a fatal road incident. As a result, the Council had 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 was reflected in the proposed responses contained within Appendix 1.

The Panel was invited to consider the response to the consultation and to recommend to the Council Executive approval of the response set out in Appendix 1 for submission to the Scottish Government.

Decision

1. To note the report attaching a draft response to the Consultation on Proposals to Reform Fatal Accident Inquiries Legislation.
2. To agree that the report and proposed response be forwarded to the Council Executive for approval and submission to the Scottish Government.

7. PAYMENTS TO VOLUNTARY ORGANISATIONS

A report had been circulated by the Head of Area Services updating the Panel on delays in making payments to voluntary organisations for 2014-15 and the council's response to ensure an improved service in processing 2015-16 payments.

The Panel noted that, depending on the amount of funding, organisations received either a single payment at the start of the financial year or two payments in April and October. It was further noted that the initial 2014-15 payments had been delayed for a number of reasons including staff changes and availability, and adjustments to the method of calculation of payments.

A concern about delayed payments had been raised by the Voluntary Sector Gateway West Lothian on 29 April 2014, following receipt of an email from a member organisation that they had not received their payment by the end of April. Emails had subsequently been received from a further two organisations.

In response to the issues that had arisen, a commitment had been made to review the payment process to voluntary organisations and, specifically, to:

- Notify all voluntary organisations of their funding for the future year within an agreed timescale following approval of the annual budget.
- Confirm with voluntary organisations the date on which payments would be processed and advise organisations of the transaction time after that.
- Remind organisations that if this was likely to cause them cash flow problems, then they should contact the council as soon as possible to establish if alternative payment schedules can be made.

An email had been received from Voluntary Sector Gateway West Lothian thanking the council for the prompt and considered response.

The report went on to advise that, following the delays experienced in making payments, it had been agreed that Internal Audit would undertake an audit of payments to voluntary and not for profit organisations. The objective of the audit was to review the arrangements for making payments to voluntary and not for profit organisations, covering both contractual and grant payments. This was to include a review of the issues surrounding the delays in making 2014-15 payments.

The Action Plan resulting from the audit identified potential risks resulting from area for improvement in the current arrangements, and these risks were identified in the report.

The final report would include findings, conclusions and an action plan. The agreed actions would be put in place to ensure an improved process for making payments for financial year 2015-16.

The Panel was invited to note the terms of the report.

Decision

To note the report concerning delays in making payments to voluntary organisations for 2014-15, and to welcome the council's response to ensure an improved service in processing 2015-16 payments.

8. WORKPLAN

A copy of the Workplan had been circulated for information.

Decision

To note the Workplan and advice by the Chair that an updated Workplan would be presented to the next meeting of the Panel.